



30 October 2023

Department of Planning and Environment

## **OBJECTION: CABBAGE TREE ROAD SAND QUARRY – MODIFICATION 3** **State Significant Development Application SSD-6125-Mod 3**

We have no objection to this submission being published in full, without any redaction.

References are to the EIS and RTS for the original project and Modification Report No. 3<sup>1</sup> unless otherwise indicated. Also included are references to the IPC Determination and DPE Assessment for the original project.

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### **About us**

Tomaree Ratepayers and Residents Association Incorporated (TRRA) has since 2008 actively represented the Tomaree community on issues such as planning and development, protecting the built and natural environment, economic development, tourism, culture, and other grass roots issues.

### **Overview**

TRRA submits that the additional clearing in the on-site Biodiversity Stewardship site and changes to the project's previously agreed Biodiversity Conservation Strategy are not acceptable on multiple grounds and should be refused.

<sup>1</sup> Environmental Impact Statement prepared for Williamtown Sand Syndicate Pty Ltd (WSS) by Umwelt (Australia) Pty Ltd, November 2015 (EIS); Response to Submissions prepared for WSS by Kleinfelder Australia Ltd, 9 November 2016 (RTS); Modification Report No. 3 prepared for WSS by Wedgetail Project Consulting, 12 Sep 2023 (Mod3)



We have included additional comments for consideration on aspects of the VENM import proposal and on proposed changes to commitment statements that are not completely duplicative.

### ***Ecology and Biodiversity***

During the original project determination process, the Proponent reduced the quarry boundaries to address issues raised in submissions (Response to Submissions (RTS)). The extraction volume from the quarry was also reduced from 3.32M tonnes to 3.25M tonnes in line with the changed boundaries.<sup>2</sup>

The three diagrams below illustrate the originally determined boundaries and the locations of the changes being proposed for Mod3.

**Identification of a wildlife corridor between the northern and southern sections of the quarry<sup>3</sup>**



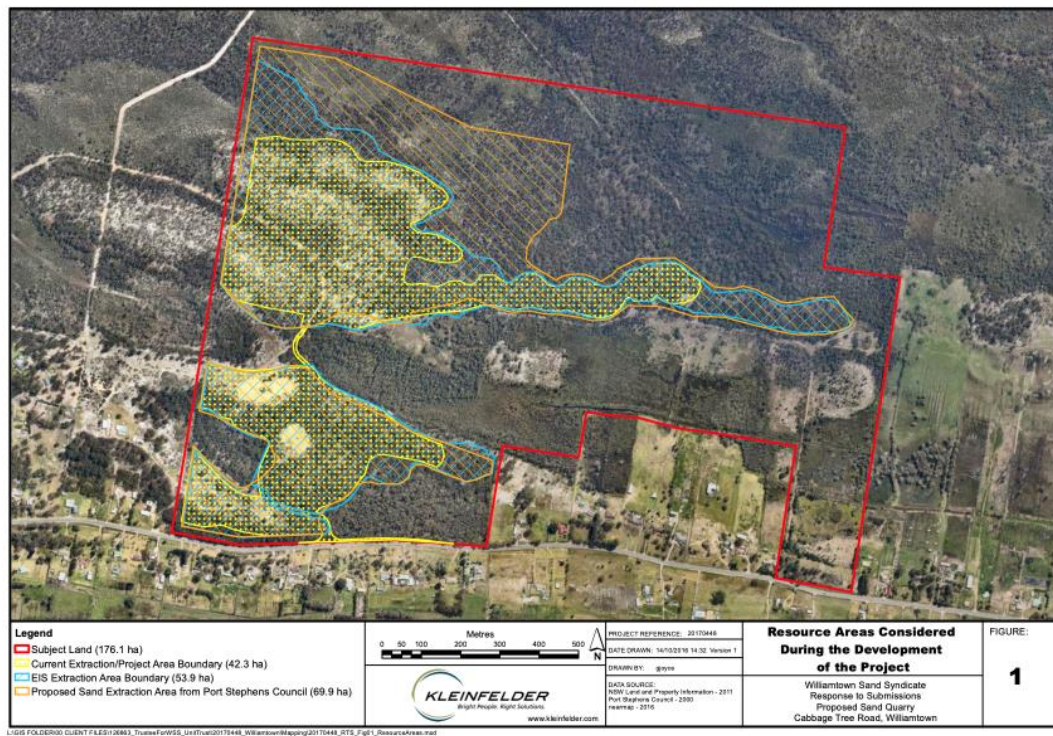
Image Source: Google Earth (2014)  
Data Source: Williamstown Sand Syndicate (2015), LPI (2009)

