

Council Reference: DA21/0233 LN 41917  
Your Reference: SSD-10398



6 December 2021

Customer Service | 1300 292 872 | (02) 6670 2400

Industry Assessments  
Department of Planning, Industry & Environment  
Locked Bag 5022  
**PARRAMATTA NSW 2124**

tsc@tweed.nsw.gov.au  
[www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)

Fax (02) 6670 2429  
PO Box 816  
Murwillumbah NSW 2484

Please address all communications  
to the General Manager

ABN: 90 178 732 496

**Attention: James McDonough**

Dear Sir / Madam

## **Tweed Shire Council Submission – Hanson Tweed Sand Plant Expansion - State Significant Development (SSD-10398)**

I refer to the Department's request for Council's advice / comment on the Response to Submissions (RTS) for the Hanson Tweed Sand Plant Expansion (SSD-10398). Council officers have undertaken a review of the proponent's RTS and supporting documentation and provide the following comments for the Department's consideration, noting the proposed changes to the development in terms of: the reconfiguration of the proposed access to the Tweed Valley Way / M1 interchange; amended location of the proposed internal haulage route; sealing the full extent of the internal haulage road; increased buffer widths; removal of lake bunding; and changes to the lake configuration to incorporate the proposed amendments.

### **1. Flooding**

#### **1.1 High Flow Areas**

In response to Council's initial review of the SSD, the proponent has reconfigured the proposed bunding of the lakes. It is now proposed to "...set the lake bunding for 'Lake 2' (the southern lake) to RL 1.0 m AHD, this has been reflected in the modelling. Lake Bunding at RL 1.0 m AHD has been selected because it best represents the existing ground level in the area of the lakes. No bunding is proposed for 'Lake 1' (the northern lake), Lake 1 will overtop at RL 0.5 m AHD toward the LPD".

Whilst no detail of the proposed bund in the area of concern (highway culverts high flow area) is provided, it is anticipated that this will result in a bund of approximately 500mm across the high flow area and critical flowpath.

The model results do not predict any upstream afflux in any regional events analysed, which is unexpected.

A 500mm bund through the high flow classified area is still non-compliant with DCP-A3 High Flow Areas controls, which limits fill / obstructions to no greater than 300mm above natural ground.

Concern remains with respect to the proposal's intention to place a bund across this critical flow path. The proponent's flood modelling does not predict any upstream afflux as a result of this (which is itself raises concerns with respect to the efficacy of the proponent's modelling) the placement of any bund / fill greater than 300mm in this area is still contrary to DCP-A3 High Flow Areas controls. Proposed cut/fill details of this area

should be defined by the proponent and further information provided on how this has been represented in the flood model and by what hydraulic mechanism/behaviour this results in zero upstream afflux. Further information is required in this regard.

## 1.2 Time of Inundation

Time of inundation, for local stormwater flooding only, is now included in the proponent's revised Flooding & Stormwater Assessment (FSA). The results are provided in hydrograph format only (no maps) and pose some significant concerns.

The FSA concludes that:

*"It has been determined that alteration of the floodplain in the area of Lake 2 has changed the volume of runoff that drains to western cane farms located between the M1 and Tweed Valley Way. The increased volume of water in this area results in a longer drainage time for the farms. It is anticipated that these downstream properties will remain flooded for a longer period of time than experienced in the existing condition".*

No mitigation measures or justification as to why this is acceptable is provided by the proponent's RTS.

The areas to the south-west of the site, where the results suggest impacts of up to 20+ hours additional inundation in a 0.5EY event (see hydrographs for Lots 721 and 111), are some of the lowest set (sensitive) agriculture areas of the Tweed Valley. "Byrne's Bend", on Tweed Valley Way, is also nearby to this area and known to be subject to flooding in only minor events. This is a major arterial road for the shire – any increase to the duration of flooding here is extremely concerning. Further information is required in this regard.

It is noted that the proponent's truncated flood model does not extend far enough upstream / south to cover "Byrne's Bend". But the results shown for Lots 721 and 111 suggest similar, negative, impacts here.

Time of inundation results should also be analysed for regional flooding scenarios. Further information is required in this regard.

