

18 August 2015

NSW Department of Planning & Environment

GPO Box 39

SYDNEY NSW 2001

Attention: Executive Director Resource Assessments and Compliance

Re: Modification Request: Application No MP 08_0142 Mod 2 - OBJECTION

I hereby object to the submission from Mackas Sand to increase truck movements from 16 to 48 per hour as described in the Environmental Assessment of Modifications to Mackas Sand Extraction Operations for Lot 218 DP 1044608, Salt Ash, NSW. This report was prepared by Umwelt (Australia) Pty Limited in July 2015.

No demonstrated need for proposed increase.

I drive between Nelson Bay to Newcastle and back Monday to Friday. I have observed the said site since it's opening in February 2015. I would report that up to now, there is very little activity at this site. I drive past the site at approximately 8.00am in the morning and 4.00pm in the evening and have only been interrupted by an outgoing truck once in 6 months.

Therefore, my contention is that there is no demonstrated need put forward by the proponent to increase truck movements by 200%. At a community meeting on 7 August 2015, the proponent, Robert Mackenzie stated that it wasn't a 200% increase but simply a request for flexibility if he needs to send out more than 8 trucks per hour.

Using the data prepared by Umwelt on page 3 of the Introduction Table 1.1 Approved and Proposed Truck Movements from Lot 218, it is easy to show that such a request is unnecessary and a gross exaggeration of the facts.

I have recreated the table in Appendix 1 to my submission and added two columns to show the potential tonnages should the proponent operate at maximum capacity for all the hours shown. The approved Truck Movements at present allow the proponent to shift over 1.5m tonnes per annum. The Proposed Truck Movements would allow the proponent to move over 4.5m tonnes per annum. It is understood that it is impossible for the proponent to shift sand at the maximum tonnages above. However, it is a gross exaggeration to request such an increase given that the approved annual tonnage is 1m tonnes and that the applicant appears to be giving assurances that it will not seek an increase.

I would suggest that the proponents request for an unconditional increase to 48 movements per hour be denied but that he be able to increase truck movements from 16 per hour (in and out) to whatever is necessary to provide the flexibility he requires to shift 1m tonnes per annum. If that means 14 or 16 trucks per hour outwards on a busy day, so be it but all days are certainly not like this. I'm sure that existing road users would understand the occasional

congestion in the knowledge that the 1m tonnes per annum is the maximum tonnage and this will not change.

If this were approved, monitoring of tonnages outwards becomes vital to the community. I suggest that Mackas Sand be required to produce monthly tonnage reports to the Department of Planning, that these be published on the Departments website and that the operation is audited on a random basis to ensure compliance.

If the proponent is genuine in that he requires flexibility then he should accept this proposition. Any proposal that increases the approval of truck movements as presently applied for sets a very dangerous precedent. With such an approval, the proponent can suggest that his new truck movements are, down the track, underutilized and thereby apply for an increase in the approved tonnages from 1m tonnes to 2m, 3m or even 4m tonnes.

Community Consultative Committee

The Umwelt document at page 4 of the Overview para 1.3.2 states that *“there has been extensive consultation undertaken with the local community throughout the approval processes and during the operation of the existing sand extraction operation. This has included the establishment of a Community Consultative Committee (CCC) to encourage effective communication between the proponent of the project (including the Environmental Managers employed by Mackas Sand) and the local community and holding of a panel hearing into the previous modification.*

I am unaware of any consultation whatsoever with the local community during the operation of the existing site. The proponent should be requested to provide evidence of such consultations.

Also I am unaware of any meetings of the Community Consultative Committee and evidence of the dissemination of any information by this Committee. Therefore, I would request that the proponent provide details of the members of such Committee, the dates that they have met since the site opened, minutes of each meeting and attempts made by the proponent and the Committee to provide effective communication as stated.

Conflict with original proposal by Mackas Sand

The Umwelt document at page 5 para 2.0 Description of Modifications states that *“the current restrictions on truck movements imposed on the operation by Condition 4B of Schedule 3 does not allow the approved tonnage of sand product to be transported from Lot 218 annually without operating at maximum permitted truck movements per hour for extended hours of every hour of operation. This is not practically achievable.”*

I find this statement damning on the proponent, particularly the original application that was lodged and approved by the Planning Assessment Committee (PAC). The proponent lodged the original application and accepted the terms and conditions as imposed. He must have been aware of the limitations but was happy to proceed on that basis. The current request is completely unnecessary as described above and should be rejected. As stated in six months of operation there has been little activity to date and there is no basis for this request.

Application will not increase truck movements

The Umwelt document at page 10 para 3.3.3 states that *“the current application to modify PA08_0142 will not increase the number of truck movements on any roads managed by Port Stephens Council and, therefore, will not require any alteration to Condition 13 outlined above.”*

I would like clarification of this statement as it may be disingenuous. If Nelson Bay Road is a state road rather than a road managed by PSC, this statement may be true. However, it will have a major impact on Nelson Bay Road if it is allowed as proposed.

Mackas Sand Monitoring and Auditing Processes

The Umwelt document at page 29 para 5.1 states that *“Mackas Sand has a range of well-established and effective measures to minimise and manage impacts associated with the proposed modifications, including monitoring and auditing processes.”*

The proponent should be required to detail specifically what these monitoring and auditing processes are and reveal exactly what they show in writing since the commencement date in February 2015 to date.

