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Mr Brad James  
Principal Case Manager  
Office of the Independent Planning Commission, NSW  
Level 3  
201 Elizabeth Street  
SYDNEY NSW 2000

Dear Sir,

We are the joint owners of 71 Fig Hill Lane, Dunmore, located approximately 290m from the proposed Stage 5B extraction area and adjoining the proposed 5A extraction area and we wish to submit to the panel our position regarding the proposed Dunmore Lakes Sand Extraction Project, hereinafter referred to as "The Project".

Firstly, we need to put on record to the panel the existence of a partially completed dwelling on 71 Fig Hill Lane. Notwithstanding that works to the dwelling are incomplete, the consent has not lapsed, nor has it been either revoked or surrendered. Substantial monies have been previously expended on this dwelling and it remains a possibility that we may still proceed to completion of the existing residence. The proponent for The Project in part seems to rely upon a false and misleading representation regarding the lawfulness of the status of this dwelling in order to completely dismiss any obligation or responsibility to our site. This is completely unacceptable.

Having noted the existence of the dwelling on 71 Fig Hill Lane, it is common knowledge that we have before SHELLHARBOUR Council a development application for a 33 bed ecotourism development on the site. This was lodged with Council on 16<sup>th</sup> October, 2019 and is known as DA0563/2019. There has been extensive community consultation and discussions and negotiations have taken place with Council over the past 12 months together with representations to the JRPP which was established to oversee and determine this application. Modifications to the design have been made to the proposal in response to feedback from the both the community, the Council and the JRPP. As it currently sits all requisite rfi's in relation to the project have been lodged with Council and there is a proposed JRPP hearing scheduled for the 6<sup>th</sup> December, 2020 in order to determine our application.

A first and fundamental principle of our DA is to enter into a stewardship agreement with the Bio Diversity Conservation Trust. This aims to protect, conserve, manage and enhance the land in perpetuity. Our site is some 38 hectares of highly sensitive native vegetation and mangroves and sits centrally between the two sand pits proposed under The Project.

It goes without saying that our proposed development and the proposal to sand mine either side of us are in total conflict with each other and it is difficult to imagine two more diametrically opposed development applications.

Further, we wish to reiterate some of the points we previously raised with the NSW Department of Planning through our consultant, Planning Lab (Mr Giovanni Cirillo) :

1. The acoustic impact assessment by Wilkinson Murray falsely states "71 Fig Hill Lane, which is approximately 290m north-east of the booster pumping station. The dwelling at this address is derelict and is uninhabited. There is no valid development approval for this structure and has not been considered in this noise assessment". This assertion is false and an acoustic impact assessment must be re-assessed to address the lawful partially complete dwelling on the site and potentially the proposed ecotourism resort.
2. No impact assessment has been made of the landscape, visual, dust, vibration or traffic related impacts upon 71 Fig Hill Lane Dunmore. The EIS is fundamentally flawed in this regard and cannot be further assessed without comprehensive revision, reassessment and renotification.
3. The approval of this EIS is premature and will prejudice both the possibility of the quiet enjoyment of the approved dwelling (which will be rectified and/or completed in the absence of a subsequent approval), or alternatively any future use of the site for alternative purposes such as the proposed ecotourism resort as currently envisaged and currently under detailed consideration.
4. It is understood that the majority of the proposed modification site is zoned RU2 – Rural Landscape zone under the Shellharbour Local Environmental Plan (LEP) 2013. The southern portion of Stage 5B extraction area is zoned E3 – Environmental Management. Extractive industries are not permitted within these zones.
5. The application has sought to subvert the lawful applicable local zoning controls by virtue of Section 7, Clause 3 (a) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, which is argued to allow extractive industries to be permitted with consent on land where development for the purposes of agriculture or industry is permitted.
6. Whilst this may be the case, the application fails to address the relevant zone objectives and would demonstrably fail to satisfy the following shown in bold below:

#### *Zone RU2 Rural Landscape*

##### *1 Objectives of zone*

- *To encourage **sustainable primary industry production** by maintaining and enhancing the natural resource base.*
- *To maintain the **rural landscape character of the land.***
- *To provide for a range of **compatible land uses**, including extensive agriculture.*

