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Department of Planning, Industry and Environment
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December 3, 2023

RE: Proposed Sutton Forest Sand Quarry 13300 Hume Highway, Sutton Forest NSW 2577
: SSD Application No - 6334

I am writing to submit my opposition to the State Significant Development application by Tranteret Pty Limited (Tranteret) to be located at 13300 Hume Highway, Sutton Forest NSW.

Tranteret Pty Limited (proponent) has put forth a State Significant Development application to the NSW Department of Planning, Industry and Environment (DPIE). Their request pertains to the construction and operation of a Sand Quarry for the purpose of an extractive industry that will extract 1 million tonnes per annum of friable sandstone and would extract from a total resource of approximately 34 million tonnes.

My objections highlight important considerations that should be thoroughly addressed and evaluated during the project's planning and approval process to ensure the well-being of the community and the environment.

The submission highlights numerous concerns, with the RTS report and accompanying documents generating more queries than they resolve. Some of the purported "new" mitigation measures pose direct threats to the community and road users, demonstrating a lack of genuine consideration for the residents of this area. For these reasons, I strongly advocate for the rejection of the proposal.

Inconsistent with Local Environment Plan

Wingecarribee Local Environmental Plan 2010:

Inconsistency raises concerns about the project's alignment with local zoning and land use regulations and it underscores the need for a thorough evaluation to ensure that the development complies with the established planning and environmental guidelines within the region, with specific reference to the items listed below.

Adherence to the Wingecarribee Local Environmental Plan 2010 (WLEP) is crucial for maintaining the integrity and well-being of our community and the environment.

Consistency with the LEP ensures that development and land use practices are in harmony with local goals and priorities, promoting responsible growth, preserving natural resources, and safeguarding the unique character of our region for current and future generations.

The proposal should be refused as it is inconsistent with the following objectives of the WLEP 2010

- (a) to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage, and environmental significance of Wingecarribee,
- (d) to provide opportunities for development and land use activities that—
 - (i) make an effective contribution towards the economic wellbeing of the community in a socially and environmentally responsible manner, and
 - (ii) do not adversely impact on natural systems and processes and the overall quality of Wingecarribee's natural environment, and

- (iii) retain the critical natural, rural, and built environmental landscape elements that make up the scenic and cultural heritage value of Wingecarribee,
- (f) to provide for a range of living opportunities that address differing lifestyle needs without compromising the environmental quality of Wingecarribee, and the value of its natural resources such as water, biodiversity, and agricultural land,
- (j) to conserve the Aboriginal and European cultural and environmental heritage of Wingecarribee,
- (l) to develop an ecologically sustainable future for Wingecarribee through the conservation, rehabilitation, and regeneration of native vegetation (particularly threatened species populations and ecological communities), soil, waterways, riparian land, and water quality (surface and groundwater),
- (o) to ensure that extractive resources and mineral deposits are not rendered sterile by future development, but at the same time ensuring that subsequent extraction, open cut mining and transportation activities are undertaken in a way that maintains residential amenity,
- (p) to protect and enhance waterways, riparian land, and water quality in the drinking water catchments of Wingecarribee.

WLEP 2010 - C3 Environmental Management Zone (WLEP 2010)

The proposal should be refused as it is inconsistent with the following objectives of the C3 Zone of the WLEP 2010 -

Objectives of zone.

- protect, manage, and restore areas with special ecological, scientific, cultural, or aesthetic values.
- provide for a limited range of development that does not have an adverse effect on those values.
- encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.
- minimise the proliferation of buildings and other structures in these sensitive landscape areas.
- provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation, and community amenity in identified drinking water catchment areas.
- protect significant agricultural resources (soil, water, and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.

Local Planning:

Wingecarribee Shire Council Rural Lands DCP

The Wingecarribee Rural Lands Development Control Plan 2021 (DCP) pertains to the study area and has been crafted in compliance with Division 6 of the EP&A Act and Part 3 of the Environmental Planning and Assessment Regulation 2000. Unlike the Local Environmental Plan (LEP), this DCP offers more detailed provisions for development in Wingecarribee. In accordance with Section 79(c) of the Act, the consent authority is mandated to consider the pertinent provisions of the DCP when evaluating development applications within the Wingecarribee Local Government Area (LGA).

