

STATUTORY COMPLIANCE TABLE

Application Number SSD-99860959 - Bobs Farm Sand Quarry

Consideration	Relevance	EIS Section/Appendix Reference
FEDERAL LEGISLATION		
Environment Protection and Biodiversity Conservation Act 1999		
Where there is potential for a proposal to have a significant impact on any Matters of National Environmental Significance (MNES), a referral under the EPBC Act can be submitted to the Department of the Environment for consideration.	A referral to the Commonwealth for assessment under the EPBC Act 1999 was made and the proposal was determined to be a Controlled Action. This assessment based on the proposal being likely to have a significant impact on the following matters of national environmental significance, including but not limited to: • Koala (combined populations of Queensland, New South Wales and Australian Capital Territory (<i>Phascolarctos cinereus</i>)) • Grey-headed Flying-fox (<i>Pteropus poliocephalus</i>) • Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland In addition to the above, other listed species requiring further assessment to determine if they are likely to be significantly impacted were – • Swift Parrot (<i>Lathamus discolor</i>) • Regent Honeyeater (<i>Anthochaera phrygia</i>) • Spotted-tailed Quoll (southeastern mainland population) (<i>Dasyurus maculatus maculatus</i>) • South-eastern Glossy Black Cockatoo (<i>Calyptorhynchus lathami</i>) • Yellow-bellied Glider (south-eastern) (<i>Petaurus australis australis</i>) • New Holland Mouse (<i>Pseudomys novaehollandiae</i>)	Section 6.1.2 Appendix 24 EPBC Assessment

STATE LEGISLATION			
Environmental Planning and Assessment Act 1979			
Section 1.3	<i>The Objects of the Act</i>	The proposed quarry meets the relevant objectives of the EP&A Act.	Section 4.2
Section 4.12	<i>(8) A development application for State significant development or designated development is to be accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the regulations.</i>	This EIS has been prepared by ADW Johnson on behalf of Newcastle Sand, in the form prescribed by the regulations and guidelines for preparing and EIS.	N/A
Section 4.15	<i>The provisions of any Environmental Planning Instruments</i>	The provisions of all relevant environmental planning instruments have been addressed within the statutory context of the proposed quarry.	Section 4
	<i>Any proposed instruments</i>	N/A	n/a
	<i>Any development control plan</i>	In accordance with Clause 2.10, Part 2.2 of SEPP (Planning Systems) 2021, development control plans do not apply to State Significant Development. As such, the Port Stephens DCP does not apply.	Section 4
	<i>Any planning agreements</i>	N/A	n/a
	<i>The Regulations</i>	Impacts of the proposed quarry have been assessed within the EIS and appended specialist assessment reports.	Section 6
	<i>Likely impacts including environmental on both the natural and built environments, and social and economic impacts in the locality</i>	Likely impacts of the proposal have been informed by the projects SEARs which have been duly addressed in the EIS under Assessment of Impacts	Section 6
	<i>The suitability of the site for the development</i>	The site is suitable for the proposed sand quarry based on the use being permissible with consent in the zone, its strategic location close to nearby markets which demand sand resources, the location of the	Section 7

		site directly adjacent a B-double State road with close, direct access to the Pacific Highway, and the ability of the site to appropriately mitigate environmental impacts	
	<i>Any submissions made in accordance with the Act or the regulations</i>	Submissions will be addressed as received during the EIS exhibition.	-
	<i>The public interest</i>	The proposal is in the public interest as it will contribute to the ongoing provision of sand which is a key resource required to achieve State priorities including local and regional construction projects and housing provision. The proposal will also ensure the ongoing employment of 15 FTE workers associated with the Proponent's existing sand quarry operations at 398 Cabbage Tree Road Williamstown which will cease immediately prior to operations at the subject site commencing, as well as ongoing ancillary jobs associated with sales and haulage of sand.	Section 6.11 Section 7
<i>Section 7.11</i>	<i>Contribution toward provision or improvement or amenities or services</i>	Local developer contributions as they relate to haulage do not apply to Nelson Bay Road being a State road. The Housing and Productivity Contribution (HPC) applies to housing and some non-residential development types which result in an increase in floor area. As such, developer contributions are not levied under the Port Stephens Local Infrastructure Contributions Plan (7.11 plan or 7.12 plan) nor the HPC.	Section 4.3