<sup>2</sup> IPC Determination (original project), sec 1.1, p 1

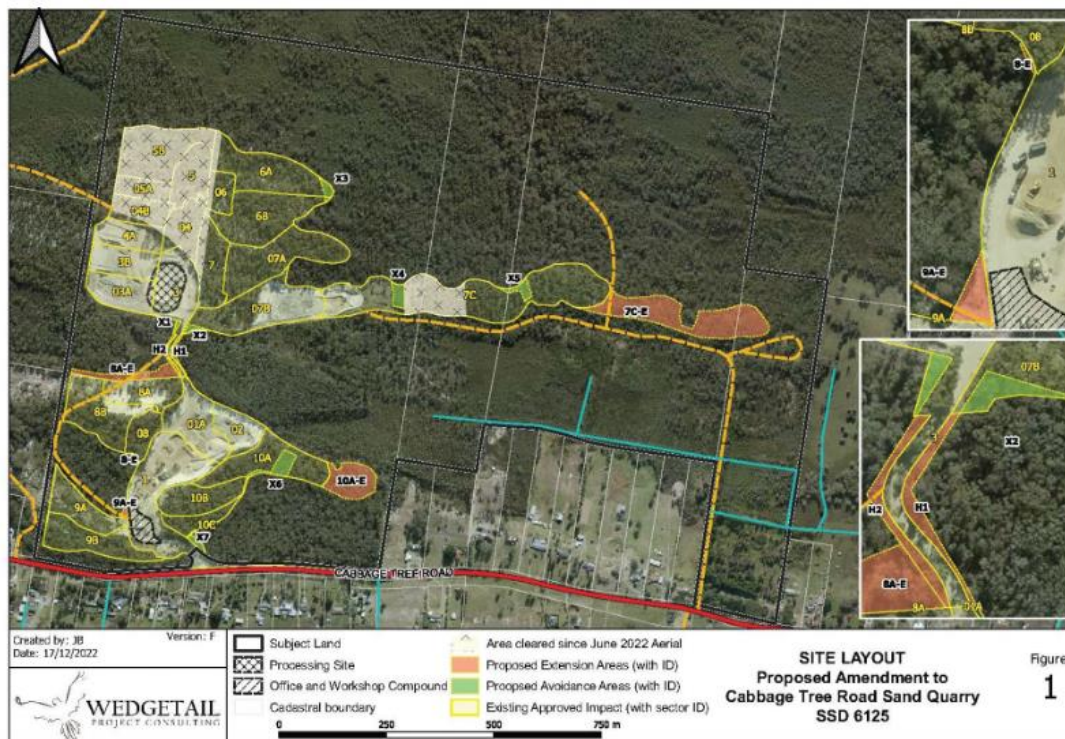
<sup>3</sup> EIS (original project), Figure 1.2, p 8



#### Reduced quarry footprint proposed during RTS and determined by the IPC<sup>4</sup>



#### Proposed Mod3 expanded extraction areas and sections to be retired<sup>5</sup>



The Proponent now seeks to change the quarry boundaries by expanding into two sections previously removed from the quarry footprint (Mod3 sections 7C-E and 10A-E) and encroaching into a reserved wildlife corridor (Mod3 sections 8A-E and H1-2). As mitigation for biodiversity impact, the Proponent proposes to reserve several small fragments across the original quarry footprint and retire additional biodiversity credits offsite.

The increased clearing for the quarry expansion would break up high quality continuous habitat into smaller fragments, remove an additional 34 hollow bearing trees containing 41 hollows,<sup>6</sup> and increase edge effects across the site. The ecological surveys recorded three threatened fauna in the proposed Mod3 sections, and koalas were assumed present.<sup>7</sup> Nine threatened species were recorded in EIS surveys for the original quarry footprint.<sup>8</sup> One of the Mod3 sections (10A-E) was removed from the original footprint to reduce potential noise and dust impacts to residences near the southern-most extraction areas in response to EPA recommendations.<sup>9</sup> All the proposed Mod3 sections are included in the on-site Biodiversity Stewardship sitea to be conserved in perpetuity under a Biodiversity Stewardship Agreement as part of the project's Biodiversity Offset Strategy (BOS).

The DPE assessment described the on-site Biodiversity Stewardship site as having "high conservation value," and OEH and DPE were satisfied with the package of biodiversity offsets in the BOS, which included both the on-site Biodiversity Stewardship site as well as off-site offsets.<sup>10</sup> The reduced quarry footprint in the RTS acknowledged that there were sand resources that would not be extracted, that the Proponent agreed to forego, but these were trade-offs required to compensate for biodiversity impacts from the rest of the quarry.

