



19 August 2015

NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Executive Director Resource Assessments and Compliance

Re: Modification Request: Application No MP 08_0142 Mod 2 - OBJECTION

Introduction

Tomaree Ratepayers and Residents Association Inc. (TRRA) objects to the proposed modification of conditions requested by Mackas Sand in relation to traffic movements in and out of the sand mine at Lot 218 DP1044608 at Salt Ash.

For the record, we, along with many other interested parties, objected to the approval of the alternative access onto Nelson Bay Road (08-0142 MOD 1), both in writing in November 2012 and at the PAC Hearing in September 2013. We said at that time that allowing direct access onto a single lane stretch of Nelson Bay Rd would pose a significant safety risk to traffic, and was unnecessary given the already approved access via Lavis Lane. Our members are directly affected by this sand quarry operation since Nelson Bay Road is the main route between Newcastle and the Tomaree Peninsula.

We object to the proposed increase in maximum allowable truck movements on the same grounds. Despite approving the alternative access, the PAC imposed strict limits on the permissible no of truck movements, presumably at least partly in recognition of traffic volume and safety issues (we acknowledge that local residents also have legitimate noise, air quality and amenity concerns).

Absence of justification

The applicant provides no convincing justification for a major increase in the permitted rate of heavy vehicle movements (from 16 to 48 per hour (8 to 24 vehicles) during most operating hours). The main justification offered by the applicant at a public meeting at Williamstown on 7 August 2015 appeared to be the convenience and welfare of truck drivers and, implicitly, the preference of truck operators to be able to arrive, load and depart at times of their choosing.



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The applicant stated at the public meeting that they do not intend to increase the overall number of truck movements per day, but are simply seeking flexibility to be able to vary the number of movements per hour within each day's operations. However, this is contradicted by the EA which expressly states that '*The proposed modification to Condition 4B will enable Mackas sand to transport the sand extracted from Lot 218 ... to the approved amount of 1 million tonnes annually*' (EA 2.0).

This suggests a desire/intention to increase both overall volume and consequent truck movements, contrary to the applicant's public statements. If the applicant is genuine in its stated intention not to increase production, there is no reason why the applicant should not be willing to accept an overall cap on the number of movements each day. If the Minister is minded to accept the asserted need for greater flexibility, we urge that an overall cap on movements per day be imposed. Without further evidence or arguments, this cap should be no more than the currently permitted daily total.

In relation to the asserted need for flexibility, we also do not understand why Mackas sand cannot operate a booking system to manage truck movements and minimise waiting time. Introduction of such a system could substantially undercut the argument for increases in the maximum number of movements each hour.

We reject any suggestion that the applicant has a right to generate all truck movements necessary overall to reach approved extraction volumes, even if this means much higher hourly rates at certain times. The EA implicitly makes this argument in its Conclusion: '*The scale of the proposed modification ... will enable the operation to match its approved sand extraction capacity*' (5.1 – see also 5.4). We understand that the current movement limits would allow for the maximum permitted annual extraction volumes, if the applicant utilised all of the available hours. Whether these volumes are achieved will of course depend on the timing of demand. If customers do not wish to remove sand at some of the approved hours, the truck movement conditions may well prevent the applicant from ever being able to reach approved production levels – but this is an entirely appropriate constraint if the traffic implications justify the conditions, as we believe they do.

The EA makes a case, in section 5.3, for a range of economic benefits. No evidence is provided however for why these benefits would not be achieved by/from alternative suppliers, if Mackas Sand continued to have to operate under the constraint of the truck movement conditions. These arguments should therefore be seen for what they are – a case for commercial benefits for the applicant rather than overall community benefits.

Approved alternative access is relevant

The PAC, at the hearing in September 2013, stated that they could not take into consideration the existing approved access – we and others had argued that the applicant needed to explain why the approved access (which is safer) was not sufficient (other than on the basis of commercial arguments – we understand that they simply wished to avoid having to make payments to other landowners involved in the approved route).

We rejected the PAC's assertion at the time and continue to do so in respect of the current application. We submit that the applicant needs to explain why it cannot manage truck movements to and from Lot 218 by using *both* approved access routes, thereby avoiding any need for any increase in movements via the Salt Ash access point.

Traffic impact

The applicant has sought to confuse the public by asserting publicly that any increase in truck movements to and from Lot 218 (if their application is approved) will be balanced by reduced movements from their other quarry at Lot 220, which join Nelson Bay Road at the Lemon Tree Passage Road roundabout. This is directly contrary to the statement in the EA that *'It is not proposed to ... alter the truck movements from Lot 220'* (EA 1.1.3)) and also contradicts their other public claim that they have no intention to increase the overall number of movements to and from Lot 218. It is also merely an assertion, with no guarantee that movements to and from Lot 220 will in fact be reduced. The applicant confirmed at the recent public meeting that the two quarries are separate operations, with no access link, and producing two different types of sand servicing different markets. The Minister should therefore reject the applicant's attempt to put forward publicly (if not in the EA) that the Lot 220 operation can be seen as some sort of 'offset' for the current application.