Environmental Planning and Assessment Regulation 2021			
Clause 190	<i>Form of an environmental impact statement</i>	This EIS has been prepared by ADW Johnson on behalf of Newcastle Sand, in the form prescribed by the regulations and guidelines for preparing and EIS.	-
	<i>Must have regard to State Significant Development Guidelines</i>		
	<i>Must contain a declaration, and for State Significant Development contain the information required under the Registered Environmental Assessment Practitioner Guidelines</i>	This EIS includes a declaration and all information required under the REAP Guidelines.	Page ii
Biodiversity Conservation Act 2016			
Clause 7.9	(2) Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values. (3) The environmental impact statement that accompanies any such application is to include the biodiversity assessment required by the environmental assessment requirements of the Planning Agency Head under the Environmental Planning and Assessment Act 1979.	Pursuant to Part 7 Division 2 Section 7.9 of the Biodiversity Conservation Act 2016, SSD applications require the application be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values. A BDAR has been prepared which also addresses Supplementary SEARs received in association with the proposal's referral for Federal assessment under the EPBC Act.	Section 4.2 Section 6.1 Appendix 14 BDAR Appendix 24 EPBC Assessment

National Parks and Wildlife Act 1979			
Section 90	<i>Aboriginal Heritage Impact Permits:</i> <i>(3) An Aboriginal heritage impact permit may be issued in relation to a specified Aboriginal object, Aboriginal place, land, activity or person or specified types or classes of Aboriginal objects, Aboriginal places, land, activities or persons.</i>	An Aboriginal Heritage Impact Permit (AHIP) for disturbing an Aboriginal item or place is not required if the proposed development is permitted as SSD under the EP&A Act.	Section 4.2 Appendix 15 ACHAR
Protection of the Environment Operations Act 1997			
Clause 48	<i>Licensing requirements – Scheduled activities (premises based):</i> <i>Schedule 1 Indicates a licence is required for premises at which the activity is carried on.</i>	The proposed quarry will require an EPL under Schedule 1, 19 – Extractive activities, as the development involves the extraction and processing of more than 30,000 tonnes of extractive material per year.	Section 4.2
Schedule 1, Clause 19	<i>Clause 19 of Schedule 1 states that EPA licencing is required where 30,000 tonnes are extracted per year.</i>	The proposal seeks consent for extractive activities (sand quarry) of greater than 30,000 tonnes per year. EPLs are to be obtained following development consent and the licence conditions must be complied with during all activities and operations.	Section 4.2

Water Management Act 2000 and Water Act 1912

Section 89	<i>Water use approvals:</i> <i>(1) A water use approval confers a right on its holder to use water for a particular purpose at a particular location.</i> <i>(2) A water use approval may authorise the use within New South Wales of water taken from a water source outside New South Wales.</i>	The site benefits from a Water Access License (WAL5960) with approval to access 40ML of water per annum Works approval was approved under 20WA2032266 (to construct). The bore itself has a water supply and use approval for Farming and Irrigation of 20CA202365. It is proposed to the WAL water for sand washing purposes which would require an amendment to the approval for the use of the water. Up to 32ML of WAL water will be needed for sand washing purposes which is within the 40ML WAL approval.	Section 3.5 Section 4.2
Section 90	<i>Water Management Works Approvals:</i> <i>(2) A water supply work approval authorises its holder to construct and use a specified water supply work at a specified location.</i> <i>(3) A drainage work approval confers a right on its holder to construct and use a specified drainage work at a specified location.</i> <i>(4) A flood work approval confers a right on its holder to construct and use a specified flood work at a specified location.</i>		
Section 91	<i>Activity Approvals:</i> <i>(2) A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land.</i>		

	<i>(3) An aquifer interference approval confers a right on its holder to carry out one or more specified aquifer interference activities at a specified location, or in a specified area, in the course of carrying out specified activities.</i>		
<i>Section 10 W Act</i>	<i>Application for licences</i>		
Roads Act 1993			
<i>Section 138</i>	<i>Consent of Council (and TfNSW if applicable) required for works in the road reserve</i>	A S138 approval will be required for works to construct the new proposed intersection from Nelson Bay Road into the site.	Section 4.2
Heritage Act 1977			
<i>Section 139</i>	<i>Excavation permit required in certain circumstances</i>	There are no items of State or Local heritage significance located within the subject site, and as such, an excavation permit under Section 139 (to disturb or excavate any land containing or likely to contain a relic) of the Heritage Act 1977 is not be required. Notwithstanding, pursuant to Section 4.41 of the EP&A Act, an approval under Part 4 or an excavation permit under Section 139 of the Heritage Act 1977 is not required for SSD applications as part of the application process.	Section 4.2
Rural Fires Act 1997			
<i>Section 100B</i>	<i>(1) The Commissioner may issue a bush fire safety authority for—</i>	A bushfire safety authority is required for subdivision of bushfire prone land or special fire protection purposes. The proposal is not for subdivision or special fire protection purposes. Notwithstanding,	Section 4.2

