



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

RE: EAGLETON QUARRY PROJECT (SSD-7332)

DEPARTMENT MEETING

PANEL:

JULIET GRANT
ALISON MCCABE

OFFICE OF THE IPC:

BRAD JAMES
KENDALL CLYDSDALE
TAHLIA HUTCHINSON

DEPARTMENT OF
PLANNING, HOUSING &
INFRASTRUCTURE:

CLAY PRESHAW
JESSIE EVANS
JAMES MCDONOUGH

LOCATION:

ZOOM VIDEO CONFERENCE

DATE:

9:30AM – 10:30AM
THURSDAY, 16 MAY 2024

<THE MEETING COMMENCED

MS GRANT: Okay. Well, good morning, everybody. Before we begin, I would like to acknowledge that I'm speaking to you from Gadigal Land, and I acknowledge the traditional owners of all the country from which we virtually meet today and pay my respects to their elders, past and present. Welcome to the meeting today to discuss the Eagleton Quarry Project SSD-7332, currently before the Commission for determination. The Applicant, Eagleton Rock Syndicate Proprietary Limited is seeking approval to develop a new hard rock quarry to extract, process and transport up to 600,000 tonnes per annum of hard rock material over a 30-year period. My name is Juliet Grant, and I'm the Acting Chair of this Commission Panel. I'm joined by my fellow Commissioner Alison McCabe. Adrian Pilton, the appointed chair of this panel is unable to join us today, but Adrian will review the transcript of today's meeting and submit any further questions in writing that Alison and I don't cover between us. We're also joined today by Brad James, Tahlia Hutchinson and Kendall Clydsdale from the Office of the Independent Planning Commission. In the interests of openness and transparency, and to ensure the full capture of information. Today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website. This meeting is one part of the Commission's consideration of this matter and will form one of several sources of information upon which the Commission will base its determination. It's important for the Commissioners to ask questions of attendees and to clarify issues wherever it is considered appropriate. If you are asked a question and are not in a position to answer, please feel free to take the question on notice and provide any additional information in writing, which we will then put up on the website. I request that all members here today introduce themselves before speaking for the first time, and for all members to ensure they do not speak over the top of each other to ensure accuracy of the transcript. We will now begin. Jessie, I hand over to you. To lead the discussion.

MS EVANS: Thank you, Chair. We do have a presentation which sticks pretty closely to the agenda set by the Commission, so we'll begin and follow that closely. So good morning. My name is Jesse Evans, and I am the Director of Energy and Resource Assessments at the Department of Planning, Housing and Infrastructure. I would like to start by thanking the Commission for giving us the opportunity to brief you on the project today. I am here with my colleagues, Clay Preshaw, who's the Executive Director, Energy, Resources and Industry Assessments, and James McDonough, who's a Team Leader within the Energy and Resource Assessments team. And I'm just going to say for now, when we're speaking for this - purposes of this presentation, when we refer to the project, it refers to the Eagleton Quarry project. So firstly, just some comments on our assessment report. I would like to start by saying that preparing an assessment report for these types of projects is a very difficult task. The report is really only the final piece of a very long comprehensive assessment process. All of the key relevant information in forming the assessment is publicly available on the Department's major projects planning portal and can be accessed if necessary. We are confident that our report does provide a good summary of our views about the project, but we also believe that this meeting and the

upcoming public meeting can be really important for fleshing out key issues relating to the project from the community perspective.

5 There are a few obvious aspects of this project, which I now really want to
acknowledge and ensure that the Commission knows we have taken into account. So,
they are firstly, extractive industry proposals such as this one typically generate dust,
noise and vibration as the hard rock is extracted and processed. Secondly, they also
generate heavy vehicle traffic as the product is then transported by truck to market.
10 And lastly, they do often involve the clearing of remnant vegetation and the
establishment of large voids in the landscape. I'd also like to point out that for this
project, it is located within the Grahamstown Dam drinking water catchment. So,
with this in mind, the Department considers that the key assessment issues for the
project relate to noise, air quality, traffic, biodiversity and water impacts. Firstly
15 though, I would like to set out the strategic context for the project, followed by a
very brief outline of the engagement the Department has undertaken. I will then hand
over to James.

MS GRANT: Jesse, are you changing slides while you're talking? We've just got a
20 white screen with the title.

MS EVANS: We're about to go to the next slide. Yes.

MS GRANT: Perfect. Thank you.

25 MS EVANS: Yes. So, it is important to provide some strategic context about this
project in relation to the existing land use within and surrounding the site. I would
also like to touch on the status of the hard rock quarry product market more broadly
and expected future growth within this industry. So, as you can see, the quarry is
proposed on a relatively undisturbed site. However, it is surrounded by a variety of
30 different land uses, including one existing quarry being Seaham Quarry and one
proposed quarry being Stone Ridge Quarry to the north and several industrial and
recreational facilities to the east, including a landscaping supply centre, a car racing
circuit, a motocross track and a paintball centre. It is also relatively close to the
Pacific Highway, which is a bit over a kilometre to the east. Several rural residential
35 dwellings and a respite centre are located to the south along Six Mile Road, at a
distance of about one to 1.5km. There are also dwellings to the north and northeast
along Italia Road. As I mentioned earlier, the project site is also located within the
catchment of Grahamstown Dam, which is located about 2.5km to the southeast.
This dam provides about 40% of the drinking water supply for the lower Hunter
40 region. The quarry would primarily supply hard rock products to the Hunter, Central
Coast and Sydney construction markets. Owing to their relative proximity to these
markets and key transportation corridors, including the Pacific Highway, Hunter
Expressway, and New England Highway. There are at least seven other existing or
proposed state significant hard rock quarries within about 25km of the project.
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While it is difficult to quantify the amount of hard rock material required over the
next few years, this recent influx of applications for hard rock quarries in the region