## 1.3 Reduction in Peak Flood Levels for Minor Events

The proponent's revised FSA defines model run start parameters with the lake water levels set to full. That is, Lake 1 = 0.5m AHD; and Lake 2 = 1.0m AHD.

The proponent's initial conclusion that "...for events lower than the 1% AEP, the development improves flooding in the area due to a large gain in flood storage" has now been abandoned and the most significant afflux results are for events less than 1% AEP.

Further discussion on the predicted afflux is provided in below sections.

## 1.4 Cumulative Development Scenario

A Cumulative Development Scenario is now included in the proponent's revised FSA. It has adopted Council's TVFRMS&P 2014 fill / development scenario combined with the proposed lakes.

It is noted that no consultation was undertaken with Council, as suggested, to incorporate any changes since 2014.

It appears that the proponent may have misunderstood the configuration of the Cumulative Development scenario. The FSA notes that:

*“Industrial development in Chinderah (filled to 2.2m AHD, to represent 65% site coverage for flow obstructions above 2.2m AHD)”.*

It is unclear whether this is a typo, but it appears that the FSA only included fill to 2.2m AHD in these areas. It should be fill to 2.2m AHD **WITH** 65% site coverage (blockage) above this level. If this has not been applied to the model correctly this may significantly influence the results. Further information is required in this regard.

### 1.5 Acceptable Afflux

The proponent has researched “acceptable afflux” thresholds that have been applied to other developments (in isolation - not cumulative) and proposed some thresholds to be applied to this application. Essentially, the revised FSA proposes: 10mm maximum on existing buildings, 50mm maximum in residential areas (non-buildings), 100mm maximum in rural areas. No judgement of the appropriateness of these thresholds is made. However, it is noted they are somewhat similar to those accepted in the Tweed Valley FRMS&P.

The FSA results then go on to exceed these self-imposed thresholds (see Table 6.7). The only justification offered as to why this might be acceptable is that it occurs only in one of the 3 phases (Phase 9) modelled and disappears in the ultimate configuration. “Phase 9” is scheduled to last for 3 years. The modelled scenarios do not enable Council to determine if the similar, adjacent, phases will have similar impact. This is not an acceptable justification. No efforts to ameliorate this afflux appears to have been made. Further information is required in this regard.

The Cumulative Development Scenario adopts the TVFRMS&P 2014 precedent afflux thresholds. The modelled afflux results are depicted in Figure F27 and show a reduction in peak 1% AEP levels in Chinderah in the order of 50 – 100mm. These results are not actionable, however this is not consistent with the TVFRMS results, which is slightly concerning.

### 1.6 PMF Afflux

No response is provided by the proponent to this item. Modelled flood events now only go up to 0.2% AEP.

Although Figure F18 shows a 0.0005% AEP (EXT) afflux results that follow a similar pattern.

## 2. Stormwater

### 2.1 Predicted Afflux

The proponent’s FSA has been updated to a “Rain-on-Grid” model. Section 6.1.1 of the FSA provides a peak flow assessment and concludes that: “... Generally peak flows at the site’s LPDs are maintained in the post-developed scenario. A maximum increase 0.57 m<sup>3</sup>/s is experienced at the

*Southern M1 Culverts in the 2% AEP. This equates to a 4% increase in flows and it is not anticipated that this will cause adverse hydraulic impacts or give rise to nuisance in the downstream floodplain”.*

This statement is not concurred with. The results for 0.5EY in Table 6.2 represent a 20% increase in peak flow to the Southern point of discharge. Further information is required in this regard. This is also reflected in the time of inundation results discussed below.

The time of inundation conclusions in the proceeding section give a conflicting conclusion: “...*It has been determined that alteration of the floodplain in the area of Lake 2 has changed the volume of runoff that drains to western cane farms located between the M1 and Tweed Valley Way”.*

Table 6.3 also shows ‘notable afflux’ which depicts up to 30mm increase in the area around Melaleuca Station and the adjacent servo. Whilst this may be within the thresholds of the proponent’s self-imposed limits, it is concerning. No attempt to ameliorate this has been made. Further information is required in this regard.

