

6 July 2018

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**Attention: Anthony Barnes**

Dear Sir / Madam

**Proposed modification of the Dunloe Park Sand Quarry (MP06\_0030 Mod 2) with regard to the proposed increase in heavy vehicle movements**

I refer to your email dated 15 June 2018 requesting Council to provide comment on Holcim's response to Council's previous submission (dated 30 April 2018). Upon review of the Holcim response, please find below Council officer's comments:

**1. Traffic**

The proponent has acknowledged Council's acceptance of the proposed Option 1 Clear Zone provisions in GHD's draft Response to the Road Safety Audit and has accepted the wording of Condition 35A, as previously proposed by Council.

*35A The Proponent must implement all recommended road improvement works listed in Option 1 of Section 3.4 Clear Zone Assessment of the (Draft) Response to Road Safety Audit prepared by GHD, dated March 2018, in consultation with Council. Additional signage (as required by Council) shall also be installed. The works must be implemented prior to any increase in truck movements associated with Mod 2.*

The proponent has acknowledged that a s138 approval from Tweed Shire Council will be required for any of the road improvement works recommended in GHD's Option 1 and as required by Condition 35A

The proponent has also confirmed that the abovementioned road improvement works will not require any vegetation removal.

No further traffic issues are raised by Council, subject to the imposition of the abovementioned Condition 35.

**2. S94 Contributions**

Council's assessment of the original application in 2008 applied an annual heavy haulage rate of \$47,250. The Tweed Road Contribution Plan (TRCP) at the time applied heavy haulage contributions based on the extraction of material for the life of the project. However, in this instance, the heavy haulage was

applied annually by Council, based on the annual extraction rate of 300,000 tonnes. Unfortunately Condition 13 of MP06\_0030 referred only to a one-off payment of \$47,250 (which was paid by the proponent), as opposed to an annual contribution.

Heavy haulage is no longer applied under the current version of the TRCP. Rather, contributions are based on trip rates. Although Mod 2 does not propose an increase in the annual extraction rate of 300,000 tonnes, Council requests the Department to review the ability to apply the recommended TRCP charge based on demonstrable increase in trip numbers alone.

The increase in peak truck movements (from 8 per hour (in and out) to 24 per hour) represents an increase of 125.71 trips per day. This results in a one-off fee of **\$173,480** based on the current TRCP rates. It should be noted that Council's TRCP rates increase yearly (due to indexation). Accordingly, if the proposed Mod is determined after 1 July 2018, the applicable TRCP contribution (based on the same additional trip rate of 125.71 trips per day) would increase to **\$182,280**.

The proposed additional TRCP contribution (applied as a one-off payment for Mod 2) is considered to be fair and reasonable, particularly given that the proponent should have paid \$472,500 in heavy haulage over the past 10 years and should be continuing to pay \$47,250 each year for the life of the quarry.

Accordingly, it is recommended that Condition 13 be amended as shown below, noting that the fee of \$172,480 will need to be amended to \$182,280 if the Mod is determined after 1 July 2018 (changes shown in bold & struck through):

- 13A. *Prior to carrying out any ~~development~~ **increase in truck movements associated with Mod 2**, or as otherwise agreed by Council, the Proponent shall pay Council ~~\$47,250~~ **\$173,480** in accordance with Council's Tweed Road Contribution Plan ~~and \$399.40 in accordance with Tweed Council Section 94 Plan No. 18.~~*

### 3. **Ecological Concerns**

Whilst it is acknowledged that the proponent is no longer proposing removal of vegetation along Pottsville Road, Holcim's response is not considered to have adequately addressed the issues raised in Council's previous submission. Further comments for the Department's consideration are noted below.

