

Council Reference: DA08/1266.03 LN71273
Your Reference: 05_103B MOD 4



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Attention: Jarrod Blane

Dear Sir/Madam

Tweed Shire Council Submission – Cudgen Lakes Sand Quarry (Project Approval MP05_103B Mod 4)

I refer to the Department's request for Council's advice / comment on the proponent's proposed modification of the Gales-Kingscliff Pty Limited Cudgen Lakes Sand Quarry (MP05_103B Mod 4). Council officers have undertaken a review of the documentation associated with the Modification and provide the following comments for the Department's consideration.

1. Traffic

1.1 Level of Service

There is an inconsistency between the Traffic Impact Assessment (TIA), which states in Table 3.1 that a Level of Service (A) is achieved in 2035. However, the SIDRA analysis accompanying the TIA highlights that the right turn movement from Crescent Street into Tweed Coast Road operates at an undesirable Level of Service (F) and an average delay of 77 seconds. The Level of Service at the year 2025 is still (F) and average delay is 179 seconds.

The development relies on the upgrade of the intersection to a roundabout which is likely to be completed within the next two - three years by Council.

1.2 Realignment of Altona Road

It is noted that the proposed modification is reliant on the realignment of Altona Road and realignment of Crescent Street. As noted by the proponent, this is subject to a future DA to be submitted to and approved by Council.

1.3 Staging

It is not clear what the proposed timing / staging is for the proposed road upgrades / closure of the existing Altona Road reserve.

1.4 Increased truck movements

As noted by the proponent, currently the development is limited to **12 trucks in / out per hour** as per the provisions of the Project approval and DA20/0965 (as amended), which permits the filling of the northern portion

of Lot 21, up to 40m from the northern boundary. The proponent correctly states that DA22/0145 (as amended) allows for **30 trucks in / out per hour** at the eastern end of Altona Road, as a result of road widening approved under DA23/0245. DA22/0145 allows for the northern most 40m of Lot 21 to be filled. However, it should be noted that DA22/0145 is not yet operational as the proponent has not satisfied deferred commencement conditions (refer to further detail under Item 4.3).

The proponent is requesting an increase in truck movements from 12 per hour to **42 per hour**. This would be by way of 12 truck movements west of the Altona Road widening and 30 trucks per hour accessing the northern portion of the site via the existing driveway off the Altona Road widening.

The proposed increase in truck movements is supported, subject to the 30 truck movements per hour being the combination of filling (under DA22/1045 – assuming it becomes operational) and the Project Approval. Council would not support 30 trucks per hour associated with the Project Approval in addition to 30 trucks per hour for filling works.

1.5 Heavy Haulage Contributions

Should the proposed modification be supported, Council will be recommending a Heavy Haulage contribution be applied to the increase in incoming truck movements.

2. Ecology

2.1 Alternative Offset Planting Area

In addition to ongoing Masterplan discussions between Gales and Council officers, pre-lodgement high level feedback was provided to the proponent in terms of the proposed northern extraction area and indicative Altona Road location along the northern most boundary of Lot 21, whereby it was highlighted that a variation to DCP B26 would be required with regard to a proposed alternative offset area to the south of the extraction area.

The following comments are provided with regard to the proposed development:

- a. Section 3.3 of the Modification report fails to accurately reflect conditions imposed on DA22/0145 with respect to filling within the 'Offset Planting Areas' as shown on Figure 2.25 Cudgen Village Indicative Structure Plan in Tweed Development Control Plan Part B26 - Kingscliff Development Control Plan Version 2.1 adopted 04.06.2020. Condition 6 and Condition 20 of DA22/0145.01 specify fill may only be placed within the Offset Planting Area as part of the final stage of filling and removed in entirety within 5 years of the date of consent. For ease of reference the relevant Conditions are replicated below (emphasis added):

Condition 6 - All fill material approved by this consent to be placed on land identified as 'Offset Planting Areas' shown on Figure 2.25 Cudgen Village Indicative Structure Plan in Tweed Development Control Plan Part B26 - Kingscliff Development Control Plan Version 2.1 adopted 04.06.2020 shall be removed in entirety and the ground level restored to pre-fill (as approved by this consent) ground levels to the satisfaction of Council's General Manager or delegate within five (5) years of the date of

this consent. Council is to be notified when the fill has been removed and supported but not limited to the submission of survey plans demonstrating achievement of pre-fill levels. This condition shall not apply where a subsequent development consent is issued by the consent authority under Part 4 of the Environmental Planning and Assessment Act 1979 (other than exempt development or complying development) that authorises permanent filling within the aforementioned 'Offset Planting Areas'.

