

28 July 2025

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Attention: Melanie Hollis

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 proponent's most recent RFI Response for the Hanson Tweed Sand Plant Expansion (SSD-10398). Council officers have undertaken a review of the proponent's RFI Response and supporting documentation and provide the following comments for the Department's consideration.

1. Flooding Stormwater

All previous flooding and stormwater matters are considered to have been suitably addressed, with no outstanding matters remaining.

2. Ecology

2.1 Proposed layout and Biodiversity Development Assessment Report (BDAR)

Concerns raised in Council's previous submissions have not been sufficiently addressed by the proponent's most recent RFI Response.

In this regard, it is noted that the proposed development 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 the principle objectives and development envelope controls of Tweed Development Control Plan Section A19 Biodiversity & Habitat Management (DCP A19) that apply to the proposal. Opportunities to retire biodiversity offsets under the Biodiversity Offsets Scheme do not appear to have been explored. The recommendations provided previously by Council remain applicable.

2.2 Koala Habitat Protection

Concerns raised in Council's previous submissions have not been addressed.

The proposed development fails to acknowledge and address the provisions of the Tweed Coast Comprehensive Koala Plan of Management 2020 (TCCKPOM). The TCCKPOM is an approved Koala plan of management under the State Environmental Planning Policy (Koala Habitat Protection) 2021. It is noted savings provisions apply under State

Environmental Planning Policy (Biodiversity and Conservation) 2021 [SEPP (B&C)]. The proposal therefore does not satisfy the provisions of the SEPP (B&C) with respect to koala protection and population recovery. The recommendations provided previously by Council remain applicable.

2.3 Concept Rehabilitation and Landscape Management Plan

Concerns raised in Council's previous submissions have not been sufficiently addressed.

The proposed rehabilitation plan fails to:

- Capture buffer zones in accordance with DCP A19;
- Seek to deliver onsite ecosystem and credit species offsets and koala habitat offsets (under the TCCKPoM);
- Provide sufficient detail of medium to long term management arrangements and protection security of restoration zones;
- Specify to ensure that incompatible activities are to be precluded from restoration zones; and
- Provide appropriate timing to complete primary habitat restoration works.

The recommendations provided previously by Council remain applicable.

2.4 Matters of National Environmental Significance

The applicant has responded to this matter in referring to Attachment 9 of the resubmitted material. Attachment 9 could not be located. Notwithstanding, a Notification of EPBC Referral Decision issued by the Australian Government Department of Agriculture, Water and the Environment dated 23 December 2021 was located on the Major Project website with a determination that the proposal was not a controlled action.

Given that the proposal has been modified since the aforementioned determination date, it would be considered pertinent that the EPBC application be re-referred, based on the current proposal.

3. Traffic Impact

3.1 Proposed Works

Council's previous comments remain unchanged in that the ongoing maintenance cost of the proposed roundabout and its adjacent roads is to be borne by the applicant.

Whilst the proponent's most recent RFI Response does not object to contributing to ongoing maintenance in an equitable manner, it makes reference to development contributions payable under Tweed Shire Councils development contribution plans (notably Contribution Plan No.4 - *Tweed Road Contribution Plan* and Contribution Plan No.32 – *Developer Contributions for Heavy Haulage*).

In this regard, 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**, noting that Contribution Plan No. 4 (TRCP) is not associated with road maintenance and the proposed roundabout would only represent a very minor section of

the Council's maintained road network in relation to Contribution Plan No. 32.

3.2 Tweed Road Contribution Plan (TRCP)

In response to Council's previous comments whereby it was estimated that the proposed development would likely involve 10% of trips to sites within the Tweed Shire, it is noted that the proponent has referenced a reduction in local deliveries.

Council has reviewed the latest documentation and accept that the calculations for determining total trips generated by the Development associated with Contribution Plan No. 4 (TRCP) can be discounted by 94%, based on the submitted table indicating historical deliveries (6%) within the Tweed Shire averaged over the years 2019-2021.

Should the proposed development be recommended for approval, it is considered appropriate that a condition could be applied, based on 6% of the approved trip generations

3.3 Developer Contributions for Heavy Haulage (CP32)

As noted in Council's previous submission, Council has implemented a new developer contribution plan for heavy haulage (Section 7.11 Plan 32), which requires payment of the heavy haulage contribution on a quarterly basis.

The proponent's statement in relation to an alternative way of determining the appropriate heavy haulage contribution (by way of tracking the tonnage and distance travelled on Council controlled roads) is noted.

