



Office of
Environment
& Heritage

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SSD_6519

Mr Thomas Watt
Senior Planning Officer
Department of Planning & Environment
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Dear Mr Watt

RE: DOLWENDEE QUARRY PROJECT (SSD_6519) RESPONSE TO SUBMISSIONS REPORT

I refer to your e-mail dated 7 July 2016 inviting the Office of Environment and Heritage (OEH) to review the 'Response to Submissions Report' for the Dolwendee Quarry Project and provide any supplementary comments or recommended conditions of consent.

OEH has reviewed the 'Response to Submissions Report' in relation to Aboriginal cultural heritage and threatened biodiversity. OEH notes that the Response to Submissions Report (KMH 2016) did not adequately address the Aboriginal cultural heritage assessment concerns identified in the review of the Environmental Impact Statement (EIS) for this project (letter dated 1 February 2016). OEH particularly requires clarification of why the EIS did not include a geomorphological survey of the project area as specified by Section 3.2 of OEH's input into the *Director General's Requirements* (letter dated 30 May 2014). OEH additionally recommends that actions to implement the chosen mechanism to secure the biodiversity offset land are started early to enable that offset to be established by the date set in any consent conditions. Further details are provided in **Attachment 1**.

If you require any further information regarding this matter please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154.

Yours sincerely

26 JUL 2017

STEVE LEWER
A/ Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

Enclosure: Attachment 1

ATTACHMENT 1: OEH REVIEW OF RESPONSE TO SUBMISSIONS REPORT FOR THE DOLWENDEE QUARRY PROJECT (SSD_6519)

The Office of Environment and Heritage (OEH) has reviewed the report 'Dolwendee Quarry Project: Response to Submissions Report: Upper Hunter Holdings Pty Ltd. 6 July 2016' prepared by KMH Environmental in relation to Aboriginal cultural heritage and threatened biodiversity issues. OEH provided its review of those matters presented in the Environmental Impact Statement (EIS) for this project in a letter dated 1 February 2016.

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

OEH made two comments on the 'Aboriginal Heritage Impact Assessment – Dolwendee Quarry' (AHIA) and associated Aboriginal cultural heritage management recommendations presented in the EIS:

1. OEH acknowledges that the AHIA (MCH 2015) incorporates a desktop review of regional geomorphology (based primarily on broad scale mapping), however, it does not contain evidence of a geomorphological survey of the project area as requested in OEH's input to Director General Requirements (Document Ref: DOC14/74488-1). It is noted that a geomorphological survey of the project area undertaken by a suitably qualified individual could have refined predictions of archaeological potential (PAD) for the project area.
2. OEH supports the development and implementation of management strategies such as an Aboriginal Cultural Heritage Management Plan.

In response to point 1 above, KMH 2016:20 notes:

MCH has advised that this is unusual, not a requirement under relevant codes of practice and guidelines, and appears to be a direct response to Tocomwall's complaints.

OEH notes that the requirement to supply a geomorphological assessment was specified in Section 3.2 of OEH's 2014 input into the Director General's Requirements (OEH internal reference: DOC14/74488-01) which notes:

The EIS must include surveys by suitably qualified archaeological and geomorphological consultants in consultation with all of the local Aboriginal knowledge holders.

The following points are raised in regard to this requirement:

1. Geo-technical studies are fundamentally different to geomorphological assessments. Existing geo-technical data cannot replace the required geomorphological survey/assessment process;
2. The required geomorphological assessment *must* be undertaken in consultation with all of the local Aboriginal knowledge holders.

It is clear that the MCH (2015) report made little effort to establish the nature of registered interests across the Registered Aboriginal Parties (RAPs). MCH (2015) did not identify which of the registered parties hold local Aboriginal knowledge, and did not differentiate local Aboriginal knowledge holders from parties that may have a historical connection to the land. In this regard the Aboriginal cultural heritage component of the Aboriginal Heritage Impact Assessment (MCH 2015) is considered manifestly inadequate;

3. The MCH 2015 assessment of low archaeological potential across the Project Area resulted in the following claims:
 - a. test pitting or detailed geomorphological investigations are not justified based on the site conditions; and
 - b. in order to undertake subsurface investigations there has to be scientific justification. There is no such justification in this case.

OEH considers the abovementioned claims to be fundamentally flawed based on the following:

- a. the low archaeological potential of the project area was determined through a visual inspection of visible/accessible portions of the project area. A sound scientific justification of the level of disturbance required to support the claim of low archaeological potential should include an assessment of soil profile data across the project area. This

assessment should clearly illustrate any anthropogenic disturbance/past environmental actions which have diminished the areas potential to contain archaeological deposits. The soil profile data could be generated through archaeological testing and greatly supported by geomorphological investigations, both of which are scientific by nature and both of which were deemed not necessary by either MCH 2015.

4. Tocumwall requested access to existing geo-technical data in-order to extrapolate geomorphological information. The lack of cooperation from the proponent to supply the requested information to Tocumwall is a separate issue and is in no way related to the requirement to fulfil Section 3.2 of OEHs input into the DGRs.

OEH had no additional concerns with respect to the development and implementation of management strategies such as an Aboriginal Cultural Heritage Management Plan.

THREATENED BIODIVERSITY ASSESSMENT

OEH has reviewed the threatened biodiversity assessment and proposed offset for the project presented in the EIS and noted that the assessment was made during the transitional period of the current NSW biodiversity offsets policy for major projects. OEH accepted the offset package for this project and recommended that the offset package was secured by an appropriate mechanism. OEH also provided an additional comment on the requirement for native vegetation claimed to be in 'low condition' as per the BioBanking assessment methodology to be supported by data – for vegetation to qualify as being in 'low condition' it must be missing several fundamental components.

In 'Table 1 Response to Government agency comments' presented in the main body of the 'Response to Submissions Report' (page 37) the proponent noted OEH's comments and recommended conditions of consent and stated that 'no further assessment or response is required at this time'. OEH recommends that the proponent commence procedures to formally secure the biodiversity offset land sooner rather than later; many options for securing land for conservation take many months to complete and if not started early can cause problems when offsets have been secured by the date set in an issued consent.