Condition 20 - *Prior to commencement of any works onsite associated with this development consent or prior to issue of Subdivision Works Certificate, whichever occurs first, the plan being Dwg. No. 27305-ALTBEDA2-050 Amendment B Bulk Earthworks Section Key Plan dated 15/03/2023 prepared by Mortons Urban Solutions shall be amended and submitted to Council and approved by Council's General Manager or delegate to show areas identified as 'Offset planting areas' depicted on Figure 2.25 Cudgen Village Indicative Structure Plan in Tweed Development Control Plan Part B26 - Kingscliff Development Control Plan Version 2.1 adopted 04.06.2020, to be assigned to the final stages of filling. This condition shall not in any way preclude achievement of the required maximum five (5) year timeframe for removal of fill within this area pursuant to conditions of this consent.*

- b. The proponent indicates that the alternative offset area is positioned within an area of the site being '*...the last area intended to be extracted*'. A staging plan does not appear to accompany the application in order to qualify this intention. A staging plan including clear explanation and details of the mechanism/process (timing, staging and logistics) and long-term protection measures to be employed in order to realise use and security of the alternative offset receiving site for the delivery of ecological offset at any time whenever deemed necessary should be provided.
- c. Contrary to advice provided in Ecological Advice dated 10 March 2025 prepared by Ecoplanning (Appendix 3), Council do not accept that the alternative offset area would lead to an equal or better ecological outcome both in terms of strategic conservation value (connection, low edge to area ratio) and ability to re-establish a high quality, functional floodplain vegetation community.
- d. The current Offset Planting Area (as identified in the DCP B26) onsite has the benefit of being connected/adjacent to high ecological value habitat such as a Coastal Wetland Area, separate High Conservation Value Area to the immediate north and vegetated buffer to the immediate west. Re-establishment of floodplain vegetation within the current Offset Planting Areas would result in an improved ecological benefit to existing habitat by increasing the current tract size, reducing the edge to area ratio, minimising impacts from adjacent land-uses by providing a buffer to core habitat. By comparison, the proposed offset area is isolated and highly fragmented from any high ecological value habitat (as referred above).

- e. Subject to addressing other matters raised in this submission, an alternative Offset Planting Area layout that may result in an equal or better ecological outcome and that may be acceptable to Council in addressing the DCP 26 variation could include:
 - i. An expanded Alternative Offset Planting Area (to that depicted on Figure 8 of the Modification Report) to also include the proposed Southern Processing Area;
 - ii. Commitment to installing a functional fauna crossing/underpass and associated infrastructure on Altona Road to connect the Alternative Offset Planting Area with the vegetated buffer in the south-east/east portion of the adjacent Council STP site (Lot 20 DP1082482). It is noted that any proposal to reconfigure the alignment of Altona Road and sand quarry extraction footprint should be designed to accommodate any fauna sensitive road measures.
- f. Proposed Schedule 2 Condition 26 in Section 3.7 of the Modification Report relating to offset planting areas and arrangements is not acceptable to Council for the following reasons:
 - i. The proposed alternative offset area is considered sub-optimal as detailed above; and
 - ii. The condition does not stipulate a requirement for local offsets within the West Kingscliff locality.

2.2 Ecological Impact Assessment

Pre-lodgement high level feedback was also provided to the proponent in terms of ecological impact assessment requirements. Whilst it is acknowledged that the proposed Mod does not approve the Altona Road relocation, it effectively leaves no other option for the relocated road, with the proposed northern extraction area leaving no alternative location. As such, it is considered appropriate that ecological impacts associated with a future road be considered now as part of this Mod, noting that support from the Department in this regard would not negate a merit assessment process through a future DA for a permanent relocation of Altona Road.

