PORT STEPHENS COUNCIL

Attention: Department of Planning, Industry & Environment

DA NO: **25-2020-4-2**

PROPOSAL: **Cabbage Tree Road Sand Quarry (SSD 6125)**

PROPERTY: **398, 282B, 282A and 282 Cabbage Tree Road, Williamtown - LOT: 1 DP: 224587, LOT: 121 DP: 556403, LOT: 11 DP: 629503, LOT: 1012 DP: 814078**

Dear Melissa,

Thank you for the opportunity to provide comment on the proposed s4.55 (1A) modification application relating to the Cabbage Tree Road Sand Quarry. Council has completed a review of the Proposal and provides the following advice:

Development Contributions

Condition 21 of the consent relates to contributions. At the time of the original assessment of the Proposal, Council noted that the development would utilise state owned roads for haulage, thus removing the requirement for haulage levies under the then Development Contributions Plan 2007. However, it was noted that the development was an intensification of the existing land use which triggered contributions under the then Section 94A Development Contribution Plan, and therefore it was recommended that a condition for Section 94A contributions be attached.

Whilst Condition 21 references Section 94, it notes that an annual contribution must be payed to Council which is inconsistent with Council's contribution plan. It is therefore considered that there may be confusion in complying with Condition 21. It is also noted that the development commenced in May 2020, meaning that a Construction Certificate (CC) was likely to be issued. No contributions have been received by Council that can be located, and therefore this condition has not been complied with if a CC has been issued.

It is recommended that Condition 21 be amended as a part of the subject modification application. The following wording can be utilised as a guide for the modified condition:

> *A monetary contribution is to be paid to Council, pursuant to Section 7.12 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Council Fixed Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and outlined in the table below.*

Capital Investment Value	*Levy Rate ($ of CIV)*
Up to and including $100,000	*Nil*
More than $100,000 and up to and including $200,000	*0.5%*
More than %200,000	*1%*

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan.

Where the estimated cost of carrying out the whole of the development is more than $1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a Registered Associate member or above, of the Australian Institute of Quantity Surveyors.

This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

Payment of the above amount must apply to Development Applications as follows:

a) Building work only - prior to issue of the Construction Certificate.

It is also requested that an investigation be undertaken to confirm if a CC was issued for the development. If a CC is found to have been issued and there is no evidence of contributions being paid to Council, the applicant should be directed to provide a cost of works estimation to Council so that Council may provide a contribution amount for payment in compliance with the condition

Yours Sincerely

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