## 2.2 Drain Upgrades

The proponent’s revised FSA clarifies that no drain upgrades are proposed.

## 2.3 Time of Inundation

Results are unacceptable – refer to time of inundation comments above.

## 2.4 Flow from Eastern Catchments

The proponent has adopted a “Rain-on-Grid” model to represent complex catchment conditions. This is considered to be acceptable.

## 2.5 Peak Discharges

As noted, the proponent has adopted a “Rain-on-Grid” model to represent complex catchment conditions. The revised FSA concludes that: “...*the updated Rain-On-Grid assessment has resulted in changed results for the local assessment. Changes in peak flows are considered acceptable”.*

Council does not agree with this conclusion. The changes in peak flows are not considered to be acceptable. No comment on waterway stability has been provided in the context of the increased flow rates / volumes in frequent events. Refer to comments above on peak flow and time of inundation.

# 3. Additional Flooding / Stormwater Issues

## 3.1 Regional Flood Afflux (in isolation)

The proponent’s revised FSA provides regional catchment flooding afflux predictions for various modelled scenarios of the development in isolation (not cumulative). Whilst the proponent has suggested ‘acceptable afflux’ thresholds, it is beyond the authority of a Council officer to endorse what external impact is “acceptable”. Nevertheless, the following results are considered concerning:

- Phase 11 – 20% AEP (Fig F13);

- Phase 9 – 20% AEP (Fig F19);
- Phase 9 – 5% AEP (Fig F20); and
- Phase 7 – 20% AEP (Fig F23).

### 3.2 Local Flood Afflux (in isolation)

The proponent's revised FSA provides local stormwater flooding afflux predictions for various modelled scenarios of the development in isolation (not cumulative). Whilst the proponent has suggested 'acceptable afflux' thresholds, it is beyond the authority of a Council officer to endorse what external impact is "acceptable". Nevertheless, the following results are considered concerning:

- Phase 11 – 20% AEP (Fig F13);
- Phase 9 – 20% AEP (Fig F19);
- Phase 9 – 5% AEP (Fig F20); and
- Phase 7 – 20% AEP (Fig F23).

### 3.3 Afflux Map Gradation

Some of the afflux maps show substantial changes to peak levels in an area and zero change adjacent. For example, Table 6.7 (second graphic) shows 56mm of afflux and immediately zero in the adjacent area. It is questioned as to why there isn't a graded afflux? (say 40mm in the next cell, then 20, then 10).



### 3.4 0.005% AEP (EXT) Results

There are some very strange results depicted for the 0.005% AEP (EXT) scenario (Figure F11). Downstream water levels are shown as >7m AHD whereas upstream levels are in the order of 6m AHD (a reverse gradient). This does not match the results of the Tweed Valley Flood Study 2009.

## 4. Flooding / Stormwater Recommendation

Whilst the proponent has updated FSA to include investigation of many of the matters initially flagged by Council, the FSA predicts offsite impacts that will

have significant negative effect on the surrounding areas during flood events. No measures to mitigate the predicted offsite impacts of the proposed development are investigated or proposed.

The proposal, in its current configuration, will have a significant negative impact on flooding and drainage of the surrounding areas and communities.

It may be possible for the proposal to be amended to include measures to manage and / or ameliorate offsite impacts to a level that could be supported, but this would require extensive further work by the proponent.

The proposed development is not supported, in its current form, based on the significant offsite impacts the proposal will have on flooding and drainage in the surrounding areas and communities.

