

From: [REDACTED]
Subject: FW: PSC Submissions on SSD-7332 for Eagleton Quarry
Date: Thursday, 16 May 2024 4:44:22 PM
Attachments: [image001.png](#)

Hi Brad/Tahlia,

Further to my previous email, I would also like to clarify one of the points I raised during the IPC meeting today.

During the meeting I stated that Council records indicated that the Department did not contact Council following the March 2017 submission. On further review of Council's records I have found that the Department did contact Council in October 2017, offering the opportunity to comment on the Applicant's response to the March 2017 letter. The Applicant's response included an amended Biodiversity Assessment Report. However, Council did not respond to this request.

The three Council submissions between November 2023 and April 2024 relate to the amendment to the proposal that occurred in October 2023 and draft conditions of consent prepared by the Department in April. The three submissions do not deal with or follow up the matters raised in Council's initial submission in 2017.

Kind Regards,



Dylan Mitchell
Principal Development Planner

[REDACTED]
www.portstephens.nsw.gov.au



We acknowledge the Worimi people as the original Custodians and inhabitants of Port Stephens.
We acknowledge and pay respects to Worimi elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful land and waterways together.
Artwork by Adam Manning.



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: PSC Submissions on SSD-7332 for Eagleton Quarry

Hi Brad and Tahlia,

Please find a copy of Council's submissions relating to SSD-7332 for Eagleton Quarry, dating back to 2017.

This includes the 23 April 2024 comments you requested at today's IPC meeting.

Should you require any further information, please do not hesitate to contact me.

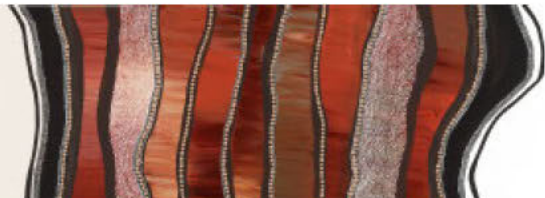
Kind Regards,



Dylan Mitchell
Principal Development Planner



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From: [Dylan Mitchell](#)
To: [Bradley James](#); [Tahlia Sexton](#)
Cc: [REDACTED]
Subject: PSC Submissions on SSD-7332 for Eagleton Quarry
Date: Thursday, 16 May 2024 1:15:53 PM
Attachments: [image001.png](#)
[Submission from Council to DP&E - 1 March 2017.PDF](#)
[DPE Major Project Submission - 25-2017-1-2 - 13 Barleigh Ranch Way EAGLETON 2324 - 6 November 2023.PDF](#)
[DPHI Major Project Submission - RTS - 25-2017-1-2 - 13 Barleigh Ranch Way EAGLETON 2324 - 1 February 2024.PDF](#)
[DPHI Major Project Submission - Comment on Draft Conditions - 25-2017-1-2 - 13 Barleigh Ranch Way EAGLETON 2324 - 23 April 2024.PDF](#)

Hi Brad and Tahlia,

Please find a copy of Council's submissions relating to SSD-7332 for Eagleton Quarry, dating back to 2017.

This includes the 23 April 2024 comments you requested at today's IPC meeting.

Should you require any further information, please do not hesitate to contact me.

Kind Regards,



Dylan Mitchell
Principal Development Planner

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www.portstephens.nsw.gov.au



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Telephone enquiries: Mr B Gardiner
Council File No: 25-2017-1-1
DPE Ref: SSD 7332

ATTENTION: MEGAN DAWSON
DEPARTMENT OF PLANNING AND ENVIRONMENT
GPO BOX 39
SYDNEY NSW 2001

1 March 2017

Dear Megan,

Re: Eagleton Quarry (SSD 7332)

Property: LOT: 2 DP: 1108702
13 Barleigh Ranch Way, EAGLETON

Reference is made to your correspondence dated 1 February 2017 requesting Council's comments in relation to the proposed Quarry at the abovementioned property. In response Council provides the following comments and requests that these matters be taken into consideration during your assessment of the application.

Council has provided recommended conditions of consent within the body of this submission. It is assumed that the Department of Planning and Environment will impose additional conditions as relevant should the application be approved.

ENVIRONMENT AND ECOLOGY

Impacts to known and potential threatened species

1. Hollow-dependent species

There is inadequate information on the density and location of hollow-bearing trees within the study area to adequately advise the Assessment of Significance for the hollow dependent threatened species known, or having the potential to occur on site. The loss of hollow-bearing trees is a key threatening process under the TSC Act and has not been adequately addressed in the Biodiversity Assessment Report (BAR). It is also noted that important habitat for the Brush-tailed Phascogale is known within Kings Hill, located to the south of the proposed development. Accordingly, potential cumulative impacts should be assessed.

2. *Koala*

There is inadequate information provided in relation to koala habitat within and adjacent to the study area. Accordingly, potential impacts on known koala habitat and movement corridors cannot be adequately in the Assessment of Significance.