The following comments are provided with regard to the proposed development:

- a. The application should include an Ecological Assessment that identifies ecological values within the subject site and broader study area, assess the potential direct and indirect ecological impacts of the proposed development as modified and recommend avoidance and mitigation measures. Aspects to be considered may include (but not limited to):
 - i. Fauna strike, barrier effects, road noise, lighting disturbance and other edge effects associated with all elements of the proposal including the establishment and operation of the northern processing area and the indicative permanent northern perimeter road. The proposal should be assessed having regard for the Tweed Development Control Plan Section A19 Biodiversity and Habitat Management;
 - ii. Any alteration to the hydrologic regime as a result of any necessary filling/drainage works;

- iii. Impact of extraction on groundwater dependent ecosystems, Endangered Ecological Communities and Coastal Wetland Area to the north of the subject site; and
- iv. Determination that the proposal would not result in a 'prescribed impact' to high conservation value areas as mapped on the NSW Biodiversity Values Map made under the *Biodiversity Conservation Act 2016*.

2.3 Coastal Wetland Proximity Area

- a. The proposed expanded extraction footprint extends within a mapped Proximity Area for Coastal Wetlands under the *State Environmental Planning Policy (Resilience and Hazards) 2021* [SEPP (R&H)] to the north of the site. The modification application does not appear to have adequately addressed the provisions of the SEPP. The proponent should address Section 2.8 of the SEPP (R&H) informed by ecological and groundwater assessment to demonstrate that the proposal will not significantly impact on the:
 - i. *biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or*
 - ii. *quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.*

2.4 Groundwater Dependent Ecosystem Impact

- a. The Groundwater Assessment Cudgen Lakes Sand Quarry dated April 2025 prepared by AGE (Appendix 7) identifies potential Groundwater Dependent Ecosystems (GDE) within approximately 40 metres of the site (Section 7.7 and Figure No. 7.2). No additional groundwater monitoring appears to have been completed within areas of the proposed expanded extraction footprint or at the northern boundary adjacent to the potential GDE's. Information on existing bores to the north and offsite is limited.

Whilst it is noted that DCCEE Water have commented on the proposed modification, the matters raised above have been highlighted should the Department or DCCEE Water wish to investigate further any potential adverse impact on GDE's occurring offsite.

3. Environmental Health

3.1 Air Quality / Pollution

The proposal is and will remain a scheduled activity requiring a license with NSW EPA. The proposal has not changed the air quality criteria as previously approved in the original 2009 approval. It is considered that these remain consistent with the National Environment Protection (Ambient Air Quality) Measure Standards for particles PM10 and PM2.5/24-hour period.

The findings of the Air Quality Report submitted by Northstar dated 9 April 2025 and referenced 24.1095.FR1V2 predict that air quality will be maintained as per the approval and within criteria set by the NSW EPA even in scenarios where additional works will occur in closer proximity to

sensitive receivers in instances where all activities occur at once (worst-case scenario prediction).

The following recommended mitigation measures (already in place) have been highlighted in the report and should be continued in order to achieve the predictions below criteria; (Table 8, section 5.3 of the report). These are considered to be standard emission control methods.

Note: section 5.2 which speaks to emission estimation has advised that '*...no information has been provided in the AQIA to allow the peak calculation of daily emission rates from the Southern Processing Expansion*', however that information from the traffic impact assessment has been used which identifies peak daily vehicle movements to be 3.3. This has been acknowledged as conservative; it is therefore unclear how the previous statement of worst-case scenarios can be applied.

It is considered that existing measures are suitable in prevention of air pollution (but will need to be increased to be effective). The report is limited as noted above by the statement that information from traffic has not been assessed. It is recommended that further information be requested in this respect to ensure adequate measures can be recommended / assessed.