## 5. Ecology

### 5.1 Proposed layout and Biodiversity Development Assessment Report (BDAR)

Council remain of the opinion that the proposal fails to satisfy the avoid and minimise provisions set out in Section 7.2 of the Biodiversity Assessment Method 2020 prepared under the *Biodiversity Conservation Act 2016* (BC Act) and principle objectives of Tweed Development Control Plan Section A19 Biodiversity & Habitat Management for the following reasons:

- The proposal would result in the direct loss of 3.65 ha of remnant mapped vegetation regarded as of high conservation value that comprises the following values:
  - Freshwater wetlands on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions Endangered Ecological Community (EEC) listed under the BC Act
  - Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner bioregions EEC listed under the BC Act
  - Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions EEC listed under the BC Act
  - Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South-east Corner Bioregions EEC listed under the BC Act
  - Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland Threatened Ecological Community listed under *Environment Protection & Biodiversity Conservation Act 1999*;
  - Threatened species habitat - Southern Myotis (*Myotis macropus*) assumed presence
  - Over-cleared Mitchell Landscapes
  - Over-cleared vegetation types
- The proposal impacts upon 2.06 ha of ecological rehabilitation area committed to be delivered under the current quarry approval as reflected in the approved Rehabilitation and Landscape Management Plan. It is intended to establish vegetation types representative of a Swamp Oak Floodplain Forest of the NSW North

Coast, Sydney Basin and South East Corner bioregions EEC and Estuarine Reedlands.

- Impacts on Groundwater Dependent Ecosystems have not been sufficiently assessed. Inadequate buffers have been proposed.
- Failure to provide sufficient ecological setbacks to red flagged high conservation values detailed above.
- Failure to take of advantage of opportunities on the subject site to offset residual impacts onsite.
- Lack of detail regarding formal protection and long term management and maintenance of red flagged high conservation values.

#### Recommendation

- a. The development layout should be modified to retain and protect red flagged high conservation values through the establishment of ecological buffer zones generally consistent with the indicative buffer plan prepared by Council (Figures 2 and 3) provided in the submission dated 04 June 2021 additional to those Open Space & Riparian Rehabilitation Areas shown on Dwg. No. Z19163-F126 Figure 26 Concept Final Landform Plan and including the central Council road reserve. All ecological buffer zones should be of minimum 30 m width and rehabilitated to re-establish the pre-clear vegetation community;
- b. Identify onsite offset areas additional to those Open Space & Riparian Rehabilitation Areas shown on Dwg. No. Z19163-F126 Figure 26 Concept Final Landform Plan and buffer zones identified on Council's indicative buffer plan consistent with current best practice ecological offset ratios; and
- c. Provide a Concept Rehabilitation Plan (see below) that identifies the above-mentioned areas detailing restoration approaches in each zone and timeframes for delivery.

#### 5.2 Koala Habitat Protection

The proposal fails to avoid and minimise impact upon Preferred Koala Habitat as classified under the Tweed Coast Comprehensive Koala Plan of Management March 2020 (TCCKPoM)[approved under the *State Environmental Planning Policy (Koala Habitat Protection) 2021*]. The proposal involves the removal of approximately 3.56 ha of Preferred Koala Habitat.

In accordance with the TCCKPoM, where impact is demonstrated to be unavoidable an offset ratio of 1:12 Onsite or 1:15 Offsite is to be applied. This equates to 42.72 ha or 53.5 ha respectively. Koala Habitat Offsets are to be delivered within the Southern Tweed Coast Koala Management Area. The proposal fails to identify suitable offset areas to meet obligations under the TCCKPoM.

#### Recommendation

- d. Residual impact upon Preferred Koala Habitat mapped outside those Open Space & Riparian Rehabilitation Areas shown on Dwg.

No. Z19163-F126 Figure 26 Concept Final Landform Plan and buffer zones shown on Council's indicative buffer plan should be offset in accordance with the TCCKPOM. Offset receiving sites should be identified and a Koala Offset Management Plan prepared. Offsets are to be additional to any ecological buffer requirements and residual offsetting under the Biodiversity Offsets Scheme.

### 5.3 Concept Rehabilitation and Landscape Management Plan

Concerns raised in Council's initial submission have not been sufficiently addressed.

#### Recommendation

- e. A revised holistic site based Concept Rehabilitation Plan and Landscape Management Plan should be prepared to address Council's concerns. The plan should demonstrate a commitment to successful habitat restoration works as a measure to compensate for the unavoidable loss of habitat onsite, avoid/minimise impact on existing high conservation values areas through habitat improvement and re-establishment of pre-clear vegetation communities within suitable timeframes necessary to achieve site capture. Those areas to be addressed in the plan should include:
- All areas identified on Dwg. No. Z19163-F126 Figure 26 Concept Final Landform Plan;
  - Buffer zones and associated red flagged values shown on the indicative buffer plan prepared by Council (Figures 2 and 3) provided in Council's initial submission;
  - Onsite offsets to meet requirements of the NSW Biodiversity Offset Scheme; and
  - All Preferred Koala Habitat Offset Areas required under the Tweed Coast Comprehensive Koala Plan of Management March 2020.