The IPC based its determination about the biodiversity impacts on the DPE assessment, as well as itself imposing additional conditions. In its determination, the IPC stated: 'Importantly, the Commission recognises the importance of all identified components of the offset strategy as contributing to the described conservation benefits.'<sup>11</sup>

The original DPE assessment also noted that Port Stephens '... is an important supplier of construction sand to the local, regional and Sydney markets' and that the quarry has the ability to '...help supply a key raw material that is needed for State's construction industry.'<sup>12</sup> However, we note that 90,000 tonnes of the 108,000 tonnes proposed to be extracted from the Mod3 expansion (>80%) is for glass sand.<sup>13</sup> The fact that most of the increased extraction would not be for the State's construction industry invalidates any reliance on that justification.

The mitigation now being proposed is insufficient: it would not be consistent with key objects of the *Environment Planning and Assessment Act 1979* for an agreed on-site Biodiversity Stewardship site to be largely split in two and further fragmented, and for one of the key connections to other intact forest, the originally reserved wildlife corridor, to be narrowed to a pinch point.<sup>14</sup>

<sup>6</sup> Modification Report No. 3, Appendix 5, BDAR, sec. 5.2.1.1, p 26. Small hollows take about 100 years to form, and medium size hollows take around 200 years. NPWS – Note 5 – Natural Tree Hollows, <https://www.environment.nsw.gov.au/resources/nature/Factsheet5Treehollows.pdf>

<sup>7</sup> Modification Report No. 3, Appendix 5, BDAR, Executive Summary, p iv

<sup>8</sup> Assessment Report (original project), sec. 5.5, pp 40 - 41

<sup>9</sup> Assessment Report (original project), sec. 4.2, p 9

<sup>10</sup> Assessment Report (original project), sec. 5.5.3, p 44; sec. 4.2, p 9

<sup>11</sup> IPC Determination (original project), sec. 5.2, p 9

<sup>12</sup> Assessment Report (original project), Executive Summary, p ii

<sup>13</sup> Modification Report No. 3, sec. 4.2, p 13

<sup>14</sup> Refer map above. The area proposed to be cleared in the original reserved wildlife corridor (H1, H2 and 8A-E) is 0.44 ha larger than the area to be reserved (X1 and X2). Modification Report No. 3, sec. 4.2, Table 4-2, p 14

A majority of public submitters raised concerns about the potential ecological impacts of the proposed quarry.<sup>15</sup> It would not be in the public interest for public trust to be eroded in the SSD decision-making process if the original DPE assessment and IPC decision about the on-site Biodiversity Stewardship site were to be reversed in areas integral to the original consent.

### ***VENM Import***

The Proponent is proposing to import and process VENM on site and re-sell the processed sand as a quarry product. We note in the consultation correspondence that Hunter Water does not generally 'support the importation of soils and related materials to sites for a number of reasons related to the associated risks' and mentioned that risks could be better managed if the product was resold as a quarry product and not retained on site.<sup>16</sup> The Proponent proposes to retain silt and residue from the processed VENM on site and use it in rehabilitation.<sup>17</sup> If sand is to be extracted from the VENM, the texture, structure and qualities of the remaining soil will change and could impact the revegetation and rehabilitation goals for the site. We could find no reference in the EIS or consent conditions to the use of VENM in the rehabilitation strategy and therefore assume that there would need to be additional, appropriate consent conditions related to the imported VENM. We question the environmental impact of storing and using silt and residue from the imported soil on site.

### ***Statement of Commitments***

TRRA supports a shared objective of the DPE, the Proponent and the community for efficient and clear documentation on environmental management for the project, coupled with appropriate transparency. TRRA defers to the DPE on protocols for amending statements of commitment once works are completed and raises the following community considerations regarding other proposed changes:

- 8.3.2 (f) and (g) Consultation with immediate neighbours via an annual site open day and Community information newsletters– Before these commitments are deleted, TRRA proposes that the Community Consultative Committee (CCC) should be consulted to confirm that existing consultation with neighbours is adequate and that the newsletters and open day are not necessary.
- 8.3.4 (c) – Speed limit signage within the site – Schedule 3, Condition 23 relates to the enforcement of speed limits on site whereas this commitment relates to the more specific installation of signage as a component of the condition.
- 8.3.4 (d) – Drivers Code of Conduct – TRRA defers to the CCC as to whether neighbour amenity issues have been reflected in the Drivers Code of Conduct.
- 8.3.4 (3) – Peak traffic generation limits TRRA has no in-principle objection if this is intended as a clerical change to remove duplication. However, the commitment statement covers the total hourly truck movements in and out of the site, whereas the consent condition covers only laden truck movements. With the potential for additional VENM truck haulage into and out of the site, laden and unladen, the community has a legitimate interest to understand the expected change in total truck movements on Cabbage Tree Road. We therefore suggest that the total truck movements from the Statement of Commitments be incorporated into the Conditions of Consent.

