



Ms Anna Summerhayes
A/Director
Independent Planning Commission
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Dear Ms Summerhayes

**Dunloe Park Sand Quarry Modification 2 (MP 06_0030 Mod 2)
Re-exhibition and Assessment Addendum**

I refer to your letter dated 5 September 2018, requesting the Department to re-advertise the modification application for Dunloe Park Sand Quarry (MP 06_0030 Mod 2). The Department notes that the Independent Planning Assessment Commission of NSW (the Commission) requested that the Department:

- re-advertise the modification application and advise the Commission when this has occurred;
- provide copies of any submissions (see **Attachment A**); and
- provide its response to the issues raised in any submission in an addendum report (see **Attachment B**).

As you are aware, the modification application was re-exhibited from 29 September until 11 October 2018, with the Environmental Assessment made available on the Department's website and at NSW Service Centres. State Government agencies and Tweed Shire Council (Council) were also advised of the re-exhibition.

Whilst no additional advice was received from State agencies, on 17 October 2018, Council informed the Department that it maintained its objection to the proposed modification and reiterated its reasons included in its letter dated 6 July 2018.

The Department received eight submissions from the community including one submission from a special interest group objecting to the proposal during the re-exhibition period. An additional 16 submissions were received after the re-exhibition period had concluded. The Department has considered all submissions received.

The submissions raised concerns about:

- impacts on Koalas, including potential road strike mortality and stress from noise and dust;
- inconsistency with Council's Koala Plan of Management;
- cumulative traffic impacts in light of future residential development and annual music festivals;
- inadequate traffic impact assessment and justification;
- noise and air quality impacts;
- inconsistency with land use mapping;
- the use of section 75W of the *Environmental Planning and Assessment Act 1979*;
- the omission of an assessment under the Commonwealth *Environmental Protection Biodiversity Conservation Act 1999*; and
- road maintenance.

The Department has carefully considered the matters raised during the re-exhibition period and is satisfied that the original assessment report has addressed the majority of those matters. Nevertheless, the Department's response to the issues raised during re-exhibition is included in **Attachment B**. The assessment of these issues is intended to meet the Commission's request for an addendum report.

The Department maintains its position that the increased truck numbers do not result in exceedances of the noise or air quality criteria currently applicable to Dunloe Park Sand Quarry and that the existing road network can absorb the increased heavy vehicle movements without compromising the safety of other road users or causing significant impacts on Koalas.

Following referral of the application to the Commission in August 2018, Holcim (Australia) Pty Ltd (Holcim) advised the Department that it had concerns with a number of conditions within the recommended Notice of Modification. These concerns were primarily associated with the Department's approach to contemporise existing conditions and the proposed amendments to the noise criteria. On 15 August 2018, the Department provided Holcim with some proposed revisions to the Notice of Modification. These revisions related to the noise and air quality operating conditions, which the Department amended to be more consistent with conditions imposed for similar developments, including the nearby Tweed Sand Quarry. Subsequently, the Department and Holcim discussed these conditions on multiple occasions.

On 15 October 2018, the Department received correspondence from Holcim (see **Attachment C**) regarding the recommended Notice of Modification and outlining its three residual concerns including the:

- revised noise criteria;
- addition of PM_{2.5} air quality criteria; and
- updated rehabilitation bond calculation.

Upon consideration of these comments, the Department considers it reasonable to remove the PM_{2.5} air quality criteria and retain the existing condition for the rehabilitation bond.

However, the Department does not agree to the request to retain the existing noise criteria. Tables 4-4 and 4-5 of the Noise Impact Assessment (GHD, 2017) identify that the site can achieve the proposed noise criteria and that the previous criterion of 48 dB(A) was based on background noise levels that were not reflective of the noise environment at sensitive receivers. The Department's approach to setting achievable noise criteria is consistent with the *Noise Policy for Industry 2017*.

It is recommended that the Commission now re-considers the Department's original assessment report in conjunction with the submissions received during re-exhibition of the application and the Department's assessment of the issues raised in these submissions and proceeds with its determination. A copy of the revised recommended Notice of Modification is included in **Attachment D**.

Should you have any queries about these matters please contact me on 9274 6419.

Yours sincerely,



Jessie Evans
A/Director
Resource Assessments

Attachment A – Submissions received during re-exhibition

See the Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8619

Attachment B – Department's consideration of Submission received during re-exhibition

Impacts on Koalas

Road Strike

Many submissions identified concerns about Koala mortality due to increased potential of road strike occurrences. The Department provided consideration of this matter in Section 5.5 of the original assessment report.

The Department has previously sought advice from the Office of Environment and Heritage who did not raise any concerns about road strike occurrences. This was on the basis of truck movements remaining restricted to daytime operational hours. The Department notes that Koalas are not limited to night time movement and may be found at ground level at any time, especially during breeding season. The Department has recommended Holcim implement a monitoring and annual reporting program of the project's impacts on Koalas, including road strike. This would be coupled with the implementation of adaptive management options, including specific impact triggers that have been developed in consultation with Council.