points to a strong demand in the short to medium term. Competitive and reliable supplies of quarry products are critical to the New South Wales construction industry. Demand for these products is driven by government spending on public infrastructure and private investment in commercial, industrial and residential development. The need for infrastructure investment in New South Wales, including within the Hunter region, is identified in several key state and regional strategy documents, as referenced in our report.

I just want to now quickly draw the Commission's attention to the Department's engagement on the project. So, the Department did publicly exhibit the original project for 28 days, from the 3rd of February to the 2nd of March in 2017, and then again, the amended project for another 28 days from the 10th of October to the 6th of November 2023. In total, the exhibitions of the original and amended project attracted 63 unique objecting submissions. The Department also carried out site visits both in 2017 and in 2023, which were informative and valuable to our assessment of the project. We also consulted with and received advice from key government agencies and public authorities, including Port Stephens Council. The issues raised in submissions, along with the advice received from government agencies and public authorities, has been given detailed consideration in our assessment. I'm now going to hand over to James to further talk you through the Department's key assessment issues, including statutory considerations.

MR McDONOUGH: Sorry, everybody. I just had to unmute. James McDonough is my name. I am a Team Leader within the Energy and Resource Assessments team at the Department. I'll be providing an overview of the statutory assessment of the project, along with the summary of the key assessment issues and the Department's findings. So firstly, the statutory assessment. We understand that the Commission's agenda includes a discussion on the Department's consideration of the statutory requirements for the project. So, the project is an extractive industry development that would extract 600,000 tonnes of extractive materials per year from a total resource of more than 5 million tonnes. Accordingly, the project is declared to be State Significant Development under section 4.36 of the Environmental Planning and Assessment Act as it meets the criteria specified in clause seven of schedule one of the State Environmental Planning Policy Planning Systems 2021. The site is zoned RU2 Rural Landscape under the Port Stephens Local Environmental Plan 2013. The project is also defined as an extractive industry under the Port Stephens Local Environmental Plan. Extractive industries are permissible with consent in the RU2 land use zone. Furthermore, clause 2.9(b)(i) of the resources and energy SEPP provides that development for the purposes of extractive industry is permissible with development consent on land on which development for the purposes of agriculture, such as RU2 zoned land may be carried out, which includes the project site.

The objectives of the RU2 zone under the Port Stephens LEP are 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. And to facilitate a variety of tourist and visitor orientated land uses that complement and promote a

stronger rural sector appropriate for the area. And assessing the potential impacts of the project, the Department has considered all of the relevant provisions within the Port Stephens Local Environmental Plan. These include considerations regarding flooding, bushfire, earthworks, Aboriginal and historic heritage, acid sulphate soils, amenity, the impacts of earthworks on drainage, environmentally sensitive areas and the Hunter water drinking catchment. These matters are dealt with under the relevant Impact Assessment sections in our assessment report. The Department has carefully considered the merits of the project. Is satisfied it can be carried out in a manner that is compatible with the surrounding industrial, recreational, residential and rural land uses.

I'll now provide a summary of the key assessment issues listed in the Commission's agenda, namely noise, including blasting, air quality, traffic, biodiversity and water impacts. It's also important to note at this point that we have undertaken a comprehensive assessment of other environmental matters, all of which are documented in our report.

Firstly, in relation to noise impacts, we're aware that noise was a key issue raised in public submissions. Concerns over noise impacts were raised in over two thirds of all objecting submissions. There are two key elements of the project that have the greatest potential for noise impacts. Number one noise from plant and equipment during extraction, processing and truck loading. And number two, noise from the haulage of quarry products during the early morning shoulder period that is between 5 a.m. and 7 a.m. The existing noise environment is typical of a rural and residential land use setting, with a few exceptions. The key contributors to the acoustic environment are vehicles travelling along the Pacific Highway and local roads, the neighbouring quarry, and the intermittent use of the neighbouring recreational motor racing facilities. The majority of the residential receptors are located to the south of the proposed quarry, along Six Mile Road and Winston Road, with the closest being receiver eight, located approximately 800m to the south of the project site boundary. The Eagleton Ridge Respite Centre, which is receiver six on the slide, is located approximately 950m to the south.