In this regard, it should be noted that Contribution Plan No 32 provides for flexibility, in that "...*Council may at its discretion agree to use a different travel distance for the purpose of this formula where there is sufficient evidence provided or obtained that indicates that there is a significant difference between the developments typical/average travel distance and the standard 14 km assumed travel distance*".

Should the proposed development be recommended for approval, it is considered appropriate that an appropriately worded condition could be provided.

4. Environmental Health

4.1 Acid Sulfate Soils

No additional comments from those provided in previous comments, noting that the management of Acid Sulfate Soils will be regulated through an Environmental Protection Licence issued by NSW EPA.

4.2 Air Pollution

No additional comments from those provided in previous comments, noting that the management of air quality (in relation to potential impacts from construction, operations, haulage and rehabilitation activities) will be regulated through an Environmental Protection Licence issued by NSW EPA.

4.3 Amenity

The submission of the proponent's most recent RFI Response documents, (which notes that all mitigation measures relating to these potential impacts have been identified within the EIS and supporting documents) makes no change to Council's previous comments, whereby it was noted that the proposal has the potential to impact on the amenity of the area. Potential impacts Air Pollution, Lighting, Water Pollution etc.

4.4 Approvals from other Regulatory Authorities

The proponent's most recent RFI Response acknowledges that the proposed development is a 'scheduled activity' under the *Protection of the Environment Operations Act* 1997, and an Environment Protection Licence issued by EPA will be required to carry out works at the premises.

4.5 Contaminated Land

The submission of the proponent's most recent RFI Response documents, (which notes that all matters relating to site contamination have been identified within the EIS and supporting documents) makes no change to Council's previous comments, whereby it was noted that contamination will need to be addressed by the consent authority prior to consent in accordance with the SEPP (Hazards and Resilience).

4.6 End Use

The submission of the proponent's most recent RFI Response documents, (which notes Hanson will retain ownership of the site following completion of sand extraction) makes no change to Council's previous comments, whereby the proponent's commitment 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.

4.7 Food Premises

The submission of the proponent's most recent RFI Response documents, (which states that there are no proposed Food Premises being considered as part of the end use) is noted.

4.8 Groundwater and Dewatering

The submission of the proponent's most recent RFI Response documents, (which states that all NSW Water matters have been addressed) is noted.

4.9 Land Use Conflict

The submission of the proponent's most recent RFI Response documents, (which notes that all matters relating to Land Use Conflict have been addressed) makes no change to Council's previous comments with regard to buffer requirements of Living and Working in Rural Areas (NSW DPI, 2007). As previously noted, potential land use conflict matters are to be considered by the consent authority when assessing the application.

4.10 Lighting

The submission of the proponent's most recent RFI Response documents, (in relation to lighting associated with a proposed 24 hour operation relating to Land Use Conflict have been addressed) makes no change to Council's previous comments, in that lighting has the potential to adversely impact on off-site receptors; and any lighting should comply with applicable Australian Standards.

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

4.11 Biting Midges and Mosquitoes

The submission of the proponent's most recent RFI Response documents, (which acknowledges the requirements of DCP A6 and requests an appropriate condition) makes no change to Council's previous comments. As previously noted, the provisions of DCP A6 are to be considered by the consent authority when assessing the application.

4.12 Noise

As previously noted, construction, operations, haulage and rehabilitation activities have the potential to result in off-site noise impacts.

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

4.13 On-Site Sewage Management

The proponent's most recent RFI Response has made no changes to Council's previous position, which noted that should toilet facilities and the like not be connected to a reticulated sewerage system, an on-site sewage management system/s will be required. S68 approval under the *Local Government Act 1993* will be required. Any trade wastewater generated on-site needs to be appropriately managed.

4.14 Traffic Noise

A traffic noise assessment prepared in accordance with legislation and applicable policies and guidelines is required.

It is noted noise assessments have been included in the application. Detailed reviews of these assessments have not been carried out.

See Noise section above.

4.15 Waste

The submission of the proponent's most recent RFI Response documents have made no change to EH's previous position on this matter which noted the following:

The project would include an allowance to import 60,000 tonnes per annum of Virgin Excavated Natural Material (VENM) for the purposes of backfilling, armoring lake edges, rehabilitation works, etc.

An Environment Protection Licence will be required to carry out works at the premises. Comments and potential conditions recommended by EPA will be critical.

4.16 Water Pollution

The submission of the proponent's most recent RFI Response documents have made no change to EH's previous position on this matter which noted the following:

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.

An Environment Protection Licence will be required to carry out works at the premises. Comments and potential conditions recommended by EPA will be critical.

5. Water & Wastewater

As noted in previous comments, 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.

