

Our ref: STH04/00015/24
Contact: Andrew Lissenden 0418 962 703
Your ref: DA85/2865 MOD 2

23 July 2021

Joel Herbert
Department of Planning, Industry and Environment
BY EMAIL: information@planning.nsw.gov.au

SECTION 4.55 APPLICATION TO MODIFY DEVELOPMENT CONSENT 85/2865 - MENANGLE QUARRY (MODIFICATION 2) – PUBLIC EXHIBITION

Dear Joel,

Transport for NSW (TfNSW) refers to the notification it received on 23 June 2021 regarding the above Section 4.55 application which has been referred for comment.

TfNSW has completed an assessment of the information provided (*DA85/2865 Modification Report (MOD 2)*, Report No. J190166 RP#36 prepared by EMM dated 3 June 2021 Version v1 Final) and notes:

- The key state road is the Hume Motorway to which the currently approved and amended development will have no direct vehicular access;
- The Land and Environment Court approved a modification to DA85/2865 (LEC 2018/342158) on 10 September 2020. This enabled the expansion of the extraction area to the eastern side of the Hume Motorway and the transportation of material under the Hume Motorway by conveyor belt. The advice that TfNSW is now providing relates to the conditions that have been issued by the Land and Environment Court as part of the approval it issued in September 2020;
- The current application seeks to amend and/or delete several conditions relating to how the material is transported from the eastern side of the Hume Motorway to the western side. Specifically, it is seeking to upgrade an existing track under the Hume Motorway/Menangle Bridges to enable the removal of material by haul trucks instead of a conveyor belt;
- The Hume Motorway at this location is located on land owned by TfNSW. As this modification relates to works that are proposed to occur within the Hume Motorway road reserve area TfNSW believes that the current application meets the requirements of 'integrated development' in accordance with Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) with general terms of approval being required from TfNSW; and
- It has been having pre-lodgement discussions with the applicant/operator (Ernest Dupree) about heavy vehicles being used to transport material under the Hume Motorway/Menangle Bridges. It has also had a discussion with Mr Dupree about the advice contained in this letter; and
- The plans for the haulage road/access under the Hume Motorway as attached to the TfNSW correspondence in Appendix A of the *DA85/2865 Modification Report (MOD 2) Report* prepared by EMM are not the latest plans.

Having regard to the above, TfNSW does no object to the submitted Section 4.55 application, in principle. TfNSW does however request the consent authority consider the points/suggested conditions outlined in **Attachment 1**.

Upon determination of this matter, it would be appreciated if the Department of Planning, Industry and Environment could send a copy of the Notice of Determination to 'development.southern@transport.nsw.gov.au'.

If you have any questions please contact me on 0418 962 703.

Yours faithfully



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1. Amendments to existing conditions:

a) Condition B43 in Schedule 2, Part B – Specific Environmental Conditions

General Comment:

TfNSW notes that the applicant in their submission details that no change to this condition is required. TfNSW however believes that an amendment to this condition is required as the works that are being proposed and will be required as part of this modification (i.e. construction of a haulage road and use of off-road haul trucks instead of a conveyor belt) within the TfNSW land beneath the Hume Motorway/Menangle Bridges are more substantial than was what was previously approved. As such TfNSW believes that a Works Authorisation Deed (WAD) is now required.

Separate from this application, TfNSW has been working with the site owner/operator to ensure a design when lodged will meet the applicable TfNSW requirements.

Amended Condition B43:

Prior to commencing Quarrying Operations in the Stage 8 Area, the Applicant/Operator must:

- i) enter into a Works Authorisation Deed (WAD) with TfNSW, or other suitable arrangement as agreed to by TfNSW for all works relating to the construction of the haulage road within the Hume Motorway road reserve (including the area under the Menangle Bridges) and the associated protection of all TfNSW infrastructure;
- ii) obtain Section 138 consent under the *Roads Act 1993* from TfNSW for the works associated with the WAD; and
- iii) have completed all works required within the Hume Motorway road reserve (including the area under the Menangle Bridges) to the satisfaction of TfNSW and in accordance with any approvals issued. Written approval is to be provided by TfNSW to advise that the required works have been completed to TfNSW satisfaction.

b) Condition B44 in Schedule 2, Part B – Specific Environmental Conditions

General Comment:

TfNSW acknowledges that an amendment to this condition is required to remove reference to 'the conveyor' and replace it with the term 'haulage road'. The amended condition, noting the nature of the works that are now being proposed, also needs to be amended to reflect the applicants/operators ongoing maintenance liabilities while the approved development is operational.