### 5.4 Final land-use

Details of long term management and protection arrangements of ecological values and associated buffer zones have not been provided.

#### Recommendation

- f. All areas identified in Recommendation (e) above should be afforded statutory protection and a mechanism established to ensure funding in perpetuity.

## 6. Traffic Impact

### 6.1 Proposed Works

No objections are raised with regard to the proposed installation of a roundabout at the site entrance and minor upgrades to the existing roundabout south of the site.

There are no objections from a traffic impact perspective to the proposed increase in operation hours to 24/7.

The proposed extent of land dedicated within current property is not supported. Only minimal sections of the road traversable by external traffic should be included.

Should the proposed development be recommended for approval, it is considered appropriate that a condition be applied requiring the **proponent to be responsible for ongoing maintenance of the proposed roundabout under an appropriate agreement**. It would be unreasonable for Council to cover the ongoing maintenance associated costs. While there are benefits to Council from the reduced maintenance costs on Tweed Coast Road, this would only be realised if the proposal was approved for the Tweed Coast Road access.

## 6.2 Tweed Road Contribution Plan (TRCP)

As noted initially, the proposed development is likely to involve some trips to sites within the Tweed Shire and this is estimated (by Council) to be 10%, thereby triggering TRCP contributions.

## 7. Environmental Health

### 7.1 Acid Sulfate Soils

'Gilbert + Sutherland Response Comments' notes substantial work has already been carried out regarding acid sulfate soil characterisation and management. The document states:

*"Details of the ASS management approach to be adopted for the proposed TSP expansion were provided in the Soil and Water Management Plan provided in Appendix E of the EIS. It is understood that ASS management would also be regulated through provision of an Environment Protection Licence".*

It is anticipated any potential acid sulfate soil impacts will be managed via an Environment Protection Licence. No further comments.

### 7.2 Air Pollution

'Air Quality Assessment of the Tweed Sand Plant Expansion' notes some air quality non-compliances are expected. It concludes:

*"Overall, the contribution of the proposed Tweed Sand Plant expansion to air pollutant levels in the region is low compared to background. On a small number of occasions there is potential for Tweed Sand Plant operations combined with background to result in elevated concentrations of PM10. On these occasions, the contribution of Tweed Sand Plant is small (less than 12%) and background air quality dominates. Accordingly, Hanson proposes to implement a proactive and reactive strategy that includes real time PM10 monitoring and ongoing use of weather forecasts to ensure that Hanson can effectively manage operations, through increased watering or ceasing operations, during times of elevated dust risk, which will ensure that no additional exceedances occur due to the expansion".*

NSW EPA will be responsible for considering / issuing an Environment Protection Licence, which will need to incorporate air quality management

measures that result in compliance with the *Protection of the Environment Operations Act*.

7.3 Amenity

No further comments to those raised initially.

7.4 Approvals from other Regulatory Authorities

No further comments to those raised initially.

7.5 Contaminated Land

The Gilbert + Sutherland Response Comments states:

*“No onsite treatment of potentially contaminated material is proposed. Therefore any detailed investigation could be undertaken as part of a remediation action plan (RAP) prior to works and as a condition of approval. This is in line with the intent of Section 4.3 of the Planning Guidelines for Category 2 remediation work”.*

Applying conditions requiring further assessment and characterisation regarding contaminated land (e.g. Detailed Site Investigation, Remedial Action Plan) post-approval is not considered to be in accordance with the intent of SEPP 55. This interpretation has been supported by the Northern River Contaminated Land Program. This matter is to be considered by the consent authority when assessing the application.