3.2 Noise

A Noise Impact Assessment has been submitted by Santec dated 15 April 2025 referenced 304501241.

The site has existing noise criteria as per the development approval (e.g. Conditions 1 & 2 of Schedule 1 and Condition 18 of Schedule 2).

The existing use is also regulated by the NSW EPA and EPA License; several noise limiting conditions/criteria are required to be complied with.

Two scenarios have been assessed for modelling and are listed in section 5.1.

Noise modelling has demonstrated that noise levels will comply with the existing noise criteria (approval and license conditions).

Noted:

- the modelling has relied on Sound Power Level of plant and equipment instead of actual noise or typical noise levels of plant/equipment. It is considered that the proponent will need to ensure the plant / equipment used onsite is consistent with the SPL's of Tables 5.2;
- No noise monitoring has been carried out or is noted in the report, this may have given more detail as to existing noise levels may impact on the modelling/predicted impacts;
- In addition, the modelling has not been clear on whether the assessment has considered cumulative noise (i.e. worst case scenario where all equipment/plant is running);
- Low frequency noise (including potential crushing) has not been assessed or identified in the modelling, low frequency noise is likely for this type of activity and would likely increase expected noise levels;

- Increase in noise outside of the development from increased vehicle movements has not been modelled (additional 30 trucks/hour);
- Report has referenced compliance with the NSW Industrial Noise Policy (INP, 2000) not the Noise Policy for Industry (2017), unclear if this is outdated or suitable because the original approval would have likely used the INP;
- No details have been provided for the proposed amenity bunding and what expected noise reduction would be likely;
- No community consultation or reference to complaints have been discussed. This may be due to there being none or it may indicate that this has been overlooked;
- No monitoring or verification of compliance has been recommended; this is a usual practice for noise impact assessments and is considered best practice to ensure the assessment is accurate/corrective actions can be taken ASAP. However, this may be a requirement of the NSW EPA licence and as such may be covered; and
- No information regarding vibrational impacts has been discussed.

It is considered that the NSW EPA will be the final regulator for this activity and as such the above information is provided for the Department's / EPA's further consideration. It is recommended that further information be requested in this respect to ensure adequate measures can be recommended / assessed.

3.3 Groundwater

Groundwater Assessment report dated April 2025 (v03.01), prepared by Australasian Groundwater and Environmental Consultants Pty Ltd (AGE) for Gales-Kingscliff Pty Ltd. The report considers that the proposal will not have any additional impact on drawdown or surrounding environment. Existing processes are in place for monitoring and reporting requirements.

Noted:

- No additional groundwater monitoring bores have been proposed e.g. northern extension; and
- Acid Sulfate Soils (ASS): Site has potential ASS; report notes pond limit prevents exposure/oxidation. Aligns with ASS Management Guidelines, but no updated ASS risk map for MOD4.

It is considered that the information provided is satisfactory.

3.4 Contaminated Land / Waste Management

No information has been provided relating to Contaminated Land or Waste Management. It is noted from the modification report that the management plans including rehabilitation and environmental management plan will be reviewed. No plans have been provided for assessment and therefore comments cannot be provided on these issues.

In addition, reference is made to the EPA letter dated 30 September 2025 and the proposal to process and recycle ASSM at the premises for offsite use. The letter acknowledges that an amended licence from NSW EPA will be required for this type of activity (e.g. resource recovery).

There are several requirements that the NSW EPA has outlined for this variation including installation of a weighbridge, authorised amount calculations and waste levy reporting.

It has also been outlined that the proposed processing and recovery of ASSM at the premises increases the risk of ASS runoff. No details have been provided for modified waste management at the subject site. It is considered that the introduction new activities and increased modification of existing has not been adequately demonstrated and that the Council requests further information before it can support such a proposal.

Further information is requested for all modified management plans.

4. Planning

4.1 Substantially the same

The proposed modification is not considered to be substantially the same as that originally approved. The originally consent approved the extraction of 650,000m³ of sand annually, of which only 300,000tpa is to be transported by road, the remainder of which is to be hydraulically delivered as a slurry through pipes. The proposed modification would result in 500,000tpa of material being transported by road, which is a **166%** increase in material being transported by truck. In addition, the proposed importation by truck of 150,000tpa of material is a **333%** increase from the originally approved 45,000tpa.

