

Points from Tomerong Community meeting:

DS16/1532:

Important: need to give the Council's reasons to reject this modification. The Council must list the reasons for any rejection and the applicant can take the Council to the Land and Environment Court based on the reasons for any rejection.

Quarry has lodged modification application to modify consent condition 14(h)

FROM:

“the transportation of shale material from the quarry to not exceed 1000 tons per day. Should the applicant wish to exceed this tonnage the proposal shall be submitted to the regional traffic committee as major upgrading would be required on the access roads.”

TO:

“The transportation of shale material from the quarry shall not exceed an **annual average of 1000 tons per day with a maximum daily limit of 4000 tons**. Should the applicant wish to exceed this tonnage, the proposal shall be submitted to the Regional Traffic Committee as major upgrading would be required on the access roads”

1. Annual Production and Exportation Rates

* Page 4 of Modification application by Cowman Stoddart Pty Ltd (dated 29/11/16) states: “The future average tonnage is not expected to exceed that provided for under current approvals, ie effectively 286000 tonnes pa based on existing DA 90/1912 conditions.” Page 5 states;

While the Proposal would provide for peak shale material transport of up to 4,000tpd, annual shale transport is not forecast to exceed the current DA 90/1912 limit of 286,000tpa

Community believes the limit is 100,000 tonnes/annum as per DA 90/1912. There is no information in DA 90/1912 that explicitly states an annual tonnage of 286000.

The 100,000 tonnes/annum is mentioned 4 times in the Environment Impact Statement [EIS] pertaining to DA90/1912.

Council in their own correspondence to Tomerong Quarry mention an annual limit of 100,000 tonnes and further state that there has never been an application lodged to increase the 100,000 tonnes/annum limit.

* quarry is considered in breach of: Annual Extraction rate (100000 tonnes) and Daily extraction rate (1000 tonnes)

By their own admission in the TIS (traffic impact study) the quarry has been in breach of its DA consent conditions last year 135 times or 43% of that working period [[refer TIS pages 4 & 5 & 6, 1.33 Peak Daily Outbound Tonnage](#)] despite giving Council an undertaking that they would not exceed condition 14[h] of 1,000 tonnes per day until a new DA is determined.

[1.3.3 Peak Daily Outbound Tonnage from Tomerong Quarry Traffic Impact Assessment November 2016 page 5 and 6:](#)

[With reference to 2015-2016 weighbridge data, the site generated](#)

[178 days with a daily shale material tonnage of less than 1000 tonnes.](#)

[95 days with a daily shale material tonnage of between 1000 and 2000 tonnes](#)

[38 days with a daily shale material tonnage of between 2000 and 3000 tonnes](#)

[2 days with a daily shale material tonnage of over 3000 tonnes. \(peak day 28/4/16-reported shale tonnage of 3685 tonnes\).](#)

How can Quarry abide by proposed modified DA if they have continually breached their existing DA conditions. The undertaking of not exceeding 1000 tonnes per day until a new DA is determined, was presented to Land and Environment Court in 2012 and the orders sought by Council with Land and Environment Court were withdrawn on the basis that the quarry agreed to lodge a DA to address tonnage and the bridge (which has been resolved)..... and they continue to breach the tonnage by their own admission in their traffic impact assessment.

[Reference: to letter to TOMERONG Community Forum from Robert Russell- SCC Development Planning Manager 9th MAY 2012.] exerts from Robert's letter below (**issues re tonnage bolded**):

'Since the serving of formal Orders in respect to the quantity of quarry product hauled from the site and the construction of the Tomerong Creek crossing, Tomerong Property Pty Limited appealed to the Land and Environment of NSW against the issuing of the two Order No. 15s by Council. In the lead up to the initial hearing, the Company sought a "without prejudice" meeting with Council staff at which the preparation of the DA for the creek crossing and the quantity of material hauled were discussed. In essence, the Company proposed that it would finalise the preparation of the creek crossing DA and lodge it with Council once approval was issued by the NSW Office of Water to the design of the crossing – this was expected within a couple of days. The DA for the creek crossing was lodged on 13 April, 2012 – land owner's consent was forthcoming on 3 May, 2012. The application has been notified to affected neighbours and to the Tomerong Community Forum. The DA has been referred to the Office of Water for its "general terms of approval" and to internal sections of Council for comment. Determination of this DA is likely within the next few weeks. The Company has previously indicated that they intend to complete construction of the crossing within 90 days of obtaining Council's approval.

And secondly, the Company advised staff that it intends to lodge a DA to address the tonnage of shale exiting the quarry and it will take 3-4 months for the preparation of that DA in particular, the new studies they intend lodging with the DA. In the meantime, the Company agrees not to transport more than 1,000 tonnes per day of shale from Tomerong Quarry until such time as the new DA is determined. These undertakings were presented to the Court and the Court granted leave for the proceedings to be discontinued. The Orders issued by Council have been withdrawn on the basis that the Company would lodge the two separate DAs for the creek crossing and the transportation of shale from the quarry.'

* A potential increase in transportation of material from 1000 tons per day to 4000 tons per day is a SIGNIFICANT change and needs a new DA not a modification. Quarry needs to have compliance and monitoring elements built into a new DA as there is a long history of non-compliance with consent conditions.