Alternatives to the proposed Modification.

The Umwelt document at page 30 details two alternatives to the modifications to Lot 218 but dismisses them. It does not canvass the most obvious alternative which is to take any increased truck movements through Lavis Lane, which is perfectly suited to this type of work, has the existing infrastructure and is much safer for the travelling public. The approval initially issued to the proponent was for 16 truck movements per hour and was cognizant of the dangers in allowing any further movements on to Nelson Bay Road. The only reason that this was not proceeded with by the proponent was economics and this is a very poor reason when it comes to public safety. The proponent should renegotiate with the Towers Family to take any excess trucks down Lavis Lane.

Safety of other road users

The proposal to increase truck movements by the proponent should be rejected on the basis of safety to other road users. Nelson Bay Road is the only access road into Nelson Bay & the peninsula. It is used by daily commuters like myself to & from Newcastle, a very large tourist population at certain times of the year and the general travelling public. The road just after Mackas Sand and before Paul's Corner heading to the Bay is very narrow and very dangerous when used by B Double Trucks. With trucks proceeding to Paul's Corner and then back to Mackas Sand there is little room if things go wrong. In particular, the road about 1-2 kms before where the road goes into two lanes is especially dangerous as there is a steep drop off on the left. If one has to move over quickly to avoid one of these trucks, the resultant accident would be very serious indeed.

Pre Emptive Proposal by Mackas Sand

It is well known that in addition to Mackas Sand extraction sites at Lot 218 and 220, two other sand extraction proposals will be seeking approval to similarly use Nelson Bay road for

carting sand. One is at Cabbage Tree Lane, Williamstown and the other is at Bobs Farm and is proposed for the fig farm on the outskirts of Nelson Bay.

Given that Mackas Sand has failed to show that any increase is necessary in my view, the current proposal would appear to be designed to secure extra truck movements now before other proponents get a chance to make their submissions. Nelson Bay Road can only take a certain number of sand trucks before major impacts are felt by other users. Once approved, it will be a simple matter for Mackas Sand to, down the track, apply for increased tonnages.

Appendix 3 Traffic Impact Assessment

The report prepared by GHD para 2 Daily and network peak hour traffic is, in my opinion inadequate. It states that their statistics are based on an Intersection turning movement survey on one day in the year being 28 May 2015. The surveys were between 7.00 and 9.00 am and between 15.00 and 17.00 on that day at the Paul's Corner Roundabout. A seven day Automatic Traffic Count (ATC) was also undertaken 50 m east of Samson Road between 28 May 2015 and 3 June 2015.

One day's observation for 4 hours on 28 May 2015 does not appear to be statistically valid and I would request that an opinion be sought from a suitably qualified person to comment on the methodology employed by GHD.

Mackas Sand has already been found to be in breach of its current approvals

As per the Newcastle Herald of 7 August 2015, Mackas Sand has already breached existing approvals. *"However, the Newcastle Herald can also reveal that the company was found to be in breach of its approvals when compliance officers from the Department of Planning conducted inspections back in May. According to a spokesman from the department, the company had "indicated a misunderstanding" of its approvals "in respect of truck movements"."*

The company had been counting a truck entering in and out of the road as one "movement", instead of two. It currently has approval for 16 movements per hour, but wants to raise that to 48.

Cr MacKenzie said the mistake had been "inadvertent" and according to the department's spokesman three subsequent inspections in June had found the company to be complying with its conditions.

"The department met with the company following a compliance audit in May and directed it to comply with conditions regarding truck movements," the spokesman said.

My question is how the community can trust such a proponent to increase truck movements so dramatically when it cannot comply with existing approvals. It has so called monitoring and auditing processes in place but still managed to breach fairly simple conditions.

CONCLUSION

I request that the proposal as currently submitted by Mackas Sand be rejected for the reasons outlined above. I also request that the proponent be given the flexibility he requires but that he must not exceed 1m tonnes annually from Lot 218 and that he submits his operation to external scrutiny and auditing to ensure compliance. The safety of all road users is at stake and given that he already has approval for a further 1m tonnes from Lot 220, this vital road into and out of the Bay is for all road users, not just present and proposed sand truck operators.

Approved and proposed Truck Movements from Lot 218

per Umwelt submission page 3 Introduction

Appendix 1

Assume 40 tonnes per outward truck

Transportation Period	Approved Truck Movements per hour (in plus out)	Maximum Tonnage Outwards	Proposed Truck Movements per hour (in plus out)	Maximum Tonnage Outwards
Monday to Friday Shoulder (5.00am to 7.00 am)	10	104,000	28	291,200
Saturday Shoulder (5.00am to 6.00 am)	10	10,400	No Change	29,120
Saturday Shoulder (6.00am to 7.00 am)	10	10,400	18	18,720
Monday to Friday (7.00 am to 10.00 pm)	16	1,248,000	48	3,744,000
Saturday (7.00am to 4.00 pm)	16	149,760	48	449,280
Sundays and Public Holidays	10	<div>10,400</div> <div>1,532,960</div>	No Change	<div>10,400</div> <div>4,542,720</div>