In addition, the inclusion of Acid Sulfate Soil Material (ASSM) as a type of material being imported to the site and its treatment as a standalone Resource Recovery facility is not considered to be substantially the same as that originally approved.

4.2 Masterplan

The Modification Report makes references to the Gales Masterplan. It should be noted that whilst Gales have been in consultation with Council officers over several years, the Masterplan is yet to be finalised or endorsed by Council. In addition to the Masterplan, the proponent is yet to finalise a BDAR for the overall Masterplan area. As such, it is unknown as to the extent of any offsetting requirements for the overall Masterplan area.

4.3 Council Approved Fill DA

The Modification Report makes references to DA22/0145, which approves the filling of Lot 21 to the northern boundary. The report incorrectly states that the approved filling must be removed within 2 years, to allow for offsetting requirements. It should be noted that the proponent is yet to satisfy the deferred commencement requirements of DA22/0145. Assuming the deferred commencement requirements are met prior to the lapsing date of 7 March 2026, DA22/0145 permits the fill to be in place for a five year period, unless a subsequent development consent is issued

that authorises permanent filling within the 'Offset Planting Areas' identified in DCP B26.

4.4 Staging

It would be helpful and warranted for the Mod application to include timeframes and sequencing as to when specific milestones are intended to be actioned.

4.5 Proposed Amendments to Conditions

The following comments are provided on proposed amendments to conditions:

- Schedule 2 Condition 10

The Proponent must not import more than 4150,000 tonnes of VENM, ENM, ASSM (or material that otherwise meets the requirements of an applicable Resource Recovery Order and Exemption that provides for the material be received for processing or application to land classification of VENM as approved by the EPA) to the site in any financial year. The Proponent must ensure that all VENM imported to the site does not contain other waste which is not approved for importation.

Comment – The words “in any financial year” (as highlighted above should remain in place. The proposed removal of “VENM” (also highlighted) should be replaced with “material”.

- Schedule 2 Condition 11 can be removed as it is no longer applicable and replaced with the following:

Prior to the realignment of Altona Road, the Proponent must not dispatch more than 30 laden trucks per hour from the site in any hour during the hours specified in Table 1 via the eastern part of Altona Road widened to two lanes, and not more than 12 laden trucks per hour from the site via the existing unwidened part of Altona Road (as shown in Appendix 1).

Comment – As noted in Item 1.4, the proposed maximum of 30 trucks per hour must be a combination of the Project Approval and DA22/0145.

- Schedule 2 Condition 19 can be removed as it is no longer applicable.

Comment – deletion of Condition 19 is not supported. As noted in Item 1.5, an appropriate Heavy Haulage condition should replace the existing condition.

- Add new condition as Schedule 2 Condition 26:

Prior to extracting the area shown in Appendix 1 of this approval, the Proponent must in consultation with Council:
a) secure an offset planting area of equal size; or
b) secure other suitable offset arrangements; or

c) demonstrate that the offset planting area is no longer required; to the satisfaction of the Secretary.

Comment – the proposed new Condition 26 is not supported. Refer to comments in Item 2.1(f).

- Conditions 2 and 3 of Appendix 3 can be removed as they are no longer applicable.

Comment – deletion of Conditions 2 and 3 are not supported, given that the Mod proposes to increase noise activities that have not been adequately investigated in the submitted Noise Impact Assessment.

In summary, given the matters raised above, the **proposed modification is formally objected to**. Should the proponent suitably address the outstanding matters, Council requests an opportunity to review the amended proposal.

Should the Department consider the modification as satisfactory, Council requests an opportunity to provide comments on / recommend appropriate draft conditions.

As always, Council is happy to meet with the proponent and the Department to further discuss any of the matters raised above.

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

Yours faithfully



27/10/2025

Per Lindsay McGavin

Manager Development Assessment and Compliance