7.6 End Use

Gilbert + Sutherland Response Comments states:

*“Given the long-term performance of the existing TSP lake and the Proponent’s commitment to implementation of comprehensive soil and water management provisions and rehabilitation requirements, the need for intensive/expensive interventions to control or correct lake water quality are considered unlikely. Nonetheless, we note the **Hanson will retain ownership of the site following completion of sand extraction** and is committed to implementing the ongoing (post cessation of extraction) requirements outlined in the SWMP, including any necessary interventions to ensure suitable water quality for any potential end use”.*

No further comments.

7.7 Food Premises

No further comments to those raised initially.

7.8 Groundwater and Dewatering

No further comments to those raised initially.

7.9 Land Use Conflict

The Operational Noise Impact Assessment notes there will be some exceedances of noise criteria. It recommends attenuation measures, but does not categorically state that use of recommended attenuation measures will result in compliance with all noise criteria. It states:

*“The noise criteria do not apply if the Tweed Sand Plant has an agreement with any impacted landowner to exceed the noise criteria, and the Tweed Sand Plant has advised the DPIE in writing of the terms of this agreement”.*

It is unknown whether operational changes / noise attenuation measures are practical and feasible in the event an agreement ceases or the land changes ownership.

‘Air Quality Assessment of the Tweed Sand Plant Expansion’ notes some air quality non-compliances are expected.

These and other potential land use conflict matters are to be considered by the consent authority when assessing the application.

#### 7.10 Lighting

The application indicates 24 hour operations are proposed. Lighting has the potential to adversely impact on off-site receptors.

This matter is to be considered by the consent authority when assessing the application.

#### 7.11 Biting Midges and Mosquitoes

The proposed development includes large areas of open water and wetland rehabilitation areas. The application is to address Tweed Development Control Plan 2008, Section A6 – *Biting Midge and Mosquito Control*.

This matter is to be considered by the consent authority when assessing the application.

#### 7.12 Noise

The Operational Noise Impact Assessment notes there will be some exceedances of noise criteria, including at night, which is the most critical time for disturbance. It recommends attenuation measures, but does not categorially state that use of recommended attenuation measures will result in compliance with all noise criteria. It states:

*“The noise criteria do not apply if the Tweed Sand Plant has an agreement with any impacted landowner to exceed the noise criteria, and the Tweed Sand Plant has advised the DPIE in writing of the terms of this agreement”.*

It is unknown whether operational changes/noise attenuation measures are practical and feasible in the event an agreement ceases or the land changes ownership.

These matters are to be considered by the consent authority when assessing the application, and NSW EPA when considering/issuing an Environment Protection Licence.

#### 7.13 On-Site Sewage Management

No further comments to those raised initially.

#### 7.14 Traffic Noise

Refer to Noise comments above.

#### 7.15 Waste

No further comments to those raised initially.

#### 7.16 Water Pollution

The Gilbert + Sutherland Response Comments states:

*“Given the long-term performance of the existing TSP lake and the Proponent’s commitment to implementation of comprehensive soil and water management provisions and rehabilitation requirements, the need for intensive/expensive interventions to control or correct lake water quality are considered unlikely. Nonetheless, we note the **Hanson will retain ownership of the site following completion of sand extraction** and is committed to implementing the ongoing (post cessation of extraction) requirements outlined in the SWMP, including any necessary interventions to ensure suitable water quality for any potential end use”.*

No further comments.

### 8. Water & Wastewater

The proposal shall ensure that the Australian Bay Lobster infrastructure i.e. the water main, new seawater intake main and the existing and the new/proposed effluent release main are unimpacted by the proposal. This shall include:

- Appropriate clearances to existing proposed infrastructure with appropriate service corridor alignments;
- Consideration of construction scheduling noting there potentially be works proposed by Australian Bay Lobster in the vicinity of the proposed roads; and
- Maintaining services to Australian Bay Lobster at all times.