<sup>15</sup> Assessment Report (original project), sec. 4.3, p 12

<sup>16</sup> Modification Report No. 3, Appendix 9, Evidence of Consultation, HWC email dated 31 Aug 23

<sup>17</sup> Modification Report No. 3, sec. 4.3.2, p 18



- 8.3.12 (b) – Air Quality – bitumen seal access road

Under the current consent, WSS has a commitment to seal the interior access road through the wildlife corridor between the northern and southern sections of the mine and thereafter the road would be dirt (in the northern section). WSS is now proposing to change this and seal a shorter distance (basically up to the top of the southern section, leaving the road through the wildlife corridor as dirt). At the same time, they are also proposing to widen the dirt road through the wildlife corridor on both sides, additional clearing amounting to 0.11 ha – the purpose of the road-widening is to ‘... enable improved operational efficiencies and reduce damage to sections of bitumen access road’ and ‘...Sealing through to the northern resource area restricts the effective movement of machinery between resource areas. Sealing through to the top of the northern resource area will reduce sand tracking on tires.’ We assume there will be cost savings but this is not stated as part of the rationale.

No information is provided on the possible impact of greater dust on the wildlife corridor and fauna using it, or on the most appropriate dust suppression measures that should be used in this corridor to prevent negative impacts to wildlife..

- 8.3.13 (3) – Noise, detailed dilapidation reporting – The commitment statement is proactive, requiring the reporting to take place prior to commencement of any works, whereas the consent condition is reactive, after written request from a relevant property owner. TRRA suggests the consent condition be adjusted to retain the proactive commitment.
- 8.3.15 (b) – Historical Heritage – The commitment statement appears to relate to unexpected heritage finds that are distinct from Aboriginal heritage, which would not be superseded by Schedule 3, Conditions 32 and 33.
- 8.3.18 – Ecology and Rehabilitation Management – Because there are changes being requested to some of the commitments, it would appear the BRMP will need amendment. Regarding two of the requested changes:
  - (d) Koala Management Protocol – Our colleagues at the Koala Coalition (KKEPS) have advised that there are aspects of the Koala Management Protocol that are no longer best practice and attaching of monitoring devices is entirely inappropriate. This would suggest that the BRMP will need careful review, amendment and updating, such as noting that the Port Stephens Koala Hospital is now admitting most wildlife species and has a vet employed, making this organisation the recommended contact for rescues or advice. We defer to the KKEPS submission for detailed consideration of this issue.
  - (e) Vegetation Clearing [proposal is to limit ecological supervision for clearing to vegetation areas with stems greater than 5cm DBH] – Clearing may impact habitat for ground-dwelling and understorey fauna, and not just tree fauna. Ecologically supervised clearing is a standard practice for quarry operations given the range of environmental impacts that can result and accordingly, this commitment should not be modified as proposed.
- For the balance of proposed deletions, TRRA defers to relevant regulatory agencies and other specific stakeholders about the appropriateness of the proposed deletions, but submits that the assessment needs to carefully consider the adequacy of the detail provided and the justification it contains.

## Conclusion

In summary, the proposed changes to the quarry boundaries are significant: they would fundamentally alter the on-site Biodiversity Stewardship site and reverse aspects of the Biodiversity Offset Strategy considered important in the original IPC consent for the quarry. The proposed mitigation for the biodiversity impacts would result in more habitat fragments across the site and more biodiversity credits retired offsite. There is a public interest in ensuring balanced and environmentally sustainable development, and a public interest in establishing trust in SSD decision-making. The proposed modifications to the on-site Biodiversity Stewardship site would support neither and should be refused.

With respect to other modifications being proposed, TRRA recognises that several are aimed to improve operational efficiency or generate cost savings for the quarry; however, some changes are more than administrative, and some require additional scrutiny. This would also apply to deletions and wording changes of original statements of commitment.

Contact for this submission:

[planning@trra.com.au](mailto:planning@trra.com.au)

0407 230 342