Key considerations:

- a. Based on the generally low density carrying capacity of the landscape west of the Pacific Highway, and the presence of occupied and preferred koala habitat within a large patch size of intact vegetation, further survey effort is required in the surrounding lands to establish its importance and whether it is critical to the survival of koalas within the local area;
- b. The BAR identified that the Comprehensive Koala Plan of Management (CKPoM) habitat map was not accurate and the site was previously mapped as marginal koala habitat. A new revised koala habitat map should be prepared consistent with the methodology in the CKPoM (including Volume 2 Resource Document) and identify areas where there are higher densities of preferred koala tree species and co-dominance of Grey Gum and Forest Red Gum;
- c. Consideration of the location and importance of the 10.62 ha of suitable koala habitat to be lost and indirect impacts on koala movement and vehicle strike requires further consideration. The occupancy rates and location of koala presence within the study area indicates that the movement corridor is likely to pass through the south eastern end of the development site;
- d. All development applications in the Port Stephens LGA are required to be assessed against the provisions of the Performance Criteria contained in Appendix 4 "Performance Criteria for development applications" of the Port Stephens CKPoM. An assessment of the proposed development under the PS CKPoM DA performance criteria is required to demonstrate consistency with the objectives of the CKPoM and meet the requirements of SEPP44; and
- e. The BAR does not apply the *EPBC Act referral Guidelines for the vulnerable koala (combined populations of Queensland, New South Wales and Australian Capital Territory)* including the koala habitat assessment to identify if the habitat is critical to the survival of the koala. Developments between 2-20 hectares have a potential for a significant impact and require assessment under the *Koala EPBC Act referral guidelines*.

Impacts to waterways and riparian vegetation

3. *Aquatic Ecology*

The BAR identifies that the proposed development will impact on three first order streams and the haul road crosses a third order stream which flows under the Pacific Highway. The BAR does not identify that the third order stream flows into

an LEP mapped wetland east of the Pacific Highway. While the BAR identifies Grahamstown Dam as a downstream sensitive receiver, Council also notes that the dam is mapped key fish habitat under the *Fisheries Management Act 1994* (the FM Act).

Council notes the SEAR's item requiring consultation and assessment by the Department of Primary Industries, but considered that in this instance the limited aquatic ecology surveys undertaken as part of the BAR are insufficient to adequately assess the impact on waterway health and aquatic ecology. In this regard, an aquatic ecology survey should be undertaken to establish the baseline information on aquatic ecology (both fish and macroinvertebrates), water quality and sediment of the existing environment within the development site and study area. This baseline data could then be used to set up a program to monitor potential changes in aquatic ecology, water turbidity and pollutants with triggers in place for actions if required. An aquatic monitoring program is recommended as a mitigation measure for construction and operation to monitor impacts of the proposed development on waterways within the proposed onsite biobank and downstream receivers.

4. *Riparian Vegetation*

The proposed development will directly remove good quality riparian habitat within the development site and through the construction of the haul road crossing. The extent of the aquatic habitat removal and modification has not been quantified. This is linked to potential indirect impacts on Seven Mile Creek groundwater dependent ecosystems (GDEs). Degradation of native riparian vegetation along NSW water courses is a key threatening process under the FM Act and requires adequate consideration within the BAR including allocation of required Riparian buffers.

Biodiversity offsets and rehabilitation

5. *Biodiversity Offsets*

The southern extent of the lot will be secured as part of the onsite biobank to ensure it remains in perpetuity, and includes the protection of 58.81 hectares of native vegetation. The proposed biobank is of high conservation value due to its fauna habitat, protection of the east west movement corridors, and quality of the vegetation. The proposed extraction area is located close to the western boundary which leaves only a small corridor between the boundary and the development site and will limit corridor function if any future development on the adjacent land is proposed.

While Council supports the onsite biobank proposed, the potential impacts of the proposed development have not been adequately quantified in relation to hollow

dependent threatened species and koalas, fauna movement corridors and aquatic ecology (including riparian vegetation). In addition, the offsite biobank location has not been identified or secured.

The onsite biobank within the subject site only meets a portion of the required credits with a large deficit of credits required offsite to meet the required ecosystem and Southern Myotis species credits. Council considers that additional offsite offsets required to meet the deficit should be secured prior to approval.

6. *Rehabilitation*

Council considers that even though the proposed final landform will consist of similar species as those found on the site currently, specific details have not been provided on how the proposed final landform will form part of the surrounding landscape including linkages to existing waterways and fauna movement corridors. Further details on how rehabilitation objectives will be achieved to post quarry landforms is required.

Proposed mitigation measures

7. *Mitigation measures*

Council supports all the base mitigation measures identified in the ecological assessments and recommends they are incorporated as conditions of any potential approval. Particular care should be given to the timing of requirements to ensure appropriate quantitative ecological information is obtained to inform construction, rehabilitation and provision of compensatory measures.