6. End Use / Open Space

Although not inconsistent with NCRP, the nature and scale of the development involving the creation of waterbodies of this scale for public use continues to not be consistent with any Council strategy or plan including Tweed Local Environmental Plan 2014, Tweed Shire Open Space Strategy 2019 or Tweed Shire Sports Field Strategy 2014. The future site does not comprise of public open space (public ownership) and as such does not contribute to outcomes of Council's Community Strategic Plan.

It is noted that the proponent characterises the end use of extensive lakes, a pontoon '*Environmental Facility*' which is defined as follows: *environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.*

Permitted with consent in both RU1 and RU2, it is unclear if the subject SSD is seeking consent for the *environmental facilities*. Public health safety is a concern should the end use be considered part of this application, which the consent authority will need to address.

It is noted that the proposal is being limited to private management into perpetuity. As previously noted, any public management and maintenance of the site and financial implications with minimal recreational value is not considered to be in the public interest and is not supported.

7. Planning

7.1 Zone Objectives

As noted previously, 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.

7.2 Loss of Agricultural Land

As previously noted, 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. 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.

7.3 Benefits to Tweed Shire

Whilst the proponent's RFI Response includes a Economic Evaluation of the proposed haulage route, Council's previous concerns remain in that the proposal does 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.

7.4 End Use / Management in Perpetuity

Whilst the proponent proposes to maintain ownership of the site during the lifetime of the sand extraction (30 years), the initial concerns of Council remain. It is unclear as to whether the proponent is requesting approval of the end uses included within the documentation supporting their application.

It is noted that the proponent's Concept Mine Closure Plan incorporates several funding methods for the mine closure and end use water quality management etc. It is noted that one of the options is securing an amount per tonne, as previously recommended by Council as 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. It is noted that the closure costs estimate (Table 10) only refers to the initial 5 years post closure. End use / management in perpetuity must be considered for any funding options.

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

7.5 Aboriginal Cultural Heritage Assessment

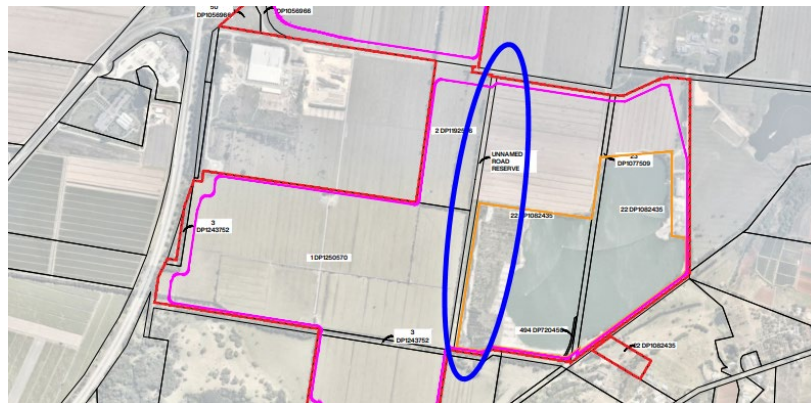
Comment from the Tweed Byron Local Aboriginal Land Council (TBLALC) is noted.

7.6 Impact upon Tweed River

As noted previously, 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.

7.7 Unnamed Road Reserve

The proposed development incorporates an unnamed road reserve (located within Phase 5, Years 1-3 as highlighted in blue below), which poses a significant issue for the progress of the proposed development.



It is noted that the proponent's initial EIS states that a Road Closure and Purchase Application has been prepared and lodged with Council. As noted in Council's submission dated 19 August 2024 (under Item 13 dot point one), the closure and purchase of the unnamed road reserve adjacent to Lot 22 DP1082435 has not been approved by Council, as per Council resolution of 28 October 2021.

In addition, it needs to be highlighted that owner's consent has not been issued by Council for the use of the road or for any sand extraction within the road reserve.

The proponent has noted that they "...will continue to pursue the closer and purchase of the road reserve...and would anticipate a condition of consent regarding the same".

Without any form of owner's consent from Council in relation to the road reserve and given there is no certainty in terms of any future road closure / purchase application being supported by Council, it is considered that the Department is not able to lawfully apply a condition of consent in relation to the road reserve.

This being the case, the proponent would need to demonstrate how they intend to undertake sand extraction to the west of the unnamed road reserve, without impacting on the road itself.

8. Conclusion

As noted by the comments above, whilst the majority of Council's previous flooding / stormwater concerns appear to have been satisfactorily addressed by the proponent's RFI Response, 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

A handwritten signature in black ink, appearing to be 'LMS', with a long horizontal stroke extending to the right.

Lindsay McGavin

Manager Development Assessment and Compliance