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File: LVDA088

Director General
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attn: Howard Reed



Your Ref: 08_0142 MOD 1
Our Ref: A742565

Dear Mr Reed

Subject: Mackas Sand Project – Access Road Modification (08_0142 MOD 1)

Thank you for your letter dated 13 January 2012 inviting comment on the above proposal. The Hunter-Central Rivers Catchment Management Authority (CMA) has reviewed the information provided and provides the following comments for your consideration.

The CMA notes that an estimated 0.51 ha of native vegetation (comprising Coastal Sand Apple–Blackbutt Forest and Swamp Mahogany–Paperbark Forest) is proposed to be cleared to enable track construction under the preferred 'Route A'. The Environmental Assessment (EA) states that there will be no removal of the ground orchids *Diuris praecox* and *Diuris arenaria*, which are listed as vulnerable under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the *Threatened Species Conservation Act 1995* (TSC Act) respectively, under this option.

It is acknowledged that the original Development Application satisfied the definition of a Major Project under the then State Environmental Planning Policy (Major Development) 2005 and was approved by the Minister for Planning under Part 3A of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) on 20 September 2009. As a result, the *Native Vegetation Act 2003* (NVA) does not apply in this circumstance.

Nevertheless, the CMA considers that the principles of the Catchment Action Plan (CAP) and the NVA should still apply. The CAP is a whole-of government approach to natural resource management which has been endorsed by the NSW Government. It is a regional plan that provides a roadmap to ensure that natural resources are protected and enhanced for the enjoyment and viability of future generations. The CAP is available at <http://www.hcr.cma.nsw.gov.au>.

Specifically, the CMA's position is that any decision to clear native vegetation must include offsets to compensate for the impact of the clearing. These offsets may also include management actions to maintain or improve biodiversity.

At this stage the CMA has not been provided with any details of offsets and therefore must object to the proposal. The CMA is only able to support clearing that meets the 'improve or maintain' principles of the NVA.

The CMA recommends that offsets be determined using either the Environmental Outcomes Assessment Methodology (EOAM) or BioBanking methodology. It is acknowledged that under the EOAM endangered ecological communities (EECs) are unable to be offset. The CMA supports this principle, however for the purposes of determining offsets for this proposal where the Native Vegetation Act, 2003 does not apply, the CMA would support the application of either methodology.

Groundwater

Groundwater systems in the Tomago area provide an important source of water as a back up to potable use in the lower Hunter as well as for the survival of Groundwater Dependent Ecosystems and flow in the Hunter River during dry times.

The CMA's guiding principles on Groundwater state that 'Ecologically sustainable management of groundwater should be encouraged in all individuals, communities and agencies that own, manage or use the water source'. It is critical that monitoring of groundwater in and around the proposed development be carried out throughout the life of the project to ensure that groundwater resources are protected from contamination and any drawdown impacts that may be associated with sand mining.

The CMA notes in Section 4.9.3 of the EA, that "a detailed Soil and Water Management Plan (SWMP) (Umwelt, 2011a) has been prepared for operations on Lot 218 and Lot 220 in accordance with the requirements of Condition 18 Schedule 3 of the Project Approval 08_0142" and that "the SWMP has now been revised to take into account both the construction and use of the alternate haul route" (ie Route A).

The CMA is of the view that the Groundwater Management Plan should also include monitoring of terrestrial vegetation for any adverse reactions to groundwater disturbance and include appropriate mitigation strategies should they be required.

If you require any further information please do not hesitate to contact Trevor Cameron, the CMA's Catchment Officer Lower Hunter on 49384937.

Yours sincerely



Dean Chapman
for Fiona Marshall
General Manager

14 February 2012