TRAFFIC, ROAD WORKS AND PARKING

8. *Pacific Highway access*

It is noted that Roads and Maritime Services are the appropriate authority in relation to the operation of the Pacific Highway, and so Council makes the following comments as recommendations only:

- a. Street lighting would improve the safety of the intersection of Italia Road and the Pacific Highway;
- b. The argument in the traffic impact assessment that a left-turn acceleration lane on the Pacific Highway is not considered adequate justification to negate the need for this infrastructure. It is considered that future contracts may result in laden heavy vehicles needing to turn left onto the highway to services customers located to the north of the site.

9. *Alternative access arrangements*

The use of the local road network to the west of the intersection of the access road with Italia Road as an alternative haulage route, is not supported by Council. All haulage should be undertaken via the Pacific Highway.

10. *Upgrades to the local road network*

The proposal includes upgrades to the local road network, in particular the intersection of the access road and Italia Road. Conditions of consent are recommended as follows:

- Prior to the commencement of any works within a road reserve, an approval is to be obtained under Section 138 of the *Roads Act* 1993 from Council or Roads and Maritime Services as the Roads Authority, as appropriate.
- Engineering plans for the required work within a public road must be prepared and designed by a suitably qualified professional and constructed in accordance with Council's 'Infrastructure Design and Construction Specification – AUS Spec', and Section B of the Port Stephens Development Control Plan 2014. The engineering plans must be approved by Council **prior to the issuing of a Construction Certificate.**
- All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council or Roads and Maritime Services as appropriate (with a letter of practical completion issued) **prior to issue of the Occupation Certificate or commencement of the approved use.**

11. *Upgrades to access road*

The proposal includes access from Italia Road to the development site via an unsealed right of carriageway over Lot 2 in DP1158962, and Lot 1 in DP245116. It is noted that a number of other properties also benefit from this right of carriageway including a motor-cycle race track facility on an adjacent property, and a landscape supplies located on the same lot as the proposed development.

Further, it is noted that a development application relating to the on-going use of the landscape supplies on the subject lot has been appealed to the Land and Environment Court. The application was refused by Council as the EPA refused to issue General Terms of Approval. Given that the EPA has subsequently issued GTA's through the appeal process, Council anticipates a judgement that will approve the development. It is considered that the judgement is likely to include the imposition of conditions that relate to the upgrade of the access road.

Council considers the traffic generation that will result from the current proposal is sufficient to require the upgrade of the access road of its own accord, and so consideration should be given to the sharing of the cost and responsibility for upgrade of the access road.

In addition, it is noted that the existing access track is not located wholly within the boundaries of the right of carriageway. Council's submission to the court for the landscaping DA recommends a condition be imposed to rectify this discrepancy. It is recommended that a similar reflective condition be imposed on any approval issued for the current proposal.

12. Traffic Management Plan

It is recommended that a condition be imposed requiring the preparation of a traffic management plan which includes, but is not limited to, the following matters:

- a. Haulage is not to occur over local roads to the west of the intersection of the access road to Italia Road;
- b. The number of truck movements permissible to and from the site each day;
- c. Vehicle manoeuvring requirements along the access road (including speed, passing of vehicles, and incident management);
- d. Maintenance requirements for the access road; and
- e. Drive fatigue management.

DRAINAGE AND STORMWATER

13. Drinking water supply

The development site is located within the direct hydrological catchment of Grahamstown Dam and Hunter Water is the relevant authority to provide comments in relation to the impacts of the development on the drinking water supply.

14. On-site detention of water

The Water Resources Assessment Report addresses stormwater management for events up to and including the 1:100 year design event. This is not considered to provide adequate protection to the drinking water catchment and Council reiterates the position stated in our advice to the preparation of the SEARs that the development should be designed to cater for the on-site detention of waters from rainfall events up to and including the 1:500 year design event. A condition of consent is recommended in this instance:

- Prior to the commencement of works, a stormwater drainage plan and report is to be prepared by a suitably qualified and experienced engineer, which demonstrates the following:
 - a) Stormwater drainage lines and infrastructure is capable of conveying runoff to water management dams from rainfall events up to and including the 1:500 year design event; and
 - b) Water management dams have been designed so as to prevent the discharge of stormwater from the site for all rainfall events up to and including the 1:500 year design event.

- The stormwater system, including any water quality, quantity or infiltration components, shall be maintained in perpetuity for the life of the development in accordance with an approved Maintenance Plan.

Maintenance shall be undertaken in accordance with a Maintenance Plan to be approved by the Certifying Authority. The plan shall include all relevant requirements such as:

- a) Overall description of system operation;
- b) Persons responsible for particular actions;
- c) Requirements for access and confined space access;
- d) Frequency of periodic inspections;
- e) Trigger points for exceptional events and required actions;
- f) Requirements for disposal of debris and sludge etc; and
- g) Description of components and parts list.

