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**SUBMISSION OF CONCRUSH PTY LTD ACN 097 606 543 BY WAY OF OBJECTION
TO A PROJECT APPLICATION UNDER PART 3A OF THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT NUMBER 08_0079 OF LAKE MACQUARIE CITY
COUNCIL TITLED "CIVILAKE CONSTRUCTION AND GREEN WASTE RECYCLING
FACILITY - TERALBA"**

Director General
Department of Planning
GPO Box 39
SYDNEY 2001

By Express Post
Facsimile: 9228 6466
Email: plan_comment@planning.nsw.gov.au

Dear Sir,

Concrush Pty Ltd ACN 097 606 543 a company duly incorporated and having its registered office at 21 Racecourse Road Teralba 2284 hereby objects to approval by the Minister for Planning of the abovementioned application number 08_0079. In making this submission Concrush Pty Ltd states that neither the company nor its directors have made either by themselves or by an associate of them in the two years prior to the date of this submission any political donation of \$1,000.00 or more or any political donations which when aggregated with others made in the same financial year ending 30 June 2010 total \$1,000.00 or more.

The grounds for objection are as follows:-

1. Lack of jurisdiction to approve

- 1.1 The environmental assessment requirements prepared by the Director General ("Director General's requirements ("DGRs")") were notified to the proponent on 6 May 2008.
- 1.2 The DGRs were expressed to have a life of two years from the date of their notification ("source?").
- 1.3 The Environmental Assessment ("EA") is dated 3 August 2010. The EA was lodged with the Director General on a date unknown to this objector but after 3 August 2010.
- 1.4 At the date of that lodgement there were no DGRs in existence, the previously notified DGRs having expired before that time.

- 1.5 There were no DGRs current at the date of lodgement of the EA in respect of the proponent's project (as required by s.75F of the Environmental Planning & Assessment Act ("EPA Act")).
- 1.6 There are no DGRs to be considered by the Director General in respect of the proponent's project as required by s.75H of the EPA Act.
- 1.7 Similarly there were no DGRs which pursuant to s.75H of the EPA Act were to be addressed by the EA.
- 1.8 The Director General is unable to provide to the Minister as required by s.75I(2) a statement relating to compliance with the DGRs with respect to the project.
- 1.9 Accordingly the Minister is unable to comply with the provisions of s.75J(2) of the EPA Act in that the requirements of that subsection to be considered by the Minister do not exist in relation to the EA.

In these circumstances any purported approval given by the Minister to the project will be null and void.

2. Inadequacy of Environmental Assessment

The EA is deficient in that it does not deal with or deal adequately with the following issues:-

- 2.1 As exhibited the flood study forming part of the EA did not contain Appendices E - HEC-RAS Output Data 100 year ARI Event with Climate Change Considered and F - Impact of Loss of Flood Storage.

The Objector is unable to consider properly the adequacy of the flood study in the circumstances that Appendices E and F have not been part of the exhibition of the proposal.

- 2.2 The proposal set out in the EA involves the raising of the natural ground level by between two and three metres by the importing and depositing of approximately 200,000 tonnes of fill. Such is a major part of the proposal. The EA does not deal with the impacts of such fill.

- 2.3 The proposed development is an extractive industry within the meaning of that expression as contained in Schedule One ("Extractive Industry Related Works").

- 2.3.1 That part of the proposal as relates to the filling of the land falls within the definition of "extractive industry" as contained in Schedule One Part 3A SEPP (Major Developments) 2005.

2.3.2 The "extractive industry related works" is ancillary to the Part 3A project comprised in the application.

2.3.3 The provisions of s.75B(3) of the EPA Act apply to the "extractive industry related works" and are to be addressed by the EA.

2.3.4 The EA does not identify, characterise or particularise the impacts of the "extractive industry related works".

2.4 The Traffic Assessment Report exhibited as Appendix J to the EA:-

2.4.1 Fails to assess or to assess adequately the impact of the proposed development on Five Islands Road a State road classification MR 217 as a major arterial route along the west coast of Lake Macquarie.

2.4.2 Provides no assessment of existing traffic conditions within the villages of Teralba and Barnsley and no assessment of the impacts of traffic generated by the proposed development on those conditions. In particular there is no assessment of the use of the proposed haulage routes at school times and the impact of traffic generated by the development on school frontages and school bus routes, pedestrian cluster points and the impact of additional traffic on the local amenity of the villages of Teralba and Barnsley.

2.4.3 Fails to provide an assessment of the impact of traffic generated by the facility on sporting/recreational facilities in the area given that Tables 4.1 and 4.2 of the Report state that the facility will operate six days a week.

2.4.4 Fails to assess pm peak traffic impacts having regard to school peak traffic and trade peak traffic in the pm period. Inconsistently the report suggests that the facility will have inwards traffic up to 4pm whilst outwards traffic will cease at 3pm.

2.4.5 Fails to identify whether the general public will have access to the facility and if so at what times, and to provide an assessment of the impact of such access on traffic.

2.4.6 Fails to assess the impact on existing vulnerable road users along the haulage route within a reasonable area of influence of the proposed site.