	<i>a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or</i> <i>development of bush fire prone land for a special fire protection purpose.</i>	Section 4.41 of the EP&A Act states that a bushfire safety authority is not required for SSD applications. A bushfire safety authority is not required, notwithstanding a bushfire report has been prepared in support of the proposal to assess bushfire hazard.	
Local Government Act 1993			
Section 68 and Section 68A	<i>68(1) A person may carry out an activity specified in the following Table only with the prior approval of the council, except in so far as this Act, the regulations or a local policy adopted under Part 3 allows the activity to be carried out without that approval.</i> <i>68A (1) In this Part, operate a system of sewage management means hold or process, or re-use or discharge, sewage or by-products of sewage (whether or not the sewage is generated on the premises on which the system of sewage management is operated).</i>	In accordance with Section 68 of the LG Act, an approval may be required for installation of the proposed Atco structure for use as ancillary office, or amenities.	Section 4.2
Contaminated Land Management Act 1997			
Section 60	<i>Section 60 of the CLM Act imposes a duty on landowners to notify DPIE, and potentially investigate and remediate land if</i>	A Detailed Site Inspection was undertaken which identified slightly elevated levels of copper and zinc in parts of the site associated with the agricultural use, and a fragment of potentially asbestos containing	Section 4.2

	<i>contamination is above EPA guideline levels.</i>	material. A Soil Management Plan was prepared for during works and associated with rehabilitation of the site. Should contaminants be unearthed on the site during construction works, an assessment would be carried out to determine if notification of the contamination under Section 60 of the CLM Act to the NSW EPA is required. All remediation, if required, would be carried out in accordance with the CLM Act.	Section 6.7
State Environmental Planning Policy (Resources and Energy) 2021			
<i>Part 2.3 of Chapter 2</i>	<i>Development applications – matters for consideration</i>	This EIS has addressed all matters for consideration in relation to mining, petroleum production and extractive industries, in assessing the proposed quarry.	Section 4.2
State Environmental Planning Policy (Planning Systems) 2021			
<i>Schedule 1 Clause 7</i>	<i>State Significant Development relates to Extractive Industries and includes triggers for extractive industries as SSD</i>	The proposal triggers SSD as consent is sought to extract >500,000 tonnes of materials per year.	Section 4.2
State Environmental Planning Policy (Transport and Infrastructure) 2021			
<i>Section 2.122</i>	<i>Traffic Generating Development – requires referral to TfNSW</i>	The proposed development does not qualify as a traffic generating development with relevant size and/or capacity under Section 2.122 - Traffic Generating Development, as extractive industry is not considered to be the same class of development as “industry”.	-
State Environmental Planning Policy (Resilience and Hazards) 2021			

<i>Chapter 3</i>	<i>Hazardous or Offensive Development</i>	The proposal was determined not to be a 'potentially hazardous industry'.	Section 6.8
Port Stephens Local Environmental Plan 2013			
<i>Clause 2.3</i>	<i>Zone objectives and Land Use Table</i>	The proposed quarry achieves the relevant objectives of the sites RU2 zoning.	Section 4.2
<i>Clause 5.10</i>	<i>Heritage Conservation</i>	A small portion of the site overlaps the AOP for the former 1943-1944 camp but with the current proposal having a reduced development footprint compared to the previous SSD application, archaeological integrity is expected to be low. The site contained five (5) shell fragments recovered from a single previously excavated test pit associated with a previous SSD application. Additional onsite investigations were undertaken as part of the current SSD application which built on the work undertaken for the previous SSD application.	Section 4.2 Section 6.5.2
<i>Clause 5.21</i>	<i>Flood Planning</i>	A small area at the north of the site is mapped as subject to the 1% AEP flood level. A Flood Assessment has been prepared as part of the Surface Water Assessment. The quarry design will cease extraction adjacent the mapped 1%AEP flood extent at the 8.5m AHD RL which will maintain a natural buffer between this area of the site mapped as flood liable and the quarry pit. As such, sand quarry works will not increase the flood extent of the mapped 1% AEP area.	Section 6.4
<i>Clause 5.22</i>	<i>Special Flood Considerations</i>	The proposal is not for a 'sensitive and hazardous development' as defined in the clause. As such, the requirements of the clause to assess flood related impacts on sensitive and hazardous development between the flood planning area and the maximum probable flood do not apply.	Section 6.4

<i>Clause 7.1</i>	<i>Acid sulphate soils</i>	The site is identified as containing potential Class 4 and Class 3 acid sulphate soils. An Acid Sulphate Soils Assessment was undertaken which recommended an Acid Sulfate Soils Management Plan to address Poetential Acid Sulfate Soils	Section 4.2 Section 6.7 Appendix 21
<i>Clause 7.2</i>	<i>Earthworks</i>	The proposed quarry and associated earthworks will not have a detrimental impact on environmental functions and processes, neighboring uses, and cultural or heritage items..	Section 4.2
<i>Clause 7.6</i>	<i>Essential Services</i>	All essential services are available or will be made available as part of the proposed development.	Section 3.11