15. *Inconsistencies in documentation*

A number of inconsistencies were identified in the Traffic Impact Assessment when compared with the EIS including:

- a. The number of anticipated daily truck movements; and
- b. The hours of operations.

OTHER MATTERS

16. *On-site sewage management*

There is conflicting information presented in relation to on-site sewage management. In addition, it appears that the proposal to use an effluent pump out system was not the result of a comprehensive wastewater assessment. Effluent pump out systems, while designed as a fully contained system, can still have a detrimental impact on the environment if not designed, installed and operated correctly. It is recommended that a comprehensive wastewater assessment be required prior to a determination being made, to adequately inform the type of on-site sewage management system that is best suited to the subject property. In addition, the following conditions are recommended in this regard:

- Prior to the commencement of works relating to on-site sewage management, an approval under section 68 of the *Local Government Act 1993* to install a waste treatment device/human waste storage facility is to be obtained from Council.
- Prior to the commencement of the use of the land, the on-site sewage management system is to be installed and an approval to operate a system of sewage management under section 68 of the *Local Government Act 1993* is to be obtained from Council.

17. *Air Quality, noise and vibration*

Council notes that the proposal will require an EPL and that the EPA will consider these matters.

18. *Potable Water*

Council is not the regulatory authority relating to the supply of potable water, however it is recommended that a condition should be included relating to the provision of potable water in accordance with the requirements of the *Public Health Act 2010*.

19. *Economic Impacts*

The application is considered to have accurately represented the additional employment opportunities and impacts to the local economy, and Council raises no objections in this regard. However it is considered that there is insufficient information provided to adequately assess the impact of the development on surrounding non-related businesses (including tourist and recreation based land uses), and on land values. It is considered that an assessment of these factors should be provided for consideration.

20. *Local infrastructure contributions*

Council's Section 94A plan is applicable to the proposed development and requires the payment of contributions in accordance with the plan. It is noted that the upgrade works along the access road over the right of carriageway are not public road and so should not be taken into account with any discussions regarding works in kind agreements or the like. A condition is recommended in relation to Section 94A in accordance with the following:

- For the life of the project, the Proponent shall pay Council \$0.04 per tonne of extractive material transported from the site on a quarterly basis, in accordance with Council's Section 94 Contributions Plan for the maintenance from the intersection of the right of carriageway and Italia Road (Barleigh Ranch Way) to the intersection of Italia Road and Pacific Highway. Each payment shall be:
 - a) Based on weighbridge records of the quantity of extractive material transported from the site quarterly and those records are to be provided to Council within 14 days of the end of the relevant quarter;
 - b) Paid within 21 days of receipt of the invoice received from Council; and
 - c) Adjusted in line with the Consumer Price Index calculated from the date of approval and applied annually from the first day of operation.

21. *Social Impact*

Insufficient information has been provided to undertake an adequate assessment of the social impacts of the development. In particular there is insufficient

information in relation to the identification of the relevant communities of interest, cumulative social impacts, and the implications of those impacts on them. In addition, the application does not discuss the potential implications of the development on future residents within the Kings Hill urban release area (URA), located to the south of the development site. It is noted that the Kings Hill URA has a potential yield of 4500 lots. It is considered that a Social Impact Assessment is necessary to inform the social impacts of the development, and should include an assessment against Section 89 of the *Local Government Act 1993*.

CONCLUSION

The above comments and recommendations are provided in response to the information supplied to Council. Council requests these matters are taken into consideration during the assessment of the application. Further, Council has included conditions of consent throughout the submission that are recommended to be included upon any determination issued.

Should you require any further information in relation to this matter or have any questions, please contact me on the details below.

Yours faithfully



Brett Gardiner

Senior Executive Planner

Phone: 02 4980 0213



6 November 2023

Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

APPLICATION NO: SSD-7332 (Our Ref. 25-2017-1-2)

PROPOSAL: Eagleton Gravel Quarry

PROPERTY: 13 Barleigh Ranch Way EAGLETON (LOT: 2 DP: 1108702)

ATTN: James McDonough

Dear James,

Thank you for your correspondence dated 5 October 2023 requesting Council's comments for the above development. Council previously provided comments with regard to this proposal on 1 March 2017.

It is understood the proposal has now been amended and Council's further comment is sought regarding the amended application. The proposed amendment is summarised in the 'State Significant Development Application Amendment Report, prepared by Ethos Urban, Project No. 15647 and dated 11 September 2023 as follows:

- *"Use of an alternative Right of Carriageway across Lot 1 DP245116 and Lot 2 DP1158962. The alternative Right of Carriageway has been approved by Council and is to be used by all properties located along Barleigh Ranch Way.*
- *Revised heavy vehicle route for south-bound quarry trucks leaving the Eagleton Quarry – exiting quarry trucks would initially turn left (north) onto the Pacific Highway, travelling north to the Tarean Road interchange at Karuah, where they will perform a U-turn and head southbound on the Pacific Highway.*

These proposed changes to the Italia Road intersection will not change the heavy vehicle access routes for inbound vehicles arriving at Eagleton Quarry, or any existing south-bound right turn arrangements into Italia Road from the Pacific Highway for all vehicles – light vehicles and non-quarry related heavy vehicles."