Several features have been incorporated into the project design to minimise noise impacts. These include commencing quarrying along the northern side of the natural ridgeline to the south of the quarry and progressing in a south easterly direction, using the natural topography as a natural acoustic barrier. Relocating the processing plant to the northern part of the quarry at an excavated relative level of 45m. And maintaining the existing hill along the southern boundary as a barrier to the processing plant, to a height of no less than 57.5m relative level until the final year of quarrying operations, when it will be removed to provide a suitable final landform and supplemented by a temporary acoustic barrier. The proposed daytime only quarrying and processing operations also removes key noise sources during the most sensitive night-time and evening periods. In terms of predicted impacts, the noise assessment indicates that operational noise levels would be below the adopted assessment criteria at all receiver locations. Noise from the haulage of quarry products would also remain below the applicable road noise criterion at all receptor

locations. During construction, the worst-case noise levels at all residential receivers would also remain below the relevant construction noise criteria. The Department's recommended noise limits, which are consistent with EPA's recommendations, have been set based on the most conservative default criteria set out in the noise policy for industry. The Department has also recommended a range of other conditions that would require Eagleton Rock Syndicate to operate a comprehensive noise management system to minimise the noise impacts of the project. The Department considers that the recommended conditions strike a fair balance between protecting the amenity of the local community and providing for the operation of the project. Subject to these conditions, the Department considers the noise impacts of the project are acceptable. I'll also quickly mention blasting impacts. In summary, there are no predicted exceedances of air blast over pressure or ground vibration criteria, and the Department considers that the blast impacts can be appropriately managed to avoid any impacts to sensitive receivers.

I'll now move on to air quality impacts. The air quality assessment indicates that the key emission sources from the project would include dust from land clearing, drilling and blasting, loading and unloading of material, vehicles travelling on site and off site, crushing and screening processes, windblown dust from exposed areas and stockpiles, and fuel combustion based emissions are (indistinct) from the operation of quarry, plant and equipment and from the haulage of quarry products. In addition to emission sources from the quarry itself, the assessment identified potential cumulative emissions from the surrounding industrial operations, including the neighbouring Seaham quarry and the landscaping supply centre. Emission calculations and dispersion modelling for project only or incremental and cumulative scenarios indicated that the project would comply with all applicable total suspended particulate and deposited dust impact assessment criteria for incremental and cumulative emissions at all receptor locations. It would also comply with applicable particulate matter less than ten micron or PM10. Impact assessment criteria are for incremental and cumulative emissions at the majority of receptor locations with a couple of exceptions being the Hunter Valley Paintball Facility, which would experience minor exceedances of the 24-hour criterion for cumulative emissions. And minor exceedances of the annual criterion for cumulative emissions. There would also be minor exceedances of the 24-hour criterion for cumulative emissions at the motocross track facility. In terms of PM 2.5, or particulate matter that is less than 2.5 microns in diameter, the project would comply with all applicable impact assessment criteria for incremental and cumulative emissions at the majority of receptor locations, again with the exception of the Hunter Valley Paintball Facility, which would experience minor exceedances of the annual criterion for cumulative emissions.

It's important to note that the impact assessment criteria are based on exposure to dust emissions 24 hours a day, 365 days a year for an entire lifetime. The recreational facilities that are predicted to experience exceedances are open intermittently. And the dispersion modelling was based on the assumptions that all quarry activities would be occurring simultaneously during worst case meteorological conditions. For these reasons, EPA and the Department agree that

there is likely to be some conservativeness in the assessment. The Department acknowledges that that most of the predicted exceedances are relatively minor and are at recreational facilities that would not be occupied on a continual basis. As such, it is considered unlikely that the exceedances would cause adverse health impacts associated with prolonged exposure. On this basis, the Department also accepts that the voluntary mitigation and land acquisition rights under the government's Voluntary Land Acquisition and Mitigation Policy should not strictly apply at these facilities. However, the Department and EPA consider it important that Eagleton Rock Syndicate implement a comprehensive reactive air quality management system on site. The Department has recommended that this system includes real time monitoring capability to enable quarry personnel to respond to elevated dust levels prior to reaching critical levels and be able to modify activities and increase mitigation measures as required. In terms of human health impacts from respirable silica, which was also raised as a concern in several community submissions. The air quality modelling has indicated that the risks to surrounding residents from respirable silica is considered very low. New South Wales Health has accepted this assessment conclusion. Subject to the recommended conditions, the Department considers that the air quality impact of the project are acceptable.

I'll now move on to our assessment of traffic impacts. Traffic and transport was a key issue raised in public submissions, with 68% of objecting submissions raising concerns primarily in relation to the safety risks and increased wait times at the Italia Road Pacific Highway intersection. Transport for New South Wales also raised concerns in relation to the operation of that intersection. They indicated that the intersection would require upgrading to support the proposed quarrying operations. Council made similar comments. In response to these concerns, Eagle Rock Syndicate developed an intersection upgrade design in partnership with the operators of the existing Seaham Quarry, which is Boral, and the proponents of the proposed Stone Ridge Quarry ARDG. The design of the intersection has been agreed in principle with transport for New South Wales, but I'll also point out that the construction of the intersection would be subject to a separate approval through Council and does not form part of the project. The proposed intersection upgrade includes construction of a dedicated left turn northbound acceleration lane from Italia Road onto the Pacific Highway, a widening of the existing bridge over the Balickera Canal to accommodate the northbound acceleration lane and lengthening the northbound deceleration lane into Italia Road. Eagleton Rock Syndicate has advised the Department that the cost of the upgrade is approximately \$9.5 million. It would be constructed prior to undertaking haulage of quarry products. The haulage of quarry products would also involve trucks turning left onto the Pacific Highway and travelling north, before making a U-turn at the Tarean Road interchange. This is to prevent trucks having to make an at-grade crossing of the Pacific Highway at the Italia Road location.