*Section 4: B4.1 Rural and Extractive Industries : Extractive Industry means the winning or removal of extractive materials (meaning sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the Mining Act 1992) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, rushing, sawing or separating is **not permitted on land zoned C3.***

Transparency: Specifically relating to aquatic ecology and surface water impact.

The need for more specific detail and clarity in the project's documentation and communication particularly relating to surface water, discharge velocity rates and potential impacts of the Key Fish habitats (KFH).

Lack of comparable background values

The information provided in the response to submission documentation relating to impacts on aquatic environments and hydrology indicates that there is a concern regarding the certainty and quality of the water quality modelling and its potential impact on key fish habitat. This is evidenced by the lack of velocity rates the inability to assess the direct impacts to *Inflow Dependent Ecosystems* (IDE) and lack of comparable background values for the assessment of NorBE.

The documents provided by Biosis Pty Ltd suggest that the model used to assess water quality (EMM 2023b) the NorBE (neutral or beneficial effect) for Total Nitrogen (TN), Total Phosphorus (TP), and Total Suspended Solids (TSS) can be met with the proposed treatment train. However, the review notes a critical gap as there is no comparison of the modelled TN, TP, and TSS values with median or mean background values (EMM 2022a). This omission raises concerns about the certainty of the modelling.

“As a result, the certainty of the modelling cannot be confirmed and therefore the risk of water quality driven impacts cannot be quantified.” Biosis Pty Ltd 2023

“the certainty water quality driven indirect impacts to key fish habitat cannot be quantified.” Biosis Pty Ltd 2023

The absence of a comparison between modelled and background values creates uncertainty in the accuracy of the surface water quality model. Without this comparison, it becomes challenging to confirm the reliability of the model's predictions. The uncertainty in the model makes it difficult to quantify the risk of water quality-driven indirect impacts on key fish habitat. The lack of a clear understanding of the model's accuracy hinders effective risk assessment and management.

A thorough comparison must be conducted between the modelled TN, TP, and TSS values and median or mean background values and the modelling results should be validated against actual water quality data to ensure compliance with NorBE assessment.

Omission of Velocity Discharge Rates:

The absence of discharge velocity rates, particularly in the context of sandy soils and potential impacts on aquatic habitats, raises significant concerns about the comprehensiveness of the Surface Water Report (EMM 2023b).

The absence of discharge velocity rates is a notable and concerning omission, especially when dealing with sandy soils in areas like Long Swamp Creek. Sandy soils are susceptible to mobilisation at relatively low velocities, and this can result in accelerated erosion and habitat homogenisation. The accelerated erosion can lead to the loss of diverse habitats, impacting the health and biodiversity of the waterway.

“No discharge velocity rates (m/sec or shear stress) are presented which is important consideration for Long Swamp Creek and tributaries as the sandy soils are mobilised at relatively low velocities. Therefore, the impact of velocity driven impacts to IDEs cannot be quantified.” Biosis Pty Ltd 2023

The report acknowledges that high-velocity flows can have substantial impacts on the benthic macroinvertebrate community. The absence of velocity data prevents an assessment of the potential impacts on these sensitive taxa. The report indicates that disturbance-sensitive taxa, crucial as food resources for native fish, may be at risk if exposed to frequent flows above their velocity thresholds, again, the absence of velocity data hinders the ability to assess the potential loss of these important food resources.

Due to the lack of velocity data, and accurate baseline background values a comprehensive assessment of the potential for erosion or velocity-driven impacts to key fish habitat (KFH) and native fish cannot be undertaken and the risk of water quality driven impacts cannot be quantified. This gap limits the understanding of the potential

environmental consequences of the proposed activities and is vital for a more comprehensive and accurate assessment of potential impacts on water quality, aquatic habitats, and biodiversity.

Approval of the proposal should be contingent on providing evidence that the velocity rates will not adversely affect Long Swamp Creek, and it must demonstrate adherence to compliance standards, ensuring a neutral or beneficial effect (NorBE).