Council provides the following comments regarding the amended proposal and requests that these matters be taken into consideration during your assessment of the application.

Biodiversity Impacts

The environmental impacts of the construction of the new right of carriageway and associated private road construction were assessed by Council under Development Application (DA) 16-2021-160-1 and the application was approved with conditions to manage the environmental impacts of the proposal.

In the event the quarry is approved, a consent condition should be included requiring that the right of carriageway and associated road construction be constructed in accordance with DA 16-2021-160-1 and completed at an appropriate time, such as prior to the issue of a Construction Certificate for the quarry, or at another time the consent authority deems appropriate. Consideration should also be given to including any relevant conditions from DA 16-2021-160-1 on the quarry DA to appropriately manage environmental impacts.

DA 16-2021-160-1 did not trigger entry into the Biodiversity Offset Scheme, nor generate a credit obligation. To ensure all cumulative impacts of the quarry are adequately assessed and offset in accordance with the Biodiversity Conservation Act 2016; it is recommended that the clearing area required for the access handle is included in the offset obligation of the quarry, via an amendment to the Biodiversity Development Assessment Reports Credit Report for the additional areas identified in the approved Flora and Fauna Assessment for DA 16-2021-160-1.

Traffic Impacts

No objection is made to the proposed use of the new right of carriageway.

The proposal includes a revised heavy vehicle route for south-bound quarry trucks leaving the Eagleton Quarry which would initially turn left (north) onto the Pacific Highway, travelling north to the Tarean Road interchange at Karuah, where they will perform a U-turn and head southbound on the Pacific Highway.

The proposed southbound truck route requires an upgrade to the intersection of the Pacific Highway and Italia Road, which is proposed to be sought under a separate DA to Council and include the following scope of work as identified in the Ethos Urban State Significant Development Application Amendment Report:

- *“Existing northbound deceleration lane to be extended by 20m to better accommodate left-in turning trucks arriving from the south.*
- *Construction of a left-turn slip lane from Italia Road onto the Pacific Highway with a northbound acceleration and merging lane on the Pacific Highway. The acceleration lane includes a bridge (3.5m wide) over Balickera Canal.”*

This DA has not yet been lodged with Council. Given the Eagleton Quarry and other quarries seek to rely on this intersection upgrade, determination of the Eagleton Quarry should be deferred until the intersection DA has been determined. The consent authority for the intersection DA would be the Hunter and Central Coast Regional Planning Panel.

Council's view is that any upgrade to the intersection of Italia Road and Pacific Highway would require an enforceable undertaking to ensure that heavy vehicles movements to and from the proposed quarry follow the requirement for left-in and left-out access and egress to the Pacific Highway.

The intersection should be designed in accordance with the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) to ensure safe vehicle movements are promoted. The plans should illustrate geometric design details, intersection sight distance analysis, swept path diagrams for the largest vehicle, and be designed to the existing posted speed limit (i.e.90km/h)."

Noise Impacts

No objection is made regarding the Noise Impact Assessment which has been updated to take into account the new 'Noise Policy for Industry'. The Noise Impact Assessment identifies that noise levels during the noisiest daytime period would remain below the noise trigger levels established under the Noise Policy for Industry. In the event the Eagleton Quarry is approved conditions of consent should be included restricting processing activities prior to 7am and after 6pm.

Local Infrastructure Contributions and Haulage Levy

Section 7.11 (haulage) contributions apply pursuant to the Port Stephens Local Infrastructure Contributions (LIC) Plan, whereby the Developer is charged a per tonne / kilometre rate. This is because extractive industries generate significant truck movements which impact the road performance and conditions along haulage routes. The rate is currently \$0.086/t/km and is subject to CPI.

To offset the impact of haulage associated with mining and the extractive industry, the Port Stephens LIC Plan authorises the consent authority to apply a haulage contribution rate where an application is made for such a use.

It should be noted that the haulage rate will apply to the proposed haulage route for the life of the development (subject to CPI amendments).

It is noted that the Developer, along with two other quarry operators, will upgrade the Italia Road and M1 intersection. This should not be in lieu of contributions. Council therefore requests any determination include a condition for payment of contributions to Council in accordance with the LIC plan (this would include haulage levies to fund the maintenance of local roads proposed to be included in the haulage route or the capacity for the applicant to submit a variation to this rate where it is justified by a Traffic and Transport Economic Study).