Council's Koala Plan of Management (KPOM) contains an objective to reduce the level of road strike through better road design. The modification application does not propose significant changes to the road design and as such the Department considers the most appropriate way to reduce the potential for road strike is through driver education. This is consistent with the KPOM which contains an objective of increasing community awareness of the presence of Koalas. The Department is satisfied that Holcim would improve driver awareness by installing new Koala warning signage as part of the suite of road treatments as discussed in Section 5.1 of the original assessment report.

Noise and Dust

Several submissions raised concern that noise and dust are potential causes of stress on Koala populations that in turn could lead to health problems. Noise and air quality were key issues assessed by the Department in its original assessment report. The proposed modification is not predicted to exceed relevant noise and air quality criteria. That being said, the Department notes that these criteria relate to human health and amenity. The Department is not aware of such criteria existing for Koalas. Therefore, management and mitigation to reasonably and feasibly reduce noise and air quality impacts should be considered.

Regarding air quality impacts caused by the proposed increase in heavy vehicle movements, Holcim is already required to ensure that all loaded vehicles entering or leaving the site have their loads covered. In addition, all loaded vehicles leaving the site must be cleaned of loose materials that may fall on the road before leaving the site. Lastly, the Department notes that the operations of Dunloe Park Quarry do not involve blasting and that the extracted sand product is a coarse material meaning that dust only travels a relatively short distance when airborne.

Noise generated by quarry operations must comply with the criteria in the approval. To strengthen noise management, the Department has recommended current standard operating conditions requiring Holcim to implement best practice management to minimise the construction, operational and road transportation noise of the development.

The increased trucking provides only 8% increase in heavy vehicles and 3.6% increase in total vehicles using Pottsville Road. Therefore, the Department considers that the proposed modification is unlikely to cause significant stress to Koalas due to noise and dust generation.

Habitat Fragmentation

Concerns were also raised relating to habitat fragmentation and the proposed modification further enhancing the already fragmented landscape. It is important to note that the proposal does not require any direct vegetation clearance. Furthermore, the proposed haulage route is along an already existing road network. Therefore, the Department considers it unlikely that the proposed modification would contribute to further habitat fragmentation in the area.

Community Perception

Some submissions considered that the hard work and initiatives started by local charity and/or Koala protection groups would be 'placed in jeopardy' by the proposed modification and noted that people could become 'disillusioned by the seemingly contradictory actions of Council'. The Department is not in a position to comment on the actions of Council, however, it has carefully considered the proposal

and any potential impacts it may have on people's perceptions that community groups actions would be undone.

The Department notes that many of the submissions from the re-exhibition period came from members of Koala action groups or people with an interest in protecting local Koala populations. The proposed modification is unlikely to 'undo' the local communities hard work as its limited to truck movements and does not involve vegetation or habitat clearance. Furthermore, the Department has recommended Holcim be required to install Koala signage to promote and increase driver awareness of Koala presence in the area.

Inconsistencies with Tweed Council's Koala Plan of Management (KPOM)

Under *State Environmental Planning Policy 44 – Koala Habitat Protection* (SEPP 44), the approval authority must consider a Plan of Management that has been endorsed by the Director-General of National Parks and Wildlife Services. While Council's KPOM has not been endorsed by the Director-General, the Department considered the objectives and relevant provisions of the KPOM in Section 5.5.1 of its original assessment report. The Department maintains its position that the modification is not inconsistent with the KPOM and would not limit opportunities for the objectives of the KPOM to be achieved.

Cumulative traffic impacts

A couple of submissions raised concern that the traffic impact assessment had not considered Council's "in-principle" support for up to 6000 additional residents in Dunloe Park Estate (the Estate). The Department understands that a large component of the investigation area for the Estate is owned by Ramtech Pty Ltd, whom leases Dunloe Park Quarry to Holcim. The Department considers it unlikely that all dwellings would come online while Dunloe Park Quarry is operational. Nevertheless, even if this were to occur, the development proposal for the Estate must be assessed by Council and would need to include a traffic impact assessment. At present, there is limited public information available on the timeline for this land release. The Department understands that Council and land holders are currently in the early stages of preparing a masterplan for the precinct.

Several submissions highlighted that Pottsville Road is a thoroughfare for people attending music events such as Splendour in the Grass, which can attract up to 35,000 patrons. The Department notes that the most direct route for cars would be via the Pacific Highway. Furthermore, the Department understands that such events must prepare and implement traffic management plans that include alternative transport options, including, but not limited to, taxis, shuttle buses, planes and airport transfers, Ubers and drop off / pick up options. Given the short-term temporary nature of these events and there being a more direct route available, the Department does not consider it necessary to include assessment of event-related traffic generation in this modification.

One submission stated that the Pottsville-Mooball road trip has a very scenic, country road feel and makes a very beautiful and peaceful drive into Pottsville. The submitter considered that these qualities significantly contributed to the value and quality of the town and should be protected. The Department notes that the proposed modification would not result in more trucks on the road per year, rather it would permit more flexibility in when product is trucked. As such, the Department considers it unlikely that the attributes subscribed to the road trip would be significantly adversely more impacted than already approved.