In terms of the assessed traffic impacts, the additional maximum vehicle movements associated with the project represent an increase of around 16% on Italia Road, and very minor increases along the Pacific Highway. The modelling results, which represented the upgraded intersection with background growth and additional quarry

5 traffic from all three neighbouring quarries, that is the existing Seaham Quarry and
the proposed Stone Ridge and Eagleton quarries, showed that a satisfactory level of
service would continue to be experienced by motorists travelling on the Pacific
Highway. Average wait times for light vehicles turning right from Italia Road onto
the Pacific Highway would be reduced from 78 seconds under existing conditions to
42 seconds under the proposed project. The upgrade of the Italia Road and Pacific
Highway intersection would also significantly reduce the safety risks at this location.
The assessment also confirmed that impacts to public transport services, pedestrians,
non-motorised, road users and school buses would be negligible. The Department
10 and Transport for New South Wales accept these assessment findings. The
Department has recommended conditions requiring the road upgrades are
constructed prior to the commencement of quarry product transportation, and that a
traffic management plan is prepared prior to the commencement of construction. In
terms of road maintenance contributions, Eagleton Rock Syndicate has committed to
15 pay annual contributions in accordance with Council's Local Infrastructure
Contributions Plan, as recommended by Council. The Department's recommended
conditions also reflect this requirement. Subject to these conditions, the Department
considers that the traffic impacts of the project are acceptable.

20 I understand the Commission is interested in the Department's consideration of
whether the original biodiversity assessment, prepared in 2017, remains appropriate
for assessing the biodiversity of the project - biodiversity impacts of the project in
2024, particularly given the 2017 assessment, was completed under the provisions of
the now repealed Threatened Species Conservation Act. The Department and BCD
25 considered this question in detail during the assessment of the project. Firstly, section
7.92 of the Biodiversity Conservation Act generally requires that all state significant
development applications are accompanied by a Biodiversity Development
Assessment report. The original project application lodged in 2017, was
accompanied by a biodiversity Assessment report and a biodiversity offset strategy
30 prepared in accordance with the 2014 framework for Biodiversity Assessment. And
the New South Wales Biodiversity Offsets Policy for major projects. Rather than a
BDA or biodiversity development Assessment report. However, clause 28.1 of the
Biodiversity Conservation Savings and Transitional Regulation 2017, provides that
the former planning provisions continue to apply to the determination of a pending or
35 interim planning application. Given the original project application was lodged in
2017 when the Threatened Species Conservation Act was in force. The project is
considered a pending or interim planning application under this regulation. As a
result, although the Threatened Species Conservation Act has since been repealed by
the Biodiversity Conservation Act, some provisions of the Threatened Species
40 Conservation Act would be enforced had it not been repealed, such as assessment
guidelines continue to apply for the project. I'll also point out that because the
development application was lodged before the 1st of March 2020, the project must
also be assessed under SEPP 44 as it existed at the time of the application despite
more recent amendments to SEPPs governing impacts to developments on koalas.
45 The relevant provisions of SEP 44 have been included within a newer version of that
set, which is the Biodiversity and Conservation SEPP 2021, which aims to conserve
and manage koala habitat to reverse the current trend of koala population decline. In

terms of our assessment, the Biodiversity Assessment report indicates that the project area does not contain any areas of core koala habitat. Accordingly, the Department's recommended conditions do not require Eagleton Rock Syndicate to prepare a koala plan of management to manage impacts to the resident koala population, as would
5 have been required for core koala habitat under SEPP 44.

I'll now move on to the Department's assessment of the biodiversity impacts of the project. Impacts to biodiversity were raised as an issue in 40% of objecting submissions, with key concerns relating to impacts on local wildlife and native
10 vegetation, the local koala population and wildlife corridors. Key impacts to biodiversity from the project are associated with the disturbance of about 32 hectares of native vegetation. While none of this vegetation has been identified as constituting a threatened ecological community, it does provide habitat for a range of threatened
15 fauna species. A total of 12 threatened fauna species listed under the Threatened Species Conservation Act and or the Environment Protection and Biodiversity Conservation Act were detected during surveys. No threatened flora surveys - sorry, no threatened flora species were detected during those surveys. Of the 12 threatened
20 fauna species that were detected, two are fauna credit species, that is, the southern myotis and koala, and would need to be offset via species credits in accordance with the New South Wales Biodiversity Offset Scheme. The Biodiversity Assessment report concluded that the project is unlikely to have a significant impact on any threatened or migratory species. This conclusion was primarily based on the justification that the proportion of habitat that would be removed is relatively small
25 when considering the large areas of similar habitat that are contiguous across the wider area. To offset the residual biodiversity impacts of the project, Eagleton Rock Syndicate proposed to implement a biodiversity offset strategy in accordance with the requirements of the framework for Biodiversity Assessment. The commencement of the Biodiversity Conservation Act on the 25th of August 2017. The New South
30 Wales Government released a new Biodiversity Assessment method which replaces the framework for Biodiversity Assessment methodology.