Amended Condition B44:

The Applicant/Operator must enter into a legally binding agreement with TfNSW (e.g. a licence, not a lease or an easement), for the operation and ongoing maintenance of the haulage road and associated infrastructure within the Hume Motorway road reserve (including under the Menangle Bridges) including its handing over to TfNSW at the completion of quarry operations. The legally binding agreement must be executed prior to any construction within the road reserve. All TfNSW legal costs associated with drafting and executing the legally binding agreement must be borne by the Applicant/Operator.

c) Condition B45 in Schedule 2, Part B – Specific Environmental Conditions

General Comment:

TfNSW does not object to the removal of part (b) of this condition that relates to restricting vehicular access under the Menangle Bridges to light vehicles only as it is no longer relevant noting the

modifications being proposed as part of the current application. In addition, TfNSW requests that an additional requirement be included relating to the need for the operator to undertake ongoing maintenance of the haulage road as required and/or instructed by TfNSW.

Amended Condition B45:

The Applicant must:

- i) provide a sealed access under and adjacent to the Menangle Bridges and comply with TfNSW drainage and pavement standards;
- ii) provide unrestricted access to TfNSW to undertake maintenance on the Menangle Bridges and associated facilities at all times;
- iii) remove any detritus associated with the construction and use of the access road under and adjacent to the Menangle Bridges; and
- iv) protect the piers of the Menangle Bridges, as well as any other part of the bridge structure and associated facilities from any potential damage as a result of the development;
- v) undertake maintenance to the haulage road within the Hume Motorway Road Reserve (including under the Menangle Bridges) as required and instructed by TfNSW. Before any maintenance is undertaken discussions shall be had and approval shall be obtained from TfNSW.

d) Condition B70 in Schedule 2, Part B – Specific Environmental Conditions

General Comment:

TfNSW does not object to the deletion of reference to the “conveyor being decommissioned and removed” (i.e. first ‘Objective’ dot point for the ‘Feature’ labelled ‘Surface Infrastructure’) and its replacement with “*The Haulage road and associated infrastructure within the TfNSW land/under the Menangle Bridges must be handed over to at no cost to TfNSW and in a condition that is satisfactory to TfNSW. Written approval to confirm this must be obtained from TfNSW.*”

Amended Table 4 in Condition B45:

Table 4: Rehabilitation objectives

Feature	Objective
Surface Infrastructure	<ul style="list-style-type: none"> • The Haulage road and associated infrastructure within the TfNSW land/under the Menangle Bridges must be handed over at no cost to TfNSW and in a condition that is satisfactory to TfNSW. Written approval to confirm this must be obtained from TfNSW. • All other surface infrastructure decommissioned and removed, unless otherwise agreed by the Planning Secretary

e) Schedule 2, Appendix 1

General Comment:

TfNSW does not object to the removal of Figures 2, 3, 4 and 5 which reference/show the indicative conveyor location and their replacement with Figures B.1, B.2, B.3 and B.4 from the report with reference *DA85/2865 Modification Report (MOD 2), Report No. J190166 RP#36 dated 3 June 2021 Version v1 Final* prepared by EMM. Please note that the amended temporary haul roads as shown in Figures B.1 to B.4 will also need to demonstrate compliance with the new conditions requested by TfNSW as detailed under the heading ‘2. New Conditions’ below.

f) Schedule 2 Definitions

General Comment:

TfNSW does not object to the removal of the reference to the conveyor in both the definition for 'Early Works' and for 'Stage 8 Area'.

Amended Definitions

Early Works - Means clearing for and construction of the linear infrastructure (being access roads and haul roads) located between Stage 7 and Stage 8, but does not include Quarrying Operations within the Substage 8A.

Stage 8 Area - The area labelled Stage 8 and shown in brown in Figure 1 in Appendix 1, comprising the 13 Substages labelled Stages 8A-8M and associated infrastructure including the haul roads, shown in Figures 2-5 of Appendix 1.

2. New Conditions

a) New Condition 54A in Schedule 2, Part B – Specific Environmental Conditions.

All works associated with upgrading and/or creating the haulage roads that are shown along the eastern boundary of the Hume Motorway in Schedule 2, Appendix 1, Figure 2 are to be outside the boundaries of the Hume Motorway defined by Deposited Plan (DP) 573955 which defines the Hume Motorway road reserve as Lot 2 in DP 573955.

b) New Condition 54B in Schedule 2, Part B – Specific Environmental Conditions.

The use of the haulage roads shall ensure there are no adverse impacts on vehicles using the southbound traffic lanes of the Hume Motorway. If impacts are identified then the applicant/operator shall have discussions with TfNSW and will be responsible for implementing sufficient measures to remove the impacts. These measures must be implemented within 4 months of the impact being identified.