

10 November 2023

Department of Planning & Environment
Locked Bag 5022
Parramatta NSW 2124

APPLICATION NO: SSD-6125-Mod-3 (Our Ref. 25-2015-8-3)

PROPOSAL: Cabbage Tree Road Sand Quarry Mod 3 Extension and Amendments

PROPERTY: 398 Cabbage Tree Road, WILLIAMTOWN

Attention: Kristina Robinson

Dear Madam,

Thank you for your correspondence dated 13 October 2023 requesting Council's comments for the above modification. Council has reviewed the Modification Report and supporting documents, and makes the following comments.

Ecology

1. Application to remove credit condition for Eastern Osprey

Supporting documentation referenced in the BDAR has not been provided to Council that demonstrates survey effort or provides evidence of the occupation of the large stick nest on site by a Wedge-tail Eagle rather than Eastern Osprey. In principle, Council supports the removal of this condition if relevant state agencies are satisfied with the surveys undertaken. Please note that whilst this species would not require species credit species, impacts to the foraging habitat of this species will require offsetting under ecosystem credits.

2. Application to extend the quarry footprint

The BDAR is currently incomplete and insufficient to support the additional proposed impacts, particularly with regards to survey effort, as detailed below:

- Survey effort conducted for the BDAR is insufficient to support the proposed modification to the project footprint. Numerous surveys have been conducted outside of the designated survey period for threatened species including:
 - *Corybas dowlingii*
 - *Diuris praecox*
 - *Grevillea parviflora* subsp. *parviflora*
 - Glossy Black-Cockatoo

- Vegetation on site is considered dense vegetation in accordance with the definitions of Walker and Hopkins (1990). Parallel transect spacing for the following species is not compliant with the requirements specified in Table 1 of the 'Surveying threatened plants and their habitats' (2020 State of NSW and Department of Planning, Industry and Environment):
 - *Allocasuarina simulans* / Nabitac Casuarina.
 - *Callistemon linearifolius* / Netted Bottle Brush
 - *Corybas dowlingii* / Red Helmet Orchid.
 - *Cryptostylis hunteriana* / Leafless Tongue Orchid
 - *Diuris arenaria* / Sand Doubletail.
 - *Diuris praecox* / Rough Doubletail.
 - *Grevillea parviflora* subsp. *parviflora* / Small-flower Grevillea
 - *Melaleuca groveana* / Grove's Paperbark
 - *Prostanthera densa* / Villous Mint-bush
 - *Rhizanthella slateri* / Eastern Underground Orchid
 - *Tetradlea juncea* / Black-eyed Susan
 - *Thesium australe* / Austral Toadflax

- The Threatened Biodiversity Data Collection (TBDC) specifically states that impacts to Mahony's Toadlet may trigger a Serious and Irreversible Impact (SAIL). Impacts to Mahony's Toadlet should be considered an SAIL and assessed as such under the BDAR.

- There is currently insufficient evidence to confirm whether the large stick nest found on site is that of a White-bellied Sea-Eagle or that of a Wedge-tailed Eagle. Given that no observations were made of eagles occupying the nest, White-bellied Sea-Eagle cannot be ruled out. Anecdotal evidence including a skull, feathers and the presence of two adult Wedge-tailed Eagles within proximity to the nest suggests potential usage by Wedge-tailed Eagle. However, the skull and features are also consistent with that of a juvenile White-bellied Sea-Eagle. The TBDC states that "due to the similarities in nest structure and use of the same nests by White-bellied Sea Eagles and Wedge-tailed Eagles, where a nest is observed without a bird present, searches for prey remains/feathers below the structure should be undertaken. The differing diets of both species and distinctive adult feathers, should provide evidence of nest use, however; where prey items/feathers are absent, repeat visits to the nest until a bird is observed should be undertaken." Usage of the nest must be observed, otherwise the precautionary principle should be applied and potential impacts to White-bellied Sea Eagle assessed in accordance with the BAM.

- It is unclear from the information presented in the BDAR whether all 10 hollows suitable for large forest owls were stag-watched for minimum of two nights at each. Where this criteria has not been met, additional surveys may be required.

- Surveys for Common Planigale do not comply with survey guidelines. The TBDC requires 3 pitfalls per hectare and 1 for every additional hectare. 5 Pitfall trap arrays were conducted, however 6 are required.

- The expanded quarry footprint in the east of the site (in the location where quadrats 1 and 2 were conducted) will have substantial impacts to Koala, Squirrel Glider, Wallum Froglet and Mahony's Toadlet. These impacts should be avoided in accordance with the requirements of the *Biodiversity Conservation Act 2016*.
- The BDAR is not signed by the BAM accredited assessor and is currently invalid.

Aboriginal Heritage

Insufficient information was available for potential impacts to be reviewed. The modification report states consultation was undertaken with Registered Aboriginal Stakeholders and amendments to the Heritage Management Plan have commenced, however this documentation was not available within Appendix 4 'Aboriginal Heritage'.

Air Quality

An Air Quality Impact Assessment has been prepared by SLR Consulting. The report has been provided to revise estimated (TSP) emissions for the year 7 operations to include the use of the wash plant (MOD2) and the (MOD3) changes. The emission modelling does not indicate any exceedances in air quality criteria. Council acknowledges the applicant has provided sufficient detail for DPE to make an informed assessment on air quality.

Noise

A Noise impact assessment has been provided by Spectrum Acoustics dated August 2022. The report for the proposed modification has considered the proposed changes and impacts on nearest sensitive receivers despite the extensions of extraction footprints. The report has considered the potential impacts from the modification and modelling identifies that noise criteria will not be exceeded. The receiving environment has not undergone any significant changes since submission of the 2016 Noise assessment. Council acknowledges the applicant has provided sufficient detail for DPE to make an informed assessment on noise.

Drainage and Water Quality

Council acknowledges the applicant has provided sufficient detail for DPE and Hunter Water Corporation to make an informed assessment on the stormwater and groundwater impacts. Council has no further comments or suggested conditions in this regard.

Traffic and Transport

The proposed modification does not seek to change the maximum number of hourly or daily truck movements. Council has no further comments or suggested conditions in this regard.

Community Consultation

PORT STEPHENS COUNCIL

It is expected the proposal will attract substantial community interest and likely objection, as evidenced by the 135 submissions originally received for the proposal. Additional consultation should be undertaken with affected landholders surrounding the development and community groups in accordance with Undertaking Engagement Guidelines for State Significant Projects (DPIE, 2021). The consultation should be comprehensive and any concerns clearly addressed as part of the modification report.

Substantially the same development

Council is satisfied the proposed modification is substantially the same development and can be assessed per Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

Thank you for the opportunity to comment on the SSD modification. If you wish to discuss the matters raised above or have any questions, please contact me on the number below and I will be happy to help.

Yours Faithfully



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