2.4.7 Fails to identify all potential traffic generators and impacts.

2.5 The Analysis on the Impact of Flooding in Cockle Creek for Proposed Construction Waste Recycling Facility exhibited as Appendix G ("Flood Report") to the EA:-

2.5.1 Relies, at section 6, on flow data derived from a 1986 study. The flows adopted do not take into account the effects of development within the contributing catchment over the past 24 years. The effects of such development over that period are likely to have resulted in an increase in peak water flow. The flood report does not address this likely increase either

by way of its nature or impacts on the development site and surrounding lands.

2.5.2 Uses a HEC-RAS model to investigate the impacts of the proposed filling of the site. This model is simply a one-dimensional flood model and is unlikely to adequately consider flood storage effects or hydraulic processes within the flood plains (i.e., the development site). It is likely that the adoption of this model could result in a gross underestimation of flood impacts resulting from the filling of the site.

2.5.3 Adopts as its premise only a simple volumetric analysis of the impact of filling of flood liable land (the development site). The Flood Report does not undertake any accurate assessment of the impacts of the filling of flood liable land comprised in the site. This analysis is extremely rudimentary and is likely to be inadequate given the complex hydraulic process occurring within the floodplain.

2.5.4 Does not contain Appendix F which, as referenced by section 9 of the Flood Report, contains calculation of that volumetric analysis. A detailed and reasonable assessment of that volumetric analysis accordingly is unable to be carried out.

2.5.5 Fails to provide an assessment of the potential of floodwaters to scour and destabilise the proposed fill batters (refer clause 4.3 below).

2.6 The Concept Design Drawing Package exhibited as Appendix B ("Concept Design") to the EA:-

2.6.1 Fails to provide an assessment in terms of potential geotechnical impacts of the placing of a large amount of fill over the flood plain. (refer clause 4.1 below).

2.7 The Water Cycle Management Plan exhibited as Appendix F ("Water Cycle Plan") to the EA:-

2.7.1 Does not include enough technical foundation and justification (i.e., input parameters and output results) to enable a reasonable assessment of water quantity determination (i.e., peak flow, volumetric calculations, etc) or water quality treatment (i.e., MUSIC source generation parameters, treatment train design parameters, etc).

2.7.2 Does not consider the effect which the proposed filling of the Development Site will have on overland flow to and from neighbouring properties. (refer clause 4.2 below).

3. Planning Issues

3.1 The project is permissible development as "waste management and/or recycling facility" within the subject land which is zoned 9 Natural Resources pursuant to Lake Macquarie Local Environmental Plan 2004 ("LEP 2004").

3.1.1 The project is not consistent with the relevant objectives as set out in the table to clause 15 of LEP 2004 for Zone 9 Natural Resources.

3.1.2 Clause 16 of LEP 2004 provides that consent must not be granted for such development unless the consent authority is satisfied that the proposed development is consistent with those zone objectives.

3.1.3 Accordingly pursuant to the provisions of clause 80 of the Environmental Planning & Assessment Regulation 2000 ("EPA Regulation 2000") the Minister is precluded from granting approval for the carrying out of the project under Part 3A of the EPA Act.

3.2 The site of the proposed development is flood prone land within the meaning of LEP 2004. In this respect:-

3.2.1 Clause 32 of LEP 2004 provides that before granting consent for development on flood prone land the consent authority must *inter alia* be satisfied that to carry out the development in accordance with the proposed consent would be consistent with flood hazard and levels of risk that are acceptable to the community.

3.2.2 In the light of the inadequacies of the EA the Minister could not be satisfied that to carry out the development would be consistent with the flood hazard and levels of risk that are acceptable to the community within the meaning of clause 32 of LEP 2004.

3.2.3 Accordingly pursuant to the provisions of clause 80 of the EPA Regulation 2000 the Minister is precluded from granting approval for the carrying out of the project under Part 3A of the EPA Act.

4. Engineering Issues

4.1 Consolidation processes due to site filling are likely to result in differential surface settlement of the development site once filled. Such differential surface settlement will affect the integrity of development structures and services as well as the potential to impound and significantly alter ground water movement.

4.2 The placement of substantial quantities of fill is likely to impound overland flow of water resulting in changes in the surface and sub-surface hydraulics.

4.3 Peak water velocities in times of flood will have the potential to:-

4.3.1 Erode earthfill embankments;

4.3.2 Cause downstream environmental erosion and deposition; and

4.3.3 Destabilise site structures.

4.4 It is likely that the importing of fill during earthworks operations will necessitate as many as 10,000 truck movements to and from the development site. These movements will generate massive traffic and acoustic impacts on Five Islands Road and the villages of Barnsley and Teralba.

5. Traffic Issues

The EA Traffic Assessment Report Exhibit J focuses solely on road capacity. It omits any analysis of the impact of the proposed development on the safety of vulnerable road users identified in paragraph 2.4 above.

Concrush Pty Ltd requests that you have regard to the above submissions in assessing the numerous issues raised by these submissions.

Concrush Pty Ltd respectfully requests that you:

- (a) refuse to consider the Environmental Assessment further pursuant to s.75H of the EPA Act; and
- (b) decline to give a report to the Minister for Planning recommending any form of approval in respect of the proposed Project in view of the serious and substantial issues set out in the above submission.

Dated: 30 September 2010

SIGNED FOR AND ON BEHALF OF
CONCRUSH PTY LTD ACN 097 606 543
by its Director:-

ANTHONY CONAGHAN