As a result, the credit requirements identified in our assessment may require a mathematical conversion to reasonably equivalent biodiversity credits under the Biodiversity Conservation Act, so as to facilitate retirement under the new
35 legislation. The Departments included a note in the recommended conditions to reflect this policy arrangement. The Applicant's biodiversity offset strategy includes an onsite offset site that would be protected and managed in perpetuity. The site covers an area of around 60.8 hectares that adjoins the southern and eastern part of the site. The proposed offset site would only satisfy a proportion of the biodiversity
40 required, with a shortfall of 1303 ecosystem credits and 127 southern myotis species credits. Koala species credit requirement would be fully satisfied by the credits generated at the onsite offset site. Eagleton Rock Syndicate proposed to secure the remaining credits by purchasing suitable credits from the market. All credits would be retired prior to the commencement of vegetation clearing and construction. This
45 accords with Council's recommendation that offsets be secured prior to disturbance. BCD has not raised any objections to the proposed mitigation, management and

offsetting of biodiversity. Overall, the Department considers the impacts of the project on biodiversity are acceptable, subject to the recommended conditions.

I'll now provide a summary of the Department's consideration of impacts to surface water and groundwater resources. Impacts to water resources were raised as an issue in 52% of objecting submissions, with the key concern relating to potential impacts to the Grahamstown Dam drinking water catchment from uncontrolled discharge of potentially contaminated water from the quarry. Whilst there is no statutory requirement for the project to achieve a neutral or beneficial effect water quality given its location within the Grahamstown Dam drinking water catchment, Hunter Water expected Eagleton Rock Syndicate to demonstrate that the project could achieve such an outcome. The project has been designed to maximise the reuse of water on site, minimise the take of clean water from the catchment and minimise discharges to Seven Mile Creek, which is a tributary that reports into Grahamstown Dam. The site water management system comprises a dirty water system including three sediment dams and in-pit water storage dam and catch drains to intercept sediment laden runoff from disturbed areas and direct it to one of the three dams and a clean water system, including diversion drains, to divert runoff from undisturbed upslope catchment areas around the site. Captured water from within the sediment Dams would be discharged via a licensed discharge point into Seven Mile Creek. The discharge point would be regulated by the EPA under an Environment Protection Licence. Department the water group and EPA considered that the proposed water management system has been suitably designed to manage risks to hydrology, water quality and flooding, and that there are measures available to manage any water shortfalls or surpluses without adversely impacting the receiving environment, including the Grahamstown Dam drinking water supply. Excavation of the quarry would result in some inflow of groundwater into the quarry pit, although this is expected to be relatively minor considering the low porosity of the strata within the extraction area.

Impacts would be very localised and limited to a less productive aquifer. Importantly, the predicted impacts are less than the level one minimal impact considerations set out in the New South Wales Aquifer Interference Policy. Water Group has not objected to these assessment findings. Eagleton Rock Syndicate has also demonstrated that it contained - that it can obtain sufficient entitlement under its harvestable rights and water access licenses to account for the water - to account for the quarry's water take. The Department has also recommended that Eagle Rock - Eagleton Rock Syndicate be required to prepare and implement a water management plan in consultation with Hunter Water. The Water Group and EPA. The Department's recommended conditions, also require Eagleton Rock Syndicate to ensure that the onsite water management system is designed and constructed to prevent discharges during rainfall events, up to the 1 in 500 year average recurrence interval, 24 hour storm event, and also in accordance with Managing Urban Stormwater volume one and volume two, which is relevant to mines and quarries. This guidance is also known as the Blue Book. The Department considers that the risks of impacts to surface water and groundwater resources are low, and that the project could be suitably managed in accordance with the recommended conditions,

to avoid any unacceptable impacts. That concludes the summary of our assessment of the key issues for the project. I'll now hand back to Jessie to talk through our recommended conditions.

5 MS EVANS: Thank you. So, I note that the Commission's agenda had a bullet point to speak about conditions. So, I just wanted to give some high-level comments on how we condition projects. So, there are a few guiding principles that have informed how the Department has prepared the recommended conditions. Firstly, they have been drafted to satisfy the principles of the Newbury Test. That is, they have been
10 imposed for a planning purpose. They relate to the development, and they are not unreasonable. Where possible, the conditions have also been drafted to be certain and final. The Department has engaged with the Applicant and key stakeholders, including Council and other relevant agencies, to consider and address all issues raised through the assessment and avoid deferral of significant matters. The feedback
15 received from the Applicant, Council and other agencies has been considered and adopted where appropriate. The conditions are also intended to be clear and consistent. Plain English defined terms and definitive wording has been used where possible.

20 So, our recommended conditions can be separated into three general types. Firstly, you have performance conditions which rely on performance criteria such as air quality or noise criteria to regulate the project. Regulation against performance conditions involves determining compliance against these criteria. Secondly, there's operational conditions which set an operational limit or mandate an operational
25 requirement. For example, the Applicant must ensure that all trucks travelling southbound from the quarry first turn left, in this case northbound, onto the Pacific Highway and utilise the Tarean Road interchange to perform a U-turn. And thirdly, we have management plan conditions which involve further post-approval detailed planning and implementation of mitigation measures. Several of the management
30 plans. So, for example, the water and traffic management plans must also be prepared in consultation with other agencies and need to be approved by the Planning Secretary.

35 While all three condition types can be effective in achieving an intended outcome, the Department is aiming to reduce its reliance on management plan conditions to regulate projects. The Department has aimed to simplify its conditions to encourage the development of post-approval documents that support effective environmental management. Reduce the number of management plans and support Applicant led post-approval actions. As an example, our recommended conditions have relied on
40 performance and operational conditions for the regulation of noise and air quality impacts. As you may have noticed, there are no air quality or noise management plan conditions. This is intentional. That was all I wanted to say for conditions for now.