It is requested Council be consulted prior to the imposition (or exclusion of) any contributions conditions that impact local infrastructure. This is because the LIC plan is amended from time to time and an amendment regarding haulage is currently underway. The rate include below or the type of indexation applied may also change as part of this.

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

DYLAN MITCHELL
PRINCIPAL DEVELOPMENT PLANNER

Port Stephens Council

Phone: 4988 0280

Web: www.portstephens.nsw.gov.au

1 February 2024

Department of Planning Housing & Industry
GPO Box 39
Sydney NSW 2001

APPLICATION NO: SSD-7332 (Our Ref. 25-2017-1-2)

PROPOSAL: Eagleton Quarry Project - SSD-7332

PROPERTY: 13 Barleigh Ranch Way EAGLETON (LOT: 2 DP: 1108702)

ATTN: James McDonough

Dear James,

Thank you for your correspondence dated 24 January 2024 requesting Council's comments on the applicant's response to submissions. Council has reviewed the applicant's response to submissions and provides the following comments.

Recommended conditions

Council notes that the applicant would accept several biodiversity, traffic, noise and infrastructure contribution related conditions that were suggested by Council in the previous submission made on 6 November 2023.

Biodiversity

Council's previous submission made the following comment regarding biodiversity:

DA 16-2021-160-1 did not trigger entry into the Biodiversity Offset Scheme, nor generate a credit obligation. To ensure all cumulative impacts of the quarry are adequately assessed and offset in accordance with the Biodiversity Conservation Act 2016; it is recommended that the clearing area required for the access handle is included in the offset obligation of the quarry, via an amendment to the Biodiversity Development Assessment Reports Credit Report for the additional areas identified in the approved Flora and Fauna Assessment for DA 16-2021-160-1.

Council accepts the applicant's response that the relocation of the right-of-carriageway approved under Development Application (DA) 16-2021-160-1 is not solely for the purpose of the Eagleton Quarry and therefore it is not necessary to include this in the offset obligations for the Eagleton Quarry application SSD 7332.

Traffic & Road Safety

Council's previous submission made the following comment regarding traffic and road safety:

"Council's view is that an enforceable undertaking to ensure heavy vehicles movements to and from the proposed quarry follow the requirement for left-in and left-out access and egress to the Pacific Highway."

It is noted that the applicant is accepting of a condition requiring an enforceable undertaking to prevent south bound haulage trucks from turning right out of Italia Road onto the Pacific Highway. However, the applicant is not accepting of a condition that would prevent haulage trucks from turning right into Italia Road from the Pacific Highway.

Council acknowledges the applicant's position regarding right turns into Italia Road from the Pacific Highway, which is consistent with the assertions made in the DA recently lodged with Council for Part 4 DA approval of an upgrade to the Italia Road and Pacific Highway Intersection (DA 16-2023-477-1). This DA is currently under assessment by Council with detailed review from Transport for NSW and Council's Traffic Engineer yet to be completed, therefore Council cannot, at this time, offer any further comment regarding the appropriateness of allowing right turn traffic movements from the Pacific Highway into Italia Road. Council's support, or otherwise for this traffic movement will be determined as part of the assessment for DA 16-2023-477-1.

For reference, DA 16-2023-477-1 includes the following proposed works:

- Construction of a dedicated left-turn north-bound acceleration lane from Italia Road onto the Pacific Highway, measuring 435m in length. The proposed acceleration lane which would replace the current left-turn give-way movement with a downstream merge movement;
- Widening of the existing bridge over the Balickera Canal (to accommodate the north-bound acceleration lane); and
- Lengthening of the north-bound deceleration lane into Italia Road by 10m, making the lane a total of 235m in length.

The proposed intersection upgrade is intended to support three quarry proposals in the locality, subject to State Significant Development (SSD) approval, and would all direct haulage through the Italia Road and Pacific Highway intersection. The Eagleton Rock Quarry is one of these three SSD proposals.

The consent authority for the proposed intersection upgrade is the Hunter and Central Coast Regional Planning Panel. The DA was referred by Council to the Department of Planning, Housing and Infrastructure for comment on 25 January 2024.

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,

DYLAN MITCHELL
PRINCIPAL DEVELOPMENT PLANNER

Port Stephens Council

Phone: 4988 0280

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23 April 2024

Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

APPLICATION NO: SSD-7332 (Our Ref. 25-2017-1-2)

PROPOSAL: Eagleton Quarry - SSD-7332

PROPERTY: 13 Barleigh Ranch Way EAGLETON (LOT: 2 DP: 1108702)

ATTN: James McDonough

Dear James,

Thank you for your correspondence dated 12 April 2024 requesting Council's comments on the draft conditions of consent for the proposed development.

Council is generally supportive of the proposed conditions of consent as currently drafted. Specific comments are offered regarding, traffic, biodiversity and contributions as follows. Suggested changes to conditions are shown in red.