If the development is to disturb or impact upon private water or sewer infrastructure (e.g.: extending, relocating or lowering of pipeline), written confirmation from the owners of Lot 1 DP 1192506 must be submitted to the Principal Certifier prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

### 9. End Use / Open Space

The proponent has provided the following response:

*“As outlined within the EIS, Hanson will retain ownership of the site following completion of sand extraction and any proposed subsequent use of the site would be decided via the appropriate consultative, application and regulatory processes in place at that time.*

*It is also outlined that to ensure that the broadest range of potential use options would be available upon completion of sand extraction, the project proposes to achieve several performance criteria. These performance criteria will be implemented through the preparation of a Rehabilitation Management Plan.*

*The EIS does not discuss or outline those areas onsite will be made available for public use, nor is it the intent to dedicate this land to Council. It will remain in the ownership of Hanson at the end of sand extraction. It appears Council have reviewed and referenced documentation that originate from the SEAR's request rather than the EIS.*

*In summary, if an appropriate alternative use cannot be found for the site at the completion of sand extraction, the land will be left as a rehabilitated natural area to provide flora and fauna habitat”.*

The nature of the development creates limitations to the potential uses of the site following cessation of operations. Refer to Ecology comments above with regard to the capability for the site to provide any valuable flora and fauna habitat.

The nature and scale of the development involving the creation of waterbodies of this scale is not consistent with any strategy or plan including Tweed Local Environmental Plan 2014, Tweed Shire Open Space Strategy 2019 or Tweed Shire Sports Field Strategy 2014.

The proposed development would need to be in private management into perpetuity, given any public management and maintenance of the site and financial implications are not considered to be in the public interest.

## **10. Planning**

### **10.1 Zone Objectives**

As noted initially, it is considered that the proponent has not adequately demonstrated that the proposed development is consistent with the objectives of the RU1 and RU2 zones applicable to the subject site. This matter is to be considered by the consent authority when assessing the application.

### **10.2 Loss of Agricultural Land**

Concern is raised with regard to the suitability of the proposed development and the impact of sterilizing the land for future uses and loss of agricultural land. As noted initially, the cumulative impact of the subject site and adjoining land being utilised for similar sand extraction industries has not been suitably addressed, in terms of the strategic importance of the land, given its identification as being regionally significant farmland. If the proposed development is granted approval, the agricultural use of the land will be lost in perpetuity. This matter is to be considered by the consent authority when assessing the application.

### **10.3 Benefits to Tweed Shire**

Whilst the application has included assessment reports on the Social and Economic impacts associated with the development, it is still considered that these reports do not clearly spell out the benefits of the proposed expansion to Tweed Shire. With the majority of the sand being extracted going to South East Queensland, concern is raised that little benefit will be forthcoming for the Tweed Shire. This matter is to be considered by the consent authority when assessing the application.

#### 10.4 End Use / Management in Perpetuity

Initial discussions with the proponent identified that the resulting lakes were to be dedicated to Council. This raised many concerns with regard to appropriate end uses and the ability to fund the management of the lake system in perpetuity. Whilst the proponent now proposes to maintain ownership of the site during the lifetime of the sand extraction (30 years), the initial concerns of Council remain. The end use / management issues should be appropriately addressed now, as opposed to leaving it for the end of the life of the sand extraction, should the development be approved.

Although funding for the long-term management is not currently proposed by the proponent, Council is happy to discuss available options. This includes an option for the payment of a minimum dollar amount for every tonne removed from the site. It is considered that this type of funding option would provide a simple and acceptable solution for the long-term management of the lake system, should the application be granted approval.

This matter is to be considered by the consent authority when assessing the application.

#### 10.5 Aboriginal Cultural Heritage Assessment

Comment from the Tweed Byron Local Aboriginal Land Council (TBLALC) is noted.

#### 10.6 Impact upon Tweed River

It is considered appropriate that the Department investigates any potential impacts upon the banks of the Tweed River, as a result of the proposed 20m deep dredging of the subject site.

### 11. Conclusion

As noted by the comments above, a significant amount of issues remain outstanding. Given the concerns raised, the proposed development is formally objected to by Council.

Council is happy to meet with the Department / proponent to further discuss any outstanding matters.

Should the Department proceed to recommend approval for the proposed development, Council requests an opportunity to provide draft conditions of consent.

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

Yours faithfully

**Lindsay McGavin**

Manager Development Assessment and Compliance