Overall, and as stated in the original assessment report, the Department is satisfied that Pottsville Road can accommodate the additional truck movements while maintaining an acceptable level of service for all road users.

Inadequate justification

One submission raised concern that part of the justification for increased truck movements was to satisfy demand driven by construction projects associated with the Gold Coast Commonwealth games, which have now passed. The Department accepts that due to the time it has taken to assess this modification application, this justification is no longer relevant. However, the Department understands that this was used as an example of project demand, rather than the only reason for the proposed modification. The Department notes that high quality sand product is a key material in concrete and mortar and its supply is likely to remain in high demand for both public and private construction projects.

Another submission raised concern with the way in which vehicle movements had been calculated, and in particular the use of average trucks per hour. The Department has addressed this in its original assessment report and reiterates that Holcim would not actually truck at the proposed rates for the

whole year (without exceeding 300,000 tonnes per annum and being in non-compliance). Furthermore, the Department has recommended a condition requiring Holcim ensure that heavy vehicle movements (in and out) associated with the project do not exceed 24 per hour.

Noise and air quality

Several of the additional submissions raised concern over the proposal's potential noise and air quality impacts. These impacts have been assessed in Sections 5.3 and 5.4 of the original assessment report, respectively. The proposal is predicted to comply with applicable operational noise, road noise and air quality criteria, and the Department is satisfied that the noise and air quality impacts of the proposal are acceptable. Notwithstanding, the Department has recommended contemporary operating and management plan conditions, as well as reduced noise criteria for some receivers based on contemporary background monitoring.

Land use mapping

One submission raised concern that the modification was inconsistent with "land use mapping" that identified the land as 'regionally significant farmland' within the Farmland Protection Project and mapped as 'land suitable for grazing but not cultivation' on Tweed Shire Councils agricultural land suitability mapping. The Department notes this concern but also considers that this proposal is a modification to an approved extractive industry. Further, under *Tweed Local Environmental Plan 2014* land zoned RU2 – Rural Landscape lists extractive industries as a permissible land use. Therefore, the Department is satisfied that the proposal is consistent with the relevant statutory land use mapping.

Section 75W of the Environmental Planning and Assessment Act 1979 (EPA Act)

The original application for Dunloe Park Sand Quarry was approved on 24 November 2008 under Part 3A of the EP&A Act. As explained in Section 3.1 of the original assessment report, the proposal is a transitional Part 3A project under Schedule 2 to the *EP&A (Savings, Transitional and Other Provisions) Regulation 2017*.

As the proposal would not change any of the core elements of the project, including the approved extraction limits, quarrying methods, operational hours, or annual extraction volumes and processing rates, the Department is satisfied that the proposed modification is within the scope of section 75W, and may be determined accordingly.

Environmental Protection Biodiversity Conservation Act 1999

Concerns were raised that the Environmental Assessment did not provide any assessment or reference to the *Environmental Protection Biodiversity Conservation Act 1999* (EPBC Act) as Koalas are listed as a vulnerable species under this Act.

The Commonwealth *Significant Impact Guideline 1.1* states that an action is likely to have a significant impact on a vulnerable species if there is a real chance or possibility that it will:

- lead to a long-term decrease in the size of an important population of a species;
- reduce the area of occupancy of an important population;
- fragment an existing important population into two or more populations;
- adversely affect habitat critical to the survival of a species;
- disrupt the breeding cycle of an important population;
- modify, destroy, remove or isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline;
- result in invasive species that are harmful to a vulnerable species becoming established in the vulnerable species' habitat;
- introduce disease that may cause the species to decline; or
- interfere substantially with the recovery of the species.

Based on the above definitions and the Department's assessment of the proposal, it is considered unlikely that the proposed increase in trucking levels would result in increased mortality to Koalas to the extent that it could be considered a significant impact. In determining whether a proposal is a controlled action or not, the onus is on the Proponent to refer to the Commonwealth. The Department notes that Holcim has not referred this proposal to the Commonwealth.

Maintenance of roads

During the assessment of this modification and in consultation with Council, it was identified that section 94 contributions were incorrectly applied to the affect that Holcim paid Council a one-off monetary

amount of \$47,250, instead of an annual payment of this amount. The Department and Council have been able to calculate an additional one-off payment for the increased truck movements using Council's Road Contribution Plan as a basis. The sum of \$182,280 was calculated and agreed to by Holcim. The Department recommended a condition requiring Holcim to pay the agreed amount prior to increasing heavy vehicle movements per hour, or as otherwise agreed under Council's Business Investment Policy. The Department is satisfied that a reasonable and fair outcome has been reached and any requirements for road maintenance from the proposed increased truck movements can be adequately addressed by Council.

Attachment C – Proponent comments on Notice of Modification

Attachment D – Revised Notice of Modification