



Office of
Environment
& Heritage

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DA 94-4-2004 MOD3

Ms Genevieve Seed
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Department of Planning and Environment
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Dear Ms Seed

Calga Quarry Modification 3 (Crushing System) - Response to Submissions Report and Draft Consent Conditions

I refer to your e-mails dated 24 February 2017 and 31 March 2017 seeking advice on the Response to Submissions report for Calga Quarry Modification 3 and draft conditions of consent provided in the draft Notice of Modification.

In terms of the proposed new crushing system for the quarry, the Office of Environment and Heritage (OEH) has no further advice or comments in regard to threatened biodiversity, flooding or Aboriginal cultural heritage. However, in relation to the overall operations of the quarry itself, there are a number of matters that are recommended for the Department's consideration in the draft consent conditions. As you are aware, the Aboriginal cultural heritage significance of the land adjacent to the quarry, particularly to the south, is highly significant and is subject to a proposed listing as an 'Aboriginal Place' under section 84 of the *National Parks and Wildlife Act 1974*. OEH recommends that any new consent issued for the quarry includes the requirement to prepare an Aboriginal Cultural Heritage Management Plan in accordance with the 2010 *Aboriginal cultural heritage consultation requirements for proponents*. Further detailed comments are provided in **Attachment A**.

If you require any further information regarding this matter please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154.

Yours sincerely

12/4/2017

MARK SQUIRES
A/Regional Director, Hunter Central Coast
Regional Operations

Enclosure: Attachment A

ATTACHMENT A: OEH REVIEW - RESPONSE TO SUBMISSIONS REPORT, DRAFT CONSENT CONDITIONS AND ABORIGINAL CULTURAL HERITAGE MANAGEMENT

The Office of Environment and Heritage (OEH) has reviewed the report titled *Hanson, Response to Submissions for the Installation and Operations of a Crushing system at the Calga Sand Quarry, prepared by RW Corkery & Co Pty Limited, February 2017* and proposed draft consent conditions for this modification provided in the draft Notice of Modification. Following advice from the Department, OEH has also considered the broader Aboriginal cultural landscape and significance of local sites in light of new information, and the proposed updating of the consent conditions and requirements for the ongoing management of the site. This includes the requirement to prepare an Aboriginal Cultural Heritage Management Plan if consent is granted for the modification. These matters are discussed below.

Calga Quarry Modification 3

OEH has previously advised (29 August 2016) that Modification 3 of approval DA 94-4-2004 concerning the installation and operation of a crushing system for the Calga Sand Quarry will not result in additional impacts to Aboriginal cultural heritage, and that OEH had no further comment to make. OEH maintains the view that the proposed crushing system will not exceed previously established parameters for the project, and acknowledges that harm to Aboriginal cultural heritage values within the operating footprint of the quarry have been assessed as low/unlikely.

Aboriginal cultural heritage – sites and cultural landscape management

In regard to the updated consent conditions for this project, OEH provides the following supplementary comments which are relevant to the broader landscape containing the development approval area:

1. The NSW Land and Environment Court (NSWLEC) 2015 ruling ([2015] NSWLEC 1465) on the expansion of quarrying operations at Calga determined:
 - the Calga Aboriginal Women's Site and associated cultural landscape is significant to Aboriginal people
 - Aboriginal cultural heritage sites within the identified cultural landscape should not be assessed in isolation, but considered in a holistic manner derived from a feature's interrelatedness within the broader cultural landscape
 - Aboriginal cultural heritage is a non-renewable resource which, if destroyed will have a significant negative impact on the lives of Aboriginal people
 - the significance, nature and extent of the cultural landscape surrounding the Calga Aboriginal Women's Site have not been fully determined
 - there are extensive areas yet to be explored which may contain further Aboriginal cultural heritage sites that may contribute to the significance and understanding of the Calga Aboriginal Women's Site and associated cultural landscape.

Additionally, the NSWLEC ruling 1465c identified:

- that significance cannot be assessed post approval
 - that harm to Aboriginal cultural heritage values cannot be managed/mitigated without a significance assessment.
2. OEH received an Aboriginal Place nomination for the Calga cultural landscape from the Darkinjung Local Aboriginal Land Council in 2010. Under section 84 of the *National Parks and Wildlife Act 1974*, the Minister for the Environment may declare land as an Aboriginal Place when it is, or was, of special significance to Aboriginal culture.

In response to the Darkinjung Local Aboriginal Land Council Aboriginal Place nomination and the findings of the NSWLEC 2015 ruling, the Heritage Division of OEH commissioned a Cultural

Heritage Assessment (CHA) report in 2016 to further understand the social significance and the intangible cultural values of the Calga cultural landscape.

The CHA found that the Calga Aboriginal Women's engraving site and the surrounding landscape are of social, cultural, spiritual and scientific significance when assessed both under the *National Parks and Wildlife Act 1974*, and against the significance criteria of the *Heritage Act 1977*. The CHA report identified the following:

- the Calga area is a significant node in a much broader traditional knowledge system (song-line), and a traditional travel route of the Darkinjung and Guringai people which extends from the Hawkesbury River along Peats Ridge and continues up into the Hunter Valley
- the area contains rare rock engraving motifs associated with creation heroes and Aboriginal Dreaming, along with a high density of other engraving types
- the existence of several stone arrangements which are interrelated with certain engravings and other values associated with the cultural landscape
- the cultural landscape incorporates a dramatic natural amphitheatre which allows for the visual connection of several song-line nodes
- the area is of considerable social significance to Aboriginal people, their culture and heritage
- the identified cultural landscape can contribute further scientific and archaeological evidence of Aboriginal occupation on the Central Coast of NSW. This knowledge can enhance our collective understanding of Aboriginal traditions, customs and beliefs for the region.

The significance assessment generated through the OEH commissioned CHA indicates that the entire Calga cultural landscape contains social, scientific and educational value and should not be harmed. It is also important to note that the CHA contains gender sensitivities and cultural restrictions, and is not publically available.

3. Comments on the draft Notice of Modification.

OEH has reviewed the draft consent conditions in the draft Notice of Modification provided for this project and suggests minor changes to four of those proposed consent conditions. These are discussed below:

In reference to proposed Conditions 41 (b) and 41 (f)(iv):

- The term 'local' is too general and requires definition. All Aboriginal parties involved in developing mitigation outcomes for this project should have an identified connection to Country. A register of Aboriginal parties should either exist for this project, or will need to be developed in accordance with the DECCW (2010) *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (ACHCRs). OEH suggests replacing the term 'Local' with either 'relevant' or, where registered Aboriginal parties exist, the term 'registered' if registered parties exist.

In reference to proposed Condition 41 (d):

- OEH recommends the inclusion of potential archaeological deposits (PAD) into this condition.

In reference to proposed Condition 41 (f)(iii):

- All care and control provisions for any recovered Aboriginal objects must be developed in consultation with the registered Aboriginal parties.
- A methodology for recovering/salvaging Aboriginal heritage items must be developed in consultation with the registered Aboriginal parties.