45 And the other, I just wanted to touch on the other point within the Commission's agenda, which related to the Kings Hill estate. So, in short, the Kings Hill Estate urban release area was a concept planning proposal for the establishment of 4500 residential lots to the south of Six Mile Lane, which is adjacent to the Pacific

Highway. The Department understands that the DA for the concept plan was refused by the Regional Planning Panel. An appeal was then dismissed by the Land and Environment Court in August 2023. Notwithstanding the status of any development applications related to this proposal. In terms of our assessment, there were no
5 predicted exceedances of noise, vibration or air quality criteria for the project for this receptor. So, I just wanted to finish by saying thank you for your time this morning, and we're now happy to take any questions you may have.

10 MS GRANT: Thank you, Jessie and James for that. That did cover a lot of the questions that we had, but I think there's probably still a few more points that we just might like to ask a few questions of you. Alison, did you want to kick off?

MS McCABE: I might kick off. Just honing in on biodiversity to start with. And James, I noted the comprehensive comments that you gave on that. I'm just trying to
15 understand that all of the assessments based on the 2017 document. And I understand that just if I focus on the koala that its listing has changed since 2017, all the reports in front of us talk about the koala being listed as vulnerable, but I understand that it's been now listed as endangered. Does that - and that's just one species. What I'm
20 trying to understand is, does that change, alter the assessment under the old five A that's been done in the ecological report and similarly the assessment under the EPBC consideration as well. And that probably extends, and I don't know actually what the degree of change in terms of listing of different flora or fauna that has occurred since 2017. And you did mention that there's a need to translate - I think
25 you talked about the translation of credits will need to happen. Just trying to understand what that means. So, first question is, does the listing of - and I'll just - the koala is the one I know about. I don't know about any others. Does that change anything in terms of the conclusions and the assessments in the document.

30 MS GRANT: For the merit assessment.

MS McCABE: The merit. Yes. Broader merit. On the findings because it talks about not having a significant impact, but it's based on that.

MR McDONOUGH: I think the key point is that the, the, the provisions in that
35 transitional regulation for the Biodiversity Conservation Act. Provide that the previous planning provisions apply. So, at the time the DA was lodged in 2017, that biodiversity assessment report was appropriate and was deemed to be satisfactory by Biodiversity Conservation Division. And, you know, we looked into this in great detail and we, you know, given that, between 2017 and 2024. There was no, I guess,
40 changes to the project that would have triggered the need for any further biodiversity assessment. We we're reliant on that 2017 assessment despite the fact that it was seven years old. And so, you know, the change in listings had they been required to do additional assessment would have been relevant. But given that the - that there
45 was no change to that biodiversity assessment report we assessed it on the merits that were, I guess, on the findings of that assessment as it was prepared in 2017. So that's kind of what we concluded. And it's also, you know, consistent with how BCD had had assessed the project as well - there the, I guess, expert agency when it comes to

biodiversity impacts. And they had - they provided no additional commentary on the - any changes to the listing of species or communities since 2017 and how that might affect our evaluation of the project. Does that answer the question?

5 MS McCABE: Probably. I understand that you've assessed it under the statutory framework (crosstalk).

MR McDONOUGH: Yes.

10 MS McCABE: So, it's frozen. Let's just say (crosstalk) -

MR McDONOUGH: That's right. It's frozen. Yes. That's right.

15 MS McCABE: And not - and I'm not an ecologist and I'm assuming you're not either. So I think the answer is you've done what was statutorily required and done the assessment and taken the advice of the agency, but I'm not sure that we get - I have an answer to say, well, does it make any difference to that - the assessment that you've relied on that the change in listing and does it change, you know, the number of credits that are needed or the amount of land that needs to be offset. That's probably - it might be a question the Commission will grapple with at the moment.

20 MR McDONOUGH: Okay. Well, that biodiversity assessment report in 2017, I mean, the credits were calculated on the basis of that assessment. And I guess if we work backwards and that assessment is still current in this situation, then that's what we've relied on for the credit obligations. Noting the reasonable equivalence process that will need to be undertaken to convert the credits to equivalent credits under the new framework, basically.

25 MS McCABE: In your experience, have you - and this application is probably a little bit different from others that you've got in it has been in the system for seven years. Have you seen in other applications whether the relevant Department has asked for updates of surveys and that type of thing over the course of the assessment?

30 MR McDONOUGH: Yes, but I might say that only where the project changes the footprint. There's also provisions under the Biodiversity Conservation Act where there've been updates to the biodiversity assessment method. And if a project has proposed a change to, say, the disturbance footprint that would require additional surveys to be undertaken, then you know, the feedback we've received is that those surveys and the assessment should be undertaken with the most up to date methodology basically. But in this case, given that the disturbance footprint hasn't changed. And, you know, we've looked at it from a, you know, legal point of view in terms of the requirements under the transitional regulation. We've, you know, reached a level of comfort that the original assessment is appropriate. Yes.

35 MS McCABE: Thank you.

MS GRANT: I'm curious if you could just talk a little bit about the rehabilitation bonds. So, in the assessment report, it talks about imposing a bond. I guess if could you just outline does the Department actually have the ability to accept financial bonds or what's that process. And does that duplicate what's required under the mining title arrangements.