Our major concern remains the impact of heavy truck movements on Nelson Bay Road, and in particular the increased safety risk of heavy trucks:

- leaving and joining Nelson Bay Road via the new Salt Ash access road, which has inadequate deceleration and acceleration lanes
- along the whole single lane stretch of Nelson Bay Road between the Medowie Rd (airport) and Richardson Road (Pauls Corner) roundabouts, which is already dangerous, and has many residential access driveways as well as bus stops servicing residents including schoolchildren and the elderly, without any pedestrian crossing or refuge; and
- using the Pauls Corner roundabout (at Richardson Rd) where many sand trucks need to make either a 90 or 180 degree turn to be able to access the new access road. This roundabout, which is heavily used particularly at peak hours and in the holiday season, includes access to shops and a

public school, and has adjacent bus stops which require pedestrians to cross four lanes of traffic.

We restate the arguments we put in 2012/13, that the impact of increased heavy truck movements on Nelson Bay Road is unacceptable. The single lane stretch of Nelson Bay Road onto which the new access road joins is used regularly by many of the 25,000 residents of the Tomaree peninsula as well as by the more than 1.5 million annual visitors to the area.

We also restate our argument that the traffic studies submitted by the applicant are flawed in that they do not take into account the maximum production volumes that are permitted by the operator's development approvals and extraction licences (and which the EA expressly states could be the result – see above). The Minister needs to make any determination taking into account what the traffic consequences could be – not just what the applicant asserts, at least for now, they will be.

Experience of traffic impact

The Traffic Impact Study appended to the EA (Appendix 3) includes results of survey on 28 May 2015 at a single location (Pauls Corner roundabout) over 4 hours (7-9 am and 3-5 pm). We submit that this is wholly inadequate as a basis for assessing current traffic volumes, which obviously vary considerably both from day to day and seasonally. The study also includes results of an automated traffic count on Nelson Bay Road east of Samson Rd (near the new sand quarry access point) – covering only a single (winter) week (28 May-5 June 2015). The results of this count are misleadingly presented in Figure 2 as 'traffic profile on weekdays and weekends' (plural). We submit that this automated count too is an inadequate basis for assessing current traffic volumes, and the likely impacts of the proposed increases in truck movements.

The traffic study also confines itself to Nelson Bay Road at the junction with the quarry access road and the Pauls Corner roundabout. We maintain that the impact of the proposed increase in truck movements must also take into account the effect on the two roundabouts at the airport, and should ideally also model the overall predicted volumes arising from both approved and proposed sand mines in the area – two further mines are proposed for Cabbage Tree Road, Williamtown, and Nelson Bay Road at Bobs Farm.

There is anecdotal evidence that heavy vehicles using the new access road since it came into operation have already caused numerous incidents, where safety of either other road users and/or pedestrians has been an issue.

We urge the Minister to seek any factual evidence such as traffic or accident reports to Council, RMS, NSW Police, and the NSW RFS. But the Minister should also be willing to consider the 'lived experience' testimony of local

residents, as well as ensuring that those making the assessment and determination view, and experience for themselves, the situation of sand trucks using the new access roads at different times of day and in different conditions. It would be unconscionable for a determination on this application to be made without multiple site visits and interviews with affected local residents, whether or not there are formal objectors.

Consultation

The EA refers (in 1.3.2) to the four directly affected property owners identified in Condition 9(b) of the approval. The applicant has secured letters from these owners confirming they have no objection. We submit that these are only those most directly affected by noise etc. and that consultation with these owners, and their consent, while important, is insufficient. There are dozens of neighbouring residents, and thousands more on the Tomaree peninsula, who are also directly affected by the heavy vehicle movements. The EA also refers to a Community Consultative Committee – however, no details of its composition or meetings are provided, and many local residents appear unaware of this committee.

Compliance

It has been alleged by local residents that the conditions relating to truck movements have been breached, and the Newcastle Herald reported on 12 August that authorities have investigated and confirmed breaches, as recently as earlier this year. We urge the assessment seek evidence from relevant authorities and take this into account. If the applicant has not been complying with existing conditions, the community can have no confidence that it will comply with any modified conditions, which could compound the adverse effects of any increased movements.

Conclusion

We submit that the application should be refused on the grounds that:

- It is unnecessary given the applicants existing approval to use Lavis Lane as well as the new access road.
- There are alternative ways of managing truck loading and movements, such as introduction of a booking system.
- Any increase in truck movements, either in absolute numbers or numbers per hour, will pose an increased safety risk, and will have much more than the '*minimal negative impacts*' asserted in the EA (4.3).

If, despite objections, the decision maker is minded to approve an increase in the maximum number of truck movements per hour for any period of the day, he should maintain an overall cap on the number of movements per day, which would not be inconsistent with the applicant's public statements of intent.

Next steps

It seems likely that this application will be referred to the Planning Assessment Commission (PAC). We understand that *'the Commission's decision making procedures ... provide that a public meeting will be held to hear public views on the Department's assessment report and recommendation before the application is determined'*. (from PAC website).

We request that if there is any doubt, this application be referred to the PAC, and that a Public Meeting (not a Hearing) be held before a Determination is made so that the PAC can hear directly from objectors, the proponent and supporters.

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