

Richard Maitland
30.10.20

Independent Planning Commission
Dunmore Lakes Sand Extraction Project
Application No. DA 195-8-2004 MOD 2
Location Riverside Drive , Dunmore
Proponent Dunmore Sand and Soil

Dear Commissioner Leeson,

I have reviewed the Department of Planning, Industry and Environment's (DPI&E) Report and recommendation for approval of the above project and I am lodging my objection.

The reasons for objection are outlined below.

A. The DPI&E's assessment report states that the "environmental impacts can generally be managed rather than prevented". It is my considered opinion that this statement seeks to significantly downgrade the ecological significance of the Minnamurra River and its Catchment.

1. The 2 pits 5A and 5B are located on flood prone land close to the Minnamurra River. These pits are within the Coastal Management SEPP 2018 Zone of the Minnamurra River. Riverside Drive opposite the 5A site is subject to closure during times of extreme rainfall events coupled with high tides. The 5B site in the DPI&E report states (pviii) that the extraction area "would remain free of flooding impacts during more frequent rainfall **but be susceptible to flooding during** a 1 in 100 year event. In the past 9 months the Minnamurra Catchment has experienced 2 extreme rain events more than 125mm in less than 24 hours. Metrological projections are that such events will be more frequent as a result of projected climate change.
2. This activity is a prohibited activity under Shellharbour City Councils LEP 2013.
3. Pit 5A is located near the old Minnamurra Tip site which has a toxic organic bloom in the water table. The tip is beside the Minnamurra River. Mining 234,000 tonnes of sand and then backfilling it by bringing 325,000 tonnes of VENN onto the site will alter the aquifer / water table dynamics. The permeability and porosity of the fill does not have the same characteristics as the extracted sand. Any construction of bunds or levees will alter the flow of surface water which ultimately flows across onto the former Minnamurra Tip site (now a Recycling Centre) Any potential threat which interferes with the aquifer flowing into the old tip site will cause this toxic plume to move with disastrous results for the Minnamurra River.

Pit 5B is on the flood plain of the Minnamurra river. It will be 27m deep covering an area of 7.85 hectares .This will be left as open water .

On 8th Aug. 2019 the DPI&E Water wrote to Jack Murphy (DPI&E) making the following comments expressing “ significant concerns with 5A and 5B excavations as they are both located within 200metres of a High Priority Ground water Dependent Ecosystem (Minnamurra River Estuary – SEPP14 Wetlands Water sharing plan for the Greater Metropolitan Region Ground water sources 2011)”

This area has listed EEC communities under the NSW Biodiversity Conservation Act 2016 – the is Bangalay Sand Forest . There are also plant communities listed on Commonwealth Environment Protection and Biodiversity .Conservation Act 1999 - this is Swamp Oak Flood plain Forest. There are 7 threatened fauna species which are dependent upon Banglay Forest for food and nesting hollows. The nest of the White Bellied Sea Eagle is found beside this proposal. 56% of the Area 5B is made up of Bangalay Sand Forest which is in either moderate or good condition. A site inspection would confer the degree of maturity of these trees and an appreciation of the key role these trees play in the ecosystem.

Denial of access to the site. The subject land is privately owned . There has been no opportunity for site visits, under supervision, to verify the information which consultants has recorded in the Environmental Assessment Report. Perhaps if the material were peer reviewed then members of the community may have some degree of confidence that the consultant report may truly be an accurate reflection of the biophysical environment

B. The DPI&E's Assessment Report considers that this project modification does not create a radical transformation of Boral's operation in the Rocklow Creek Catchment. It is my considered opinion that this fails to acknowledge the extensive legislation from both the State and Federal Governments in respect to the Minnamurra River and catchment. These 2 proposed new mines are some 1km to the south of Borals current operations in Rocklow Creek catchment.

Sand mining by its very nature results in the disturbance and destruction of the Biophysical Environment. Vegetation is cleared, overburden removed and stock piled, then the sand resource accessed for processing.