#### *Zone E3 Environmental Management*

##### *1 Objectives of zone*

- *To **protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.***
- *To provide for a **limited range of development that does not have an adverse effect on those values.***
- *To **retain and enhance the visual and scenic qualities of the Illawarra Escarpment.***

7. It is noted that the applicant has used the manipulation of s75W of the Environmental Planning and Assessment Act to allow a significant expansion of the Dunmore Lakes Sand Extraction site. While some elements of the proposal are consistent with the previous approval (e.g. mining methods, operational hours, annual production limits) the impacts of extending into Areas 5A and 5B are not comparable with the previous approval and are far more significant.

The areas proposed in Modification 2 are physically separated from those considered in the original approval and have a far greater likelihood of causing environmental impact. Areas 5A and 5B are both located in very close proximity to the Minnamurra River, and unlike the existing extraction areas, have the potential to impact on ecologically important ecosystems. The Department is aware that the proposal should correctly be part of a new and comprehensive EIS rather than the unreasonable exploitation of a s75W loophole as we have been presented with. This matter will be raised specifically with the IPC.

8. Following a review of the Biodiversity Development Assessment Report (BDAR) prepared for the modification by Niche Environment and Heritage (2019), it is our understanding that the modification will involve two new extraction areas referred to as Area 5A and Area 5B. The proposed location for Area 5B is located approximately 150 m west of an existing wetland within the subject land, which is mapped as a 'coastal wetland and littoral rainforest area' under the State Environmental Planning Policy (Coastal Management) 2018 (the 'Coastal Management SEPP').
9. This coastal wetland comprises areas of high ecological value in the form of saltmarsh and littoral rainforest, which are listed as Threatened Ecological Communities (TECs) under both the NSW Biodiversity Conservation Act 2016 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. Furthermore, the wetland also contains large areas of 'key fish habitat', as defined by the NSW Fisheries Management Act 1995, in the form of mangroves and saltmarsh communities.
10. The proposed location for Area 5A is also located adjacent to a wetland, which occurs to the north of the subject land. Area 5A is located approximately 50 m southwest of this wetland, which is also an area mapped as a 'coastal wetland and littoral rainforest area' under the Coastal Management SEPP.
11. This submission also raises serious concerns relating to the uncertainty of potential adverse impacts associated with the modification on the areas mapped as coastal wetlands, which are located in close proximity to the proposed Area 5A and 5B, with specific focus on the coastal wetland within the subject land. The specific concerns are summarised in the points below.
12. The BDAR acknowledges that both groundwater and surface water changes associated with the modification have the potential to indirectly impact the coastal wetlands. Although briefly discussed within Section 3.2.6 of the BDAR, no detailed assessment appears to have been undertaken addressing the potential adverse impacts on the ecological integrity of the TECs and key fish habitats that occur within the coastal wetlands.
13. Although groundwater changes have been assessed and determined to be minor in relation to the wider catchment, any potential significant changes in groundwater levels in relation to the adjacent coastal wetlands, and any potential associated adverse impacts to the ecosystems within the wetlands, does not appear to have been considered.

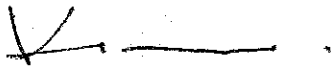
Based on the information provided above, we submit that the project should not be approved without further detailed assessment and clarification of any potential indirect and cumulative impacts on coastal wetlands, and associated ecosystems including TECs and key fish habitats, within the subject land in particular, and adjacent coastal wetlands in general. It is our considered position that the proposal is invalid as it stands, having failed to assess in any way the impacts upon 71 Fig Hill Lane, Dunmore.

The development fails to address and to satisfy the required zone objectives notably:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To retain and enhance the visual and scenic qualities of the Illawarra Escarpment.*

Thank you for the opportunity to comment.

Yours Sincerely,



Mr David Moodie

Director, David Moodie P/L and on behalf of Alotap Pty Ltd.

October 26<sup>th</sup>, 2020