Traffic Conditions

The proposed southbound truck route requires an upgrade to the intersection of the Pacific Highway and Italia Road. A proposed upgrade to the intersection has recently been lodged with Council under DA 16-2023-477-1. The consent authority for the DA is the Hunter and Central Coast Regional Planning Panel (HCCRPP).

Both Council and TfNSW have expressed previously that support for the traffic movements associated with the proposed Eagleton Quarry (and other quarries in the locality) are contingent upon an upgrade to the Italia Road intersection, along with the diversion of southbound quarry trucks left (i.e. northbound) onto the Pacific Highway in order to utilise the Tarean Road Interchange to perform a U-turn. This requirement is reflected in proposed condition A10 and B33.

Condition B33

Condition B33(a) notes that prior to transporting any quarry products from the site, the applicant must ensure the intersection at the junction of the Pacific Highway and Italia Road is upgraded to the satisfaction of TfNSW and Council. Council reiterates its previous position, that heavy vehicle traffic movements to and from Italia Road should be restricted to left-in and left-out and concern is raised about how this can be enforced.

It is recommended that an intersection treatment limiting heavy vehicles to left in and left out access and egress to the Pacific Highway be implemented as part of the Works Authorisation Deed, administered by TfNSW. Therefore, it is recommended that condition B33(a) be amended as shown in red below:

B33. Prior to transporting any quarry products from the site, the Applicant must:

- (a) ensure the intersection at the junction of The Pacific Highway and Italia Road is upgraded to the satisfaction of ~~Council and TfNSW~~, **including restricting heavy vehicles to left in and left out access and egress to the Pacific Highway. The works are to be approved and delivered under a Works Authorisation Deed;**
- (b) ensure the new right-of-carriageway across Lot 1 DP245116 and Lot 2 DP1158962 between Italia Road and Barleigh Ranch Way is constructed in accordance with Council Development Application 16-2021-160-1 to the satisfaction of Council;
- (c) upgrade and extend Barleigh Ranch Way between the junction of the new right-of carriageway and the quarry site access point in accordance with the EIS and the latest Austroads standards to the satisfaction of Council; and
- (d) design and construct the site access haul road bridge crossing over Seven Mile Creek in accordance with:
 - (i) the guidance series for “Controlled Activities- Guidelines for Watercourse Crossings on Waterfront Land” (DPI Water 2012);
 - (ii) “Why do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings” (DPI Fisheries 2003); and
 - (iii) “Policy and Guidelines for Fish Habitat Conservation and Management” (DPI Fisheries 2013).

Given there is an active DA for upgrades to the intersection under DA 16-2023-477-1, it is recommended that the Eagleton Quarry not be determined until DA 16-2023-477-1 has been determined. In the event that DA 16-2023-477-1 is approved by the HCCRPP, a further condition (B33(e)) could be included requiring that the intersection upgrades proposed in DA 16-2023-477-1 are completed and operational prior to the transport of quarry products occurring. Alternatively, a deferred commencement condition could be considered.

Condition B35

Amendments to condition B35 are also recommended to provide a means of monitoring compliance with the proposed left-out heavy vehicle movement onto Pacific Highway, as shown in red below:

B35. The Applicant must prepare a Traffic Management Plan for the development. This plan must:

- (a) be prepared by suitably qualified and experienced person/s;
- (b) be prepared in consultation with TfNSW and Council;
- (c) include details of:
 - (i) construction related traffic management measures;
 - (ii) all transport routes and traffic types to be used for development-related traffic, including identification of bridge load restrictions **and GPS tracking to monitor compliance with the required transport routes;**
 - (iii) processes in place for the control of truck movements entering and exiting the site;
 - (iv) measures to be implemented to:
 - ensure compliance with the traffic operating conditions and other traffic related conditions of this consent;
 - manage the traffic impacts from contractors and subcontractors;
 - minimise traffic safety issues and disruption to local road users, including minimising potential for conflict with school bus operations;
 - minimise the transmission of dust and tracking of material onto the surface of public roads from vehicles exiting the site;

- monitor driver behaviour; and
 - participate in transport management investigations initiated by Council;
- (d) include a Drivers' Code of Conduct that includes procedures to ensure that drivers:
- (i) adhere to posted speed limits or other required travelling speeds;
 - (ii) adhere to designated transport routes and travel times; and
 - (iii) implement safe and quiet driving practices, including restriction on the use of compression braking;
- (e) describe the measures to be put in place to ensure compliance with the Drivers' Code of Conduct.

New Condition

Further to this, a condition is recommended to ensure GPS data of the haulage truck transport routes are collected and monitored for compliance. The suggested condition is as follows:

- The applicant must ensure that GPS data tracking the transport routes for haulage trucks is collected to ensure compliance with the approved transport routes. The GPS data is to be made available to Council, TfNSW and the Planning Secretary on upon request.

Biodiversity Conditions

Council's Natural Systems Section recommends the following amendments to the Conditions of Consent:

Condition B29

Condition B29. (c)(ii) relates to the Surface Water Management Plan. Given the sensitive downstream environment of the project, it is recommended that the Water Management Plan comply with the *Neutral or Beneficial Effect on Water Quality Assessment* (NorBE) *Guidelines*. It is recommended the condition be amended as follows:

(ii) **Surface Water Management Plan**, that includes:

- detailed baseline data on surface water flows, water quality, riparian condition and geomorphic stability in watercourses and/or water bodies that could potentially be affected by the development including Seven Mile Creek and Grahamstown Dam;
- detailed information on predicted off-site discharges, including:
 - once constructed, baseline data on water quality in water storages on the site, including the in-pit sump(s) and treatment dams;
 - predicted controlled and uncontrolled off-site discharge volumes, frequencies and rates;
 - dirty water treatment options to ensure compliance with condition B33, including gross pollutant traps, floating wetlands, bio-retention swales and flocculation systems;
 - measures to avoid, minimise or mitigate adverse water quality and geomorphological impacts of receiving waters from controlled and uncontrolled off-site discharges;
- surface water impact assessment criteria, including trigger levels for investigating any potentially adverse impacts, and surface water management performance measures. **Given the sensitive downstream environment of the project, water quality targets should adhere the Neutral or Beneficial Effect on Water Quality Assessment (NorBE) Guidelines;**

Condition B33

Conditions restricting the speed limit of vehicles applied on DA 16-2021-160-1 for the right of carriageway should also be included on Condition B33 as follows:

B33. Prior to transporting any quarry products from the site, the Applicant must:

- (a) ensure the intersection at the junction of The Pacific Highway and Italia Road is upgraded to the satisfaction of TfNSW and Council;
- (b) ensure the new right-of-carriageway across Lot 1 DP245116 and Lot 2 DP1158962 between Italia Road and Barleigh Ranch Way is constructed in accordance with Council Development Application 16-2021-160-1 to the satisfaction of Council;
- (c) Road signs will be installed to warn users of the possibility of encountering koalas and a 40 km/h speed limit or less will be enforced.
- (d) upgrade and extend Barleigh Ranch Way between the junction of the new right-of carriageway and the quarry site access point in accordance with the EIS and the latest Austroads standards to the satisfaction of Council; and
- (e) design and construct the site access haul road bridge crossing over Seven Mile Creek in accordance with:
 - the guidance series for “Controlled Activities- Guidelines for Watercourse Crossings on Waterfront Land” (DPI Water 2012);
 - “Why do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings” (DPI Fisheries 2003); and
 - “Policy and Guidelines for Fish Habitat Conservation and Management” (DPI Fisheries 2013).

Condition B42

Condition B42 relates to a koala underpass. It is recommended that the underpass be designed in consultation with a koala expert and the condition amended as follows:

B42. The Applicant must ensure that:

- (a) riparian corridors are maintained on either side of watercourses outside of the direct disturbance footprint in accordance with the Guidelines for controlled Activities on Waterfront Land (DPI Water 2012); and
- (b) a Koala underpass is incorporated in the design and construction of the quarry access road bridge crossing over Seven Mile Creek. The required koala underpass is to be designed in consultation with a koala expert.

Condition B50

Condition B50 relates to a rehabilitation management plan. It is recommended that the plan be prepared in consultation with Council and the condition amended as follows:

B50. Within 12 months of commencement of development under this consent, the Applicant must prepare a Rehabilitation Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by suitably qualified and experienced person/s;
- (b) Be prepared in consultation with Council;
- (c) describe the short, medium, and long-term measures to be undertaken to ensure compliance with the rehabilitation objectives in this consent;
- (d) include a conceptual closure plan that considers the hydrological and hydraulic impacts of the final landform;
- (e) include detailed performance and completion criteria for evaluating the performance of rehabilitation of the site, including triggers for remedial action, where these performance or completion criteria are not met;
- (f) include a seasonally-based program to monitor and report on the effectiveness of rehabilitation measures, progress against the detailed performance and completion criteria, and any progressive improvements that could be implemented to improve rehabilitation outcomes;
- (g) monitor and report on the impacts of the development on groundwater dependent ecosystems and riparian vegetation, and identify trigger levels for the remediation of any material impacts to these ecosystems;
- (h) identify the potential risks to the successful implementation of the final rehabilitation, and include a description of the contingency measures to be implemented to mitigate against these risks; and
- (i) include details of who would be responsible for monitoring, reviewing, and implementing the plan.

Contributions Conditions

Condition A14

Condition A14 relates to the payment of haulage fees on Council roads. It is recommended that this condition be amended to specifically reference the 'Port Stephens Local Infrastructure Contribution Plan 2020', as this is the plan that applies at the time the consent is to be determined.

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,

DYLAN MITCHELL
PRINCIPAL DEVELOPMENT PLANNER

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