

Appendix 6

OEH Letter with Comments on Additional Information Provided – Dated 12 December 2014

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Office of Environment & Heritage

Your reference Email Ref: 896 1 December 2014
Our reference: DOC14/215840 DOC14/297457
Contact John Martindale 02 6658 9222

Mr Nicholas Warren
R.W. Corkery & Co P/L
Suite 5, Building 3
Pine Rivers Office Park
205 Leitchs Road
BRENDALE QLD 4500

Dear Mr Warren

Re: DA2014/078 - Proposed extension of Doves Quarry at 668 Mount Lindsay Road, Tenterfield

Thank you for your emails dated 1 and 3 December 2014, requesting comment from the Office of Environment and Heritage (OEH) on your response to issues raised earlier on the above application (OEH letter dated 10 October 2014). I appreciate the opportunity to provide further advice.

OEH understands you are seeking endorsement of your response in time for a workshop presentation to Tenterfield Shire Council on 10 December 2014 which is to be followed by formal consideration by Council at its next meeting on 18 December 2014.

OEH advises that, due to time and staffing constraints at this time of year, a full response to the biodiversity and Aboriginal cultural heritage matters raised below will not be possible in the timeframes requested. However, OEH expects to be able to provide a more detailed submission to Council in due course if requested.

Biodiversity

In accordance with its earlier correspondence, OEH notes the following matters have been addressed by the applicant (Darryl Mc Carthy Constructions P/L) and its ecological consultant (Ecological Australia):

- Nocturnal surveys for arboreal tree hollow dependent fauna have been completed.
- Diurnal surveys dedicated to the threatened Border Thick-tailed Gecko and threatened birds including raptor nests and the Turquoise Parrot have been completed.
- Targeted surveys for the threatened Mc Nutts Wattle and Austral Toadflax have been completed.
- The quarry design has been amended to reduce the number of hollow bearing trees to be removed to four over a reduced extraction area of 1.7ha.
- A notional bio-banking assessment has been completed demonstrating that a proposed offset area of 6.4ha elsewhere on lands owned by Mr Rod Dowe adjacent to Bald Rock National Park would be adequate to satisfy the methodology.

- Agreements relating to the protection of the offset lands would be concluded within 12 months of development consent.
- All consent conditions recommended by the consultant in the Ecological Assessment including pre-clearance surveys and the installation of nest boxes would be implemented as part of the development consent.

On the basis of the additional survey results provided and the commitments given above, OEH advises that it now finds the biodiversity components of the application to be acceptable provided that:

- a) The s5A assessments of significance are amended with the additional information to ensure that Council is satisfied that impacts on local populations of threatened species are adequately assessed.
- b) Consent conditions are negotiated with Council that accurately reflect the recommendations made in the Ecological Assessment and the commitments made above including the provision of the proposed offset. OEH accepts that, provided the consent conditions are comprehensive, completion of an Environmental Management Plan relating to the biodiversity components may not be required.
- c) The applicant liaises further with OEH regarding the most appropriate means by which protection of the proposed offset can be secured in perpetuity. OEH advises that, should the formal BioBanking approach be adopted by the applicant, a formal review of the notional offset results obtained by the consultant would be required by OEH. It is conceivable that some adjustment to the offset area might result although this is not expected to be substantial. There is also potential for transfer of the offset into the National Park, subject to OEH support and the applicant's agreement, under a voluntary Planning Agreement negotiable under a consent condition.

Aboriginal cultural heritage

OEH has reviewed the additional documentation provided by the applicant in support of the application to assess the potential impacts of the proposed development on Aboriginal cultural heritage. The following advice is provided to the applicant following this review.

OEH acknowledges that consultation has been undertaken with the local Aboriginal community regarding the application and associated management strategies. It is noted that there has been no field survey component undertaken by Aboriginal representatives. The Aboriginal parties' support of the report is based on the information provided by the consultant and their own prior knowledge.

OEH supports the recommendations outlined in the Aboriginal Cultural Heritage Assessment Report accompanying the development application and encourages the applicant to maintain continuous consultation processes with Aboriginal parties for the entire life of the project and for all Aboriginal cultural heritage matters associated with the project area.

As a general rule, gaps in the consultation process of six months or more will not constitute a continuous consultation process. Where a developer envisages a gap of more than six months it is recommended that Aboriginal stakeholders are regularly informed of any progress.

OEH also recommends that an Aboriginal Cultural Heritage Education Program should be developed and implemented by the applicant for the construction program in collaboration with the local Aboriginal community. The program should aim to focus all associated construction personnel on the significance of the area to Aboriginal people, Aboriginal cultural heritage values and associated statutory responsibilities. Records should be collected of all attendees for the duration of the project.

OEH suggests that Council considers including the following consent conditions for the proposal should it determine it by way of approval:

1. The applicant must comply with Part 6 of the National Parks & Wildlife Act 1974 (NPW Act), prior to commencing any ground disturbance or development works and during development works which is the subject of the development.
2. In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeological specialist and the representatives of the local Aboriginal community must be contacted to determine the significance of the object(s) and to develop an appropriate management strategy. The management strategy must comply with the provisions of the NPW Act. This may include avoiding impact, additional investigations and/or the submission of an Aboriginal Heritage Impact Permit application. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by OEH) and the management outcome for the site included in the information provided to the AHIMS.
3. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact OEH's Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until OEH provides written notification to the applicant.
4. An Aboriginal Cultural Heritage Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the representatives of the local Aboriginal community.

Please contact Conservation Planning Officer, Mr John Martindale, on telephone (02) 6659 8222 if you have any further enquiries with respect to biodiversity matters and Archaeologist, Ms Rosalie Neve, on telephone (02) 6659 8221 with respect to Aboriginal cultural heritage.

Yours sincerely



12 December 2014

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

cc: Tenterfield Shire Council. Attention: Ms Tamai Davidson