This proposal is seeking to mine sand reserves in the Catchment of the Minnamurra River. The proponents other operations are undertaken in the Rocklow Creek Catchment. This is in a completely different catchment from Rocklow Creek. Rocklow Creek catchment has been heavily

modified as a result of European impact. The area's original vegetation was cleared and crops and pastures sown to enable dairying to become the predominant landuse. Rocklow Creek itself was redirected in order for these agricultural activities to be undertaken. Prior to its current landuse as an extractive industrial site Rocklow Creek consisted of a series of channels designed to drain flood prone land and convert it to pasture for agricultural purposes. The Minnamurra River Catchment in contrast has very diverse ecosystems with considerable stands of EEC communities.

These communities are under various State and Federal Environmental Legislations.

This proposal ought not be regarded as a modification request as there are no common linkages environmentally between the largely disturbed and heavily modified Rocklow Creek and the the largely undisturbed Catchment of the Minnamurra River. This proposal is physically separated from those considered in the original approval 1999 and later 2005 modification.

This current assessment process ought to be rejected by the Independent Planning Commission.

I am opposed to this modification request. The proponent (Dunmore Soil and Sand) knew full well when the original Commission of Inquiry granted approval with clear guidelines in 1999, that operations would focus in the heavily modified Rocklow Creek area for some 25 years. At no stage during that Commission of Inquiry hearing was there any reference to mining in the Catchment of the Minnamurra River. I attended those hearings and made presentations before the Commissioners. The granting of modification 1 for stages 2,3 and 4 in 2005 focussed upon sand reserves in the Rocklow Creek Catchment.

C. Visual. The Department considers the visual impacts of the proposal are reasonable and manageable, due in part to their largely temporary nature...

In respect to the visual amenity of adjacent property owners this proposal will not be of a temporary nature, especially the 5B site. There is no reference made to the major Integrated Development Application no. DA0563/2019 for the redevelopment of the property 71 Figtree Lane. This is for an Eco-Tourist Development which will have a major focus on preservation of the bulk of the site under a Biodiversity Stewardship Agreement. This revised application complies with all statutory conditions and is to be determined by the local Regional Panel in December. Correspondence from Shellharbour City Council regarding this application has been forwarded to the Independent Planning Commission for this to be considered.

In regard to 79 Fig Hill Lane the DPI&E acknowledges that the noise level would exceed the NPfi by up to 11dB(A) and up to 16dB(A) during certain operational periods.

Boral's proposal on the adjoining leased property will be detrimental to these 2 adjoining proposals.

D. Legislative Framework.

This modification is being assessed under now extinguished legislation 75W of the EPA 1979. There are concerns that the application may not have been lodged in time. Shellharbour City Council has contested the date of lodgement in a letter to Jack Murphy DPI&E dated 12/7/19 and I quote

“Council has also subsequently found a critical issue with particular referencing to key dates mentioned by the applicant. A letter from DPE dated 21/12/18 signed by Director Howard Reed in “Appendix C Stakeholder Consultation” stated that the application could continue under section 75W approval pathway provided a complete Environmental Assessment is provided to the Dept. by no later than 28 Feb 2019.

Revision 2 of the EA is dated under document control as 10 April 2019 with lodgement of the entire package assumed to have occurred shortly after this date. This is after the 12 months specified by DP&E for a complete assessment to have been lodged. DP&E stated in the same letter that if a complete EA is not submitted to the Dept. by 28 Feb. 2019 the Dept. intends to give immediate notice that Modification 2 will not be dealt with under Section 75W”.

I believe that this correspondence has been lodged with the IPC. This particular issue needs to be clarified regarding this modification request.

The Precautionary Principle along with the Procedural Fairness Principle ought to be applied in relation to this application. These 2 principles were highlighted in the Productivity Commissions Report into the Independent Planning Commission presented to the State Government in December 2019 as key factors which ought to be reflected in the functioning of the IPC. The environment ought not be degraded or compromised for the sake of a commercial monetary return over a very short period of time.

This modification application ought to be refused.

Richard Maitland