MR McDONOUGH: So, this isn't a mining project. The key distinction is that it's a - it's not proposing - it won't require a mining lease.

MS GRANT: Right.

MR McDONOUGH: So, it's not a duplication, but it is almost intended to achieve a similar outcome, which is that, you know, in the event of any unforeseen closure of the site, there's funds available to the government to rehabilitate the site, basically.

MS GRANT: What I understand the Department's been pushing back on that on some of the renewable projects. So, what's the point of difference then, for this one, that that sort of use of a rehabilitation bond versus in this situation versus in a renewable project?

MR McDONOUGH: I might hand that over to Clay because I'm not involved in many renewable projects.

MR PRESHAW: Yes, I think that's a tricky one. There's probably two sides to that. Quarries have been assessed for a couple of decades now with a strong focus on rehabilitation. Due to, I guess, the significant disturbance that occurs by extracting quarry materials in a very similar way to the type of disturbance that occurs with the extraction of minerals. And as James alluded to this project and other quarries typically are not extracting minerals as defined under the Mining Act, but the actual activity is very similar to mining. So, while it's not regulated under the Mining Act, because these aren't considered valuable enough or appropriate to be dealt with under the Mining Act. There's no royalties associated and all that. That means that there is - while the activity is very similar, there is no Mining Act provisions around rehabilitation to fall back on. And as you mentioned, we're certainly are with mining projects where there are minerals defined under the Mining Act. We are trying to unravel some of the duplication that exists with those. But here, where the Mining Act isn't in play at all. And, but the activity is very similar to a mine. As I say, over the last couple of decades, we've tried to incorporate a similar process of requiring the pit to be filled, you know, for the land to be recovered and rehabilitated and vegetation to be regenerated, or agricultural land to be returned, or whatever the case may be on the site.

Now, that's a very different turning now to the other side, which you asked about, which is the renewable energy space. I think that's a very different type of activity. Obviously, you're not digging giant holes in the ground to install solar panels or to install even wind turbines. So the level of - the type of activity and the level of disturbance to the land and the requirements for rehabilitation are very different. And

aside from that. There is a lot of work being done, as I've discussed in some of the briefings on renewable projects at a whole of government level to deal with what impacts there may still be from the development of renewable projects. Again, bearing in mind that the level disturbance is much different, but there is still work
5 being done across government to manage that issue in a holistic way, which may or may not involve some additional regulatory or legislative changes. They wouldn't be under the Planning Act, probably, but under perhaps the Electricity Investment Infrastructure Act or somewhere else. So, the issues around renewables, I guess, in a nutshell, are that there is a need to consider what rehabilitation will occur, but it is
10 very different to quarries. And that's occurring, I guess at a higher level within government.

The one thing - the one other thing I've mentioned before in talking about renewables rehabilitation is one of the key differences between a wind or solar farm or a battery
15 project even is - as compared to a mining or a quarry project is that we do not put a time limit on renewable projects. There is not a finite resource. They are by definition infinite and renewable. And so, as you would have seen with renewable projects, we don't say that you have to stop operating at any point. In fact, we want them to keep operating forever, given that the resource is not finite. So, I guess in an
20 ideal world, solar and wind farms would just continue to exist on the site in perpetuity. Whereas obviously with a quarry or a mine, you eventually run out of the material that you're trying to - you're trying to uncover. And so, there is, again, by definition, a need to close the mine or the quarry at some point and return it to the way it was before. Sorry. That's a very long-winded explanation.

25 MS GRANT: That's excellent. Thank you. No, that definitely clarifies it. Thank you. Traffic. two hopefully quick minor queries. The assumptions that the traffic assessment or your traffic assessment is based on and obviously the time from original submission is going to complicate this. But now as I understand it the Boral
30 Quarry has an application before the Department to extend the life of it. So, in terms of that, assumptions based on traffic assessment and the cumulative impacts, if that was, it's not at the point of determination, but if that was to proceed. Has that been? Can that be factored in? Has that been factored into your assessments? Or would it change if an extension was granted beyond the current time of when it was due to
35 expire. Would that change any of your assessments?

MR McDONOUGH: I might be doing some crossover between the Seaham Quarry project and this project here, but the traffic assessment for this project was based on
40 the existing approval for the Seaham quarry, plus the proposed Eagleton quarry and the proposed Stone Ridge Quarry. I think the DA for the Stone Ridge quarry had been lodged at that time. The DA for the Seaham quarry had not been lodged, so it was based on the most up to date information at the time. We have now had the DA lodged for the same quarry as you're aware. It's just finished exhibition Tuesday. And the assumptions in that assessment are based on the Eagleton quarry, the proposed
45 Stone Ridge quarry and the proposed Seaham quarry. Without us having finalised our assessment of traffic impacts for that project is difficult to say with any certainty, but I note in their traffic assessment they're not predicting any significant

deterioration in the level of service for the local or regional road network. But that comes with a caveat that we haven't finished our assessment on that project. Yes.

MS GRANT: Okay. Thank you.

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MS McCABE: I want to ask.

MS GRANT: Yes.

10 MS McCABE: I just - James, you took us through the some of those again, statutory considerations in terms of the LEP and SEPP.

MR McDONOUGH: Yes.

15 MS McCABE: So I'm just wondering where - I suppose I would have expected to find that in your appendix C in terms of you've done a very thorough assessment of the Resources and Energy SEPP and the clauses that require - those clauses require satisfaction of particular things, which again, the complexity with the biodiversity, the SEPP 44's got some criteria that we've got to look at. And then similarly, the - I
20 don't know all of them, but similarly, I do know that the Port Stephens LEP has got particular criteria. So, I'm just wondering, I suppose what I would have expected is Appendix C to have that in there. And it doesn't. So, I'm just concerned that as a consent authority, we've got to demonstrate that we've actually considered that. And we usually rely on - would rely on. First port of call is the assessment report.

25

MR McDONOUGH: Yes.

MS McCABE: So maybe some -

30 MR McDONOUGH: Yes, I understand that it's probably not ideal if you wanted to look at the specific provisions with the LEP. I'm fairly confident that we've addressed all the relevant matters in our assessment. And I think, you know, if there's any further specific questions, we'd be happy to respond to them on any particular provisions that I don't know whether Clay or Jessie wants to talk to the broader
35 structure of our assessment reports, but, I mean, you know, all of the assessment issues cover off on the provisions. Quite comfortable that we've addressed all of those provisions within the assessment. Yes.

40 MS GRANT: Just mindful of the time. We do have one more, I guess, set of questions about the noise, the construction noise and the noise assessment and in particular the variety of different times proposed in terms of what the Applicants requested, what the EPA's comments requested-

MR McDONOUGH: Yes.

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MS GRANT: What the Department's conditions. We've got a lovely matrix of all of the different -

MR McDONOUGH: Yes.

5 MS GRANT: So, I guess, you know, firstly, are you satisfied that the various construction noise in terms of site establishment road construction has been adequately in those time frames where we're changing. And perhaps you can just explain your rationale behind changing what either the Applicant or the EPA.

10 MR McDONOUGH: Yes. So, there's a distinction between construction noise and operational noise. I think the construction noise is the standard construction hours that are recommended under the interim construction noise guideline. In terms of operating noise, you will have probably picked up on the inconsistencies in the Applicant's noise assessment around what the hours are that they're seeking approval for. We went with a conservative approach because you know, when we consulted
15 with the EPA, they similarly looked at the fact that you may have noticed in the EIS they were seeking approval to undertake truck loading, I think during the evening period to 10 p.m. In their latest version of their noise assessment, they didn't assess that time period. So, you know, we went conservative on the conditions and removed that from their proposed operating conditions. They may want to make a case for
20 including that to the Commission. But, you know, in the absence of any assessment and the fact that, you know, we'd gone back to them on several occasions on noise impacts, we went conservative with our conditions, basically, and just didn't include those operating hours.

25 MS McCABE: But just following up on that, the you've seemed to differ though from the EPA ones just in and again, we've got this table. So, I think there was some EPA comments for quarrying operation.

MR McDONOUGH: Yes.

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MS McCABE: 7 a.m. to 5 p.m... But you guys have gone for (crosstalk) -

MR McDONOUGH: Yes.

35 MS McCABE: Just understanding that perhaps.

MR McDONOUGH: Yes. I noted that EPA had put those hours in their description of the project. And that was purely based on reading the executive summary for the noise assessment. And then -

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MS McCABE: Yes.

MR McDONOUGH: Once we spoke to them -

45 MS McCABE: Yes.

MR McDONOUGH: And pointed out that that was different to what was in the main text of the report. I can't remember what they - what the latest written correspondence is from the EPA, but I'm fairly comfortable that they're comfortable with the 7 a.m. to 6 p.m. because that's - the assessment was based on that. It was just that the executive summary and the noise assessment hadn't been subject to much quality assurance there. I don't think so.

MS McCABE: Do you have that in writing? Do you know, I just for the public record point.

MR McDONOUGH: Yes. Absolutely. I'll see what the -

MS McCABE: You might find -

MR McDONOUGH: I mean. What I can say is that the - what we do have in writing is feedback from the EPA on our draft conditions, which proposes those hours. And so, they haven't proposed a change following review of those conditions. You know, we can take that as them agreeing with them, I think, but certainly dig that out for you.

MS McCABE: Conscious of the time. James in looking and I did see that we did get pointed out the difference between the executive summary of the latest noise report and the detail in the document.

MR McDONOUGH: Yeah.

MS McCABE: I did note in the reading that there is going to be the need for some noise barriers later in the operation. And I'm just wondering, do we have an understanding of what they may be? At this stage or is it a fluid thing? And I was going off their amendment report. That they talked about the - talked about the portion of the hill - the noise mitigation measures they changed the way they were quarrying and that the hill was going to be maintained as a natural barrier for some time until the final year, when they say when barriers will be installed at suitable locations around plant. Do we have any understanding of what they are likely to be?

MR McDONOUGH: It would be detailed in the assumptions that they've used for the modelling to be able to demonstrate that they could achieve that compliance.

MS McCABE: It might be buried in your report - it'll be buried in the report.

MR McDONOUGH: (Crosstalk) Probably buried in the report. But it's certainly a question you could ask the Applicant as well.

MS GRANT: Well, thank you. That's the end of our questions. Really appreciate your time and the effort put into presentation. And joining us this morning. So, thank you very much. And enjoy the rest of your day.

MS EVANS: Thank you. You too.

MR PRESHAW: Thanks all.

5 MR McDONOUGH: Thank you.

<THE MEETING CONCLUDED