Biodiversity impacts considered uncertain:

The potential effects on biodiversity values resulting from the interception of groundwater and alterations to surface hydrology due to the project are regarded as uncertain as provided by Biosis Pty Ltd Appendix H - Biodiversity Development Assessment Report. Ambiguity should not be accepted, as all efforts to address it hinge on the actions of the quarry operator. The recent charges (33) filed by the EPA Victoria against Hi-Quality Quarry Products Pty Ltd and Director Patrick James Hallinan provide no confidence to the community that the operator can be relied upon to implement "Best Practice."

Unacceptable Biodiversity Impacts:

Biodiversity is essential for maintaining a healthy and balanced ecosystem. Various species play specific roles in maintaining ecological balance, and the loss of biodiversity can disrupt these relationships, leading to cascading effects throughout the ecosystem.

Biodiversity holds cultural significance for many communities, often playing a central role in traditional practices, rituals, and beliefs. Additionally, diverse ecosystems provide recreational opportunities and contribute to the overall well-being and quality of life for residents.

The following are deemed unacceptable:

- Diminishing the connectivity of mapped regional wildlife corridors, acknowledged to have *High Environmental Value (HEV)*.
- Directly impacting the removal of established habitat for threatened fauna species.
- The project involves the eradication of known habitats for credited species, comprising:
 - 58.26 hectares of native vegetation, supporting the habitat for the Greater Glider and Koala.
 - 31.37 hectares of native vegetation, serving as habitat for the Southern Myotis.

Moreover, the project will lead to the elimination of recognised habitat for credited fauna ecosystem species, encompassing up to 58.26 hectares of native vegetation. This habitat sustains diverse species, including the Eastern Coastal Free-tailed Bat, Eastern False Pipistrelle, Flame Robin, Gang-gang Cockatoo, Greater Broad-nosed Bat, Large Bent-winged Bat, Large-eared Pied Bat, Little Bent-winged Bat, Powerful Owl, Scarlet Robin, and Yellow-bellied Sheath-tail-bat.

Visual Impact Assessment:

The visual impact assessment that has been provided in support of the proposal is completely inadequate in identifying and assessing the impact on existing views from surrounding and nearby land uses.

- Fails to adequately assess the acceptability of the impact of the proposal on the views enjoyed from impacted private properties, particularly receptor 15, 55 and 35 in the vicinity of the facility.
- The report notes the proposal may be visible from 17 residential properties, yet no photo montages have been included in the visual impact assessment - This indicates that the long-standing planning principle, which involves assessing the acceptability of a proposed development's impact on views from nearby private properties, has not been considered (as established in *Tenacity Consulting v Warringah* [2004] NSWLEC 140; (2004) 134 LGERA 23).

- Likewise, the visual impact assessment inadequately considers the acceptability of the private development's impact on all views from the public domain near the development (referred to as 'public receptors'). This deficiency goes against the planning principle outlined by the Court in *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor* [2013] NSWLEC 1046, which delineates the necessary steps for appropriately identifying and analysing the impacts.
- No adequate visual impact assessment has been demonstrated for the “*non earthen noise bund*” (3) on the receptor 15 or from the public domain (photo montage)
- Further explanation and visual demonstration of the “Screen Fencing” for headlights of vehicles entering and leaving during the night, and impact on native fauna is required.
- Demonstration of the cumulative impacts of the light spill from the proposal and existing commercial receptors on residential receptors view field, Hume Highway, and impacts to native fauna.
- The proposed mitigation measures, which rely totally on vegetative screening, are inadequate and unreliable. In alignment with the Court's determinations as articulated in *Sturt v Shoalhaven City Council* [2021] NSWLEC 1698 at [90], I contend that the consent authority should not be swayed to attribute conclusive significance to the mitigating influence of the current screen trees and revegetation concerning the adverse visual impact of the proposed development. This is particularly pertinent when the vegetative screening plays a pivotal role in establishing the compatibility and acceptability of the proposed development. The existing trees are a natural element, subject to the frailty of weather, disease, and bushfire risk.

Traffic and Transport:

I am not satisfied that the proponent has provided sufficient evidence for the consent authority to conclude that the proposed development would *not* have an unacceptable impact on both the natural and built environments in the vicinity of the site by way of:

- Operation and management of the proposed development relating to vehicle movements 24/7
- Safe movement of the numerous large vehicles to and from the site.
- Clear haulage routes.
- Safety and Hazards of using the Illawarra Highway overpass to essentially perform a U-turn, this intersection is the only way to access Canyoneligh road and its use is inappropriate and hazardous.
- The idea that a driver would cover a distance of 26 kilometres south of the proposed location to access the "Marulan Interchange" and then travel an additional 26 kilometres north (52kms) to reach the entrance of the site is implausible.

Inadequate Social Impact Assessment (SIA) and inadequate engagement of the community.

Having lived in Sutton Forest for over 20 years, I am of the opinion that the interaction with the affected community has been notably insufficient. I became aware of this proposal through informal channels, learning about it through word of mouth. Only a week before the exhibition, I received a flyer in my mailbox from the community action group "Save our Sands Alliance Inc." Subsequently, I received a glossy booklet introducing the project. However, upon discussing with my neighbours, I discovered that the distribution was selective, as some received no information, and the project was entirely unknown to them.

The Social Impact Assessment appears to be a desktop study, which is inadequate given the significant modifications to the proposal from the original request and issuance of the SEARs (2013) and the subsequent Environmental Impact Statement (EIS). It is essential that the proponent engages meaningfully with the community and affected residents.

The assessment makes broad generalisations about community perceptions without making any meaningful effort to explore or address them. It fails to demonstrate that community or stakeholder concerns have been adequately sought, canvassed, understood, or addressed. The absence of a thorough, considerate, and substantial engagement or Social Impact Assessment process prevents the project proponent from establishing trust within the community.

Without trust, obtaining a social licence to operate becomes challenging, resulting in a lack of acceptance for the project among the majority of community members and stakeholders.

Given the primary purpose of a Social Impact Assessment is to identify, evaluate, and balance both favourable and adverse social effects, the absence of such an assessment suggests that the proponent might recognise that any potential positive outcomes of the proposal are outweighed by substantial negative impacts. This, I argue, should be sufficient grounds for rejecting the proposal.

In conclusion, the objections outlined in this submission underscore serious shortcomings in the documentation and assessment of the proposed project. Inconsistencies with local planning regulations, the Wingecarribee Local Environmental Plan 2010, and the Wingecarribee Rural Lands Development Control Plan 2021 raise concerns about the project's alignment with established guidelines. The failure to adhere to these provisions jeopardises the ecological integrity, environmental heritage, and overall well-being of Wingecarribee.

The lack of transparency, particularly in surface water impact assessments, further compounds the uncertainties surrounding the project. Omissions in water quality modelling, discharge velocity rates, and potential impacts on key fish habitats underscore critical gaps in the project's environmental assessment. The absence of adequate data raises questions about the accuracy of predictions and poses risks to water quality, aquatic habitats, and biodiversity.

The proposed Sand Quarry also poses an unacceptable threat to biodiversity, impacting recognised habitats for various fauna species and ecosystems. The removal of established habitats, particularly for threatened fauna, contradicts conservation objectives and disrupts regional wildlife corridors of High Environmental Value (HEV) the proposal is in stark contradiction to both federal and state environment and biodiversity conservation legislation that are applicable to this site.

Visual impact assessments fall short in adequately evaluating the proposal's impact on existing views, both from private properties and the public domain. The lack of photo montages, inadequate consideration of light spill impacts, and the absence of assessments for specific features like the "*non-earthen noise bund*" raise questions about the project's compatibility with its surroundings.

Concerns related to traffic and transport planning, including the plausibility of proposed haulage routes, further compound the inadequacies in the project's documentation. The improbable suggestion of a 26-km detour for vehicles adds to the scepticism about the practicality and safety of the proposed operations.

Lastly, the Social Impact Assessment appears insufficient and fails to adequately engage the community. Limited distribution of information and a lack of meaningful dialogue with residents hinder the establishment of trust, essential for obtaining a social license to operate.

In light of these critical shortcomings, I strongly recommend rejecting the proposal unless comprehensive evidence and measures are provided to address the concerns raised, ensuring the project aligns with local planning, safeguards the environment, and secures the well-being of the community.

Sincerely

Heidi Fagan
Sutton Forest