- *Potential impacts of additional truck movement (koala mortality) both within the site and on Pottsville-Mooball Rd*

The NSW *Koala Strategy 2018*, NSW Chief Scientist and Engineer's *Report of the Independent Review into the Decline of Koala Populations in Key Areas of NSW 2016* and the NSW Scientific Committee's final determination to list the population of koala between the Tweed and Brunswick Rivers as an endangered population all identify the threat of vehicle strike as a major challenge to koala recovery. Pottsville-Mooball Road bisects an area of the landscape that is specifically identified by the Tweed Coast Comprehensive Koala Plan of Management as critical to koala connectivity due to its location between areas of existing habitat and by the Tweed Coast Koala Habitat Study (Biolink 2011) as a koala mortality blackspot. Increasing truck movements both within the site and on Pottsville-Mooball Road by 300% by definition increases this threat and must

be duly considered in evaluation of the proposal in accordance with the relevant provisions of the EP&A Act.

Discussion with NSW OEH and reliance on existing static warning signs is not considered to suitably evaluate, avoid or mitigate the level of risk presented by the proposed development at this location.

- *Inconsistency with the development provisions of the Tweed Coast Comprehensive Koala Plan of Management*

Council is fully aware that the KPOM has not been endorsed by the State and has not suggested at any point that it has been. The KPOM has been adopted as a policy of Council to give effect to the relevant provisions of the Tweed Local Environmental Plan 2014 and as the recovery strategy for the Tweed Coast koala population employed by Council.

This position was recently endorsed by the Land and Environment Court (*Denning Tweed Heads Pty Ltd v Tweed Shire Council* [2018] NSWLEC 1108 [91]-[92]), with the Commissioner having regard for the KPOM as a mechanism to achieve the objectives of the LEP.

- *No consideration of the Tweed-Brunswick endangered koala population status*

Council's initial concerns are not considered to have been adequately addressed by the proponent. As detailed above, it is considered that Mod 2 has a lack of consideration of the likely impacts of the development on the Tweed-Brunswick endangered koala population.

- *Concerns with the accuracy of the Environmental Assessment*

Council's previous concerns remain, as it is considered that there has been no assessment of the likely impacts of the development on the natural environment. As stated in the Holcim response, their assessment to date has been limited to traffic and access, noise and air quality.

Council maintains that a proper assessment of the likely impacts of the development has not been undertaken by the proponent. Accordingly, it is requested that the Department take into consideration the ecological concerns raised above in their overall assessment of Mod 2.

#### **4. Amenity Impact**

Council's previous comments with regard to the potential impact that such a significant increase in peak truck movements could have upon the local residential amenity and the general road users remain.

With an overall extraction limit of 300,000 tonnes per annum, the current restrictions on truck movements provides for a maximum of 80 trucks per weekday (for approximately 300 days of the year). The proposed increase in heavy vehicle movements are likely to result in a significant peak in the number of trucks, with 240 truck movements per weekday for approximately 100 days of the year.

Although the local road network may have the capacity to adequately accommodate the proposed increase in traffic movements, it is considered appropriate that the potential impact upon the local amenity be addressed.

Accordingly, it is requested that the Department fully consider the amenity impacts associated with the increase in peak truck movements from a general road user perspective and local residential amenity for dwellings around the quarry and along the haul route, as proposed by Mod 2.

## **5. Additional Comments**

In addition to endorsing the abovementioned Council officer comments (that were issued to the Department as a 'Draft Submission' on 22 June 2018), it was resolved by Council's Planning Committee on 5 July 2018 to include the following comments in the endorsed submission:

*"Council does not support the Dunloe Sands Modification due to concerns raised by the staff submission and particularly:*

- Significant concerns with traffic intensity on these local roads, including impacts on the residential amenity of existing residents and the future Dunloe Park development, and impacts on koalas including koalas crossing the road during the day.*
- That another Exhibition Notice be advertised, allowing for a further 14 day submission period, so that the misleading information contained in the original Exhibition Notice can be rectified and the general public be given an opportunity to respond.*
- That another Holcim community newsletter be distributed, informing the general public of the discrepancy in the proposed hourly heavy vehicle movements and advising them of the further 14 day submission period to respond.*
- That the proposal to triple the number of truck movements be considered a 'radical transformation' and that section 75W cannot be relied upon because the proposed changes cannot be considered a 'modification'."*

For further information regarding this matter please contact Colleen Forbes on (02) 6670 2596.

Yours faithfully

**Lindsay McGavin**  
**MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE**