

29 May 2024

Our Reference: 15647
Project Reference: SSD 7332

Tahlia Hutchinson
Senior Planning Officer
Office of the Independent Planning Commission NSW
Suite 15.02 Level 15 135 King Street
Sydney NSW 2001

Dear Ms Hutchinson

EAGLETON QUARRY PROJECT – SSD 7332: Questions on Notice

I refer to the Questions on Notice provided by the Commission in relation to the Eagleton Quarry Project (SSD-7332). A response to each of the Commission’s questions is provided in the table below.

Table 1 Responses to Questions

Requested Information	Response
<p>1. Clarification of what impact new or changed listings of species (e.g., the koala’s conservation status being elevated to endangered under both Commonwealth and State legislation) might have on the recommendations of the biodiversity assessment;</p>	<p>SSD-7332 for the Eagleton Quarry Project was accepted as lodged by the Department or Planning in February 2017. The <i>Biodiversity Conservation Act 2016</i> (BC Act) came into force by way of a proclamation by the Governor on the request of the Minister for the Environment on 23 August 2017. As such, and in accordance with Section 27 of <i>Biodiversity Conservation (Savings and Transitional) Regulation 2017</i>, SSD-7332 is defined as a ‘pending or interim planning application’. In accordance with Section 28 of that regulation, the former planning provisions continue to apply (and Part 7 of the BC Act does not apply) to the determination of a ‘pending or interim planning application’. This not only means that the assessment methodology BC Act is not to be used as the basis for assessment of SSD-7332, but also that any changes to listings that are given effect by Schedule 1-6 of the BC Act also cannot be considered in the assessment.</p> <p>With the above in mind, it is noted that biodiversity assessment under both the former planning provisions and the new BC Act is a complex process. It is not possible to undertake a difference assessment or a quick analysis of what effect new or changed species listing might have on the assessment as a whole. It would require recommencement of the entire assessment, and working through the entire methodology, to determine if any of the newly listed species were present, or likely to be present, or likely to contain habitat at the site. This is a primary reason why the former planning provisions were saved for ‘pending or interim planning applications’ at the commencement of the BC Act.</p> <p>In relation to Koala, we note that a referral to the Commonwealth is underway, and we can confirm that the change in the Koala’s conservation status at a Commonwealth level has not changed the recommendation of our ecologists in relation to whether the proposal constitutes a Controlled Action (i.e. that it does not). We also highlight that the proposed development protects the vast majority of high value Koala habitat and areas that presented with the highest</p>

Requested Information	Response
	levels of Koala activity. As such, it is not likely that the change in the conservation status of Koala at a State level would have resulted in a different biodiversity assessment outcome.
2. Discussion of any changes, in response to the above, to the biodiversity impact assessment of the Project;	As above.
3. Noting the commitments, referenced in the Commission's meeting with the Applicant, that have been made to Eagleton Ridge Disability Services regarding blasting operation hours, please provide comment on recommended condition A11 being amended to reflect the hours of blasting as 12pm to 4pm Monday to Friday; and	We note that the limitation of hours of blasting between 12pm to 4pm Monday to Friday was not a request from the Eagleton Ridge Disability Services. Rather, it was a request made by another local resident, and we believe it was requested on the basis that the individual in question carries out shift work, which meant they preferred the quarry to avoid blasting during the morning. Eagleton Quarry Rock Syndicate is willing to accept a condition that further limits blasting hours, but would request that the condition also include some flexibility for the applicant to consult with relevant neighbours and for blasting to occur at a suitable time taking into account a range of factors including atmospheric and weather conditions, as well as the occupancy and activities of neighbouring properties.
4. Details of the temporary acoustic barrier proposed to be installed at the time of removal of the southern boundary ridgeline.	As noted within the NIA, "In final 6 months of the project the [natural] barrier will be removed to create a suitable final landform. This barrier will be substituted with a temporary barrier system design to ensure compliance with the noise criterion. Noting, the design of the barrier system will be based on noise monitoring results during the life of the project. Prior to removal of the barrier a barrier system design will be developed and modelled." At this stage, and noting that it will not be needed for almost 30 years, the temporary acoustic barrier proposed to be installed at the time of removal of the southern boundary ridgeline is expected to be formed by empty shipping containers stacked 2 high along the southern boundary of quarrying and processing activities. This would result in a wall approximately 6m tall and 2.5m wide. Shipping containers stacked in this way are well known as being very effective acoustic barriers. As noted within the NIA, the extent and scale of the barrier will be determined by noise monitoring and modelling to ensure criterion are achieved.

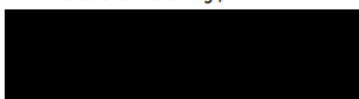
We also note a concern in relation to the achievability of Condition B43, and in particular that it might not be possible to achieve a Stewardship Site over the entire offset area. As such, we request that Condition B43 be amended by removing specific reference to the area of the Stewardship Site, as follows:

B43. The Applicant must retire at least part of the biodiversity credits specified in Table 5 via the establishment of a Biodiversity Stewardship Site ~~covering an area of 60.83 hectares of~~ on land within its land holding adjoining the southern and eastern portions of the site.

We highlight that it is in the applicant's interest to maximise the area of the Stewardship Site, but that irrespective of the actual area of Stewardship Site achieved on-site, the same overall quantum of offsets will ultimately be achieved.

I trust that the information provided will assist the Commission to finalise its assessment of SSD 7332 and move towards a determination. If you have any queries in relation to this matter, please do not hesitate to contact me.

Yours sincerely,



Tim Ward
Director – Environment and Planning

