

11 March 2021

Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

APPLICATION NO: (Our Ref. 25-2018-8-1)

PROPOSAL: Extractive industries

PROPERTY: 3631 Nelson Bay Road BOBS FARM (LOT: 254 DP: 753204)

ATTN: Gabrielle Allan

Thank you for the opportunity to provide comment on the response to submissions (RTS) for the Bobs Farm Sand Mine Project. Council has completed a review of the RTS and provides the following comments:

Development Contributions

As per the Traffic Impact Assessment provided by the applicant, it is understood that the proposal would not utilise Council's local road network. Therefore a condition for haulage levies under section 7.11 is no longer required. It is however recommended that a condition be placed on the consent restricting the heavy vehicle route to that shown in Figure 5-1 of the Traffic Impact Assessment.

As per Council's original submission, it is recommended that a condition be placed on the consent requiring the payment of section 7.12 contributions in accordance with Council's Local Infrastructure Contribution Plan. This will ensure that any increased demand for public services and amenities as a result of the intensified use of the land is suitably offset. A draft condition for consideration is detailed below.

A monetary contribution is to be paid to Port Stephens Council, pursuant to Section 7.12 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Council Local Infrastructure Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and outlined in the table below.

Capital Investment Value	Levy Rate (\$ of CIV)
<i>Up to and including \$100,000</i>	<i>Nil</i>
<i>More than \$100,000 and up to and including \$200,000</i>	<i>0.5%</i>
<i>More than \$200,000</i>	<i>1%</i>



The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Local Infrastructure Contributions Plan.

Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a Registered Associate member or above, of the Australian Institute of Quantity Surveyors.

This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

Payment of the above amount must be made prior to the issue of a Construction Certificate or the commencement of works, whichever occurs first.

Traffic

Council has reviewed the amended haulage route proposed and is supportive of the proposal to only utilise Nelson Bay Road.

It is noted however, that the traffic volume data used for the assessment was gathered in 2014 and may need to be re-surveyed in order to provide an accurate depiction of current traffic conditions.

Flooding and Drainage

It is noted that a part of the proposed sand mining area is flood prone land (affected by PMF). Potential sand mining in the area may increase the flood the hazard in the area. A flood impact and risk assessment should be prepared to determine the impact of flooding around the proposed mining area. The flood study should address location of stock piling sand, how this would interfere with the floodwater, displacement of water, extent of the flood impact etc.

Further investigation regarding the potential impacts of the proposed sand mine on the groundwater should be assessed particularly given the sites close proximity to the Hunter Water Corporation (HWC) special area.

Currently, all stormwater falling onto the land infiltrates into the ground. Removal of sand in this area may significantly reduce the infiltration rate and may produce surface water runoff, which may impact Nelson Bay road and neighbouring properties. It is recommended that further investigations be undertaken in this regard.

Environmental and Ecology

Council has reviewed the response to submissions relating to the environment and ecology concerns along with the revised BAR prepared by Wildthing, dated November 2020. It is considered that much of the concerns raised in Council's original submission have not been addressed, specifically, items 1, 3, 4, 5, 6 and 7 relating to threatened species survey and assessment. These items are discussed further below.

- Item 1 has not been addressed. The Tiger Quoll has been assessed under the incorrect EPBC criteria. It has been assessed under vulnerable species criteria rather than endangered species criteria.
- Item 3 has not been addressed. No surveys undertaken for the following species credit species as outlined as a requirement in Table 14.23 of the EIS.
 - Austral Toadflax (*Thesium australe*)
 - Narrow-leaved Red Gum (*Eucalyptus seeana*)
- Item 4 has not been sufficiently addressed. Original comments as per Port Stephens Council (PSC) submission (14 January 2019) have not been adequately addressed for the following species. Additional comments are provided in **bold** below:
 - Eastern Underground Orchid (*Rhizanthella slateri*) – **3 person hours and survey transect spacing of 15 m is considered inadequate.**
 - Lesser Swamp Orchid (*Phaius australis*) – **Timing of survey is incorrect and no additional surveys were conducted.**
 - Australasian Bittern (*Botaurus poiciloptilus*) – **No surveys undertaken**
 - Giant Dragonfly (*Petalura gigantea*) – **Timing of survey is incorrect.**
 - Threatened frogs (Green and Golden Bell Frog (*Litoria aurea*) and Green-thighed Frog (*Litoria brevipalmata*) – **Timing of majority of the surveys are incorrect. Survey effort is considered to be insufficient.**
 - Mahony's Toadlet (*Uperoleia mahonyi*) – **Survey effort is not considered to be adequate.**
- Item 5 has not been addressed. No assessments of significance have been provided for *Rhizanthella slateri*, *Gallinago hardwickii* and *Tyto longimembris*.
- Item 6 has not been addressed. Habitat removal is not acknowledged in criteria d) i) of the test of significance for *U. mahonyi*.
- Item 7 has not been addressed. A 15 meter buffer from Swamp Sclerophyll Forest and koala habitat is considered to be insufficient to protect this Groundwater Dependent Ecosystem and area of koala habitat.

Thank you for the opportunity to comment on the proposed development. If you wish to discuss the matters raised above or have any questions, please contact me on the number below and I will be happy to help.

Yours Faithfully,



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