* Quarry left to self-monitor despite ongoing non-compliance.

2. Traffic Issues

* **Proposal is for an estimate of up to 104 trucks of shale material or 208 shale material truck trips per day MORE THAN what is already approved for by existing DA conditioned at 1000 tonnes per day.**

* The Traffic Impact Statement [TIS] doesn't look at impact on cumulative impact on traffic and traffic flows that the proposed modification will have on major intersections at peak times including: Princes Highway/Island Pt Road , Princes Highway/Hawken Road, Princes Highway/ Jervis Bay Road, Island point Rd/Grange Road Intersection and Pine Forest Rd/ Hawken Road intersection.

The Pine Forest rd/Hawken Rd intersection is deemed to be the "northern edge of Tomerong Village" in Traffic Impact Statement page 6, 1.4.1... It is a busy intersection in centre of village with multiple approved DA subdivisions close to intersections.

* Tomerong has lots of approved subdivisions and is increasing in population- Council needs to consider impact on increasing population of increased truck movements.

* Island Point Road/ Princes Highway has been considered a dangerous intersection with multiple accidents- speed limit has been reduced in the area due to safety concerns. What would be impact with huge daily increase of trucks entering and exiting on highway?

* Table: 1.6.3.1 (page 16 of traffic impact assessment) combined access point hourly distribution: 3% trips at 5am, 5% at 6am (outside operating hours- another breach)

. Noise Issues

* Noise Impact Statement [NIS] may be incorrect as it has used averages and Predicted data rather than monitors and peak demand criteria to get actual noise levels.

* Both 2000 and 2011 EPA Road Noise policy for principal haulage routes on public roads have been used in the same criteria.

* Noise data doesn't appear to be measured at people's homes to assess impact on residents.

* Noise data doesn't take into account the local roads conditions and its impact on noise levels. (ie a top coat on a road can reduce noise).

* The Forum fails to understand how you can have a dramatic increase in daily trucks on the road without having increased local noise.

* blasting noise increase??- Is there going to be increased blasting associated with increasing tonnage from 1000 to 4000 tons per day? No data provided on noise form increased operations and any increases in blasting.

* No electronic back to base monitoring by EPA so how can proposed increased noise levels be monitored to ensure that they aren't breaching levels.

. Dust Impact Statement

* there is no dust impact statement with the application

* Increased exportation would likely mean increased blasting and extraction and increased trucks and more dust potential.

* Increased traffic means more dust on local roads, adjoining residents rely on tank water for drinking and cooking etc.

. Rehabilitation

* concerns raised over the rehabilitation aspect of the current approval as per the current DA. What contingency or security is in place for future rehabilitation needs once the quarry is finished operation? There is meant to be a bond to cover rehabilitation in the event that the quarry does not rehabilitate the site to protect rate payers/council for being responsible for rehabilitation

* The Forum is concerned about material entering the quarry at various time and for what purpose! These items were raised in 2011 and 2102 to SCC. In 2014, the issue raised again with Council- on 4/2/14 email received from SCC James Bonner who advised that: *"I refer to the request from the Tomerong Community Forum to "investigate and find out what material was imported" into the Tomerong Quarry in January 2014. Council contacted the operators (SCE Materials & Recycling) and has been advised that 1,292 tonnes of excavated natural material (ENM) was imported into the site for quarry rehabilitation works (578 tonnes on 17 January 2014 and 714 tonnes on 20 January 2014). The operator has also provided a certification report for the material that has confirmed that it was*

ENM.” Council did not respond to the forum’s requests to whether importation was covered in DA as DA is for exportation.

* Letter from Council to SCE Resources dated 6 August 2012 states: “Need to import VENM to quarry would only arise if quarry was found to have insufficient suitable material onsite for purposes of rehabilitation... Under no circumstances should VENM either be brought to quarry or generated at the quarry be the exported off site for other uses. Current development consent is for export of shale from the quarry.”

6. Environmental Impact Statement:

* The proponents have not re-evaluated data in the original EIS pertaining to DA90/1912 in this application. A reviewed EIS is needed to assess the effects of the proposed activities on the environment. Updated environmental studies are needed to address the impacts and implications of increasing the rate of extraction and haulage along local roads.

* A previous application associated with the tip application looked at increasing truck movements (56% increase on DA90/1912 truck movements) was refused by the State Govt JRPP [joint regional planning panel] because: (exerts below)

“The application is considered unacceptable pursuant to the provisions of S79C(1)(b) and (e) of the E P & A Act 1979, in that, there will be an unacceptable impact from the intensification of additional truck movements on Gumden Lane and Council’s road network given that there has not been any long term, on-going proposal for road maintenance put forward. In addition, without the necessary road maintenance, there will be a detrimental impact on the existing and future amenity of those residents’ living in close proximity to the subject site, in terms of additional offensive ‘noise’ and an unreasonable increase in truck traffic. The application is considered unacceptable pursuant to the provisions of S79C(1)(e) of the E P & A Act 1979 as the proposed development is not considered to be in the “Public Interest”.”

The Forum also refers to Shoalhaven City Council Traffic and Transport trim notice extracts as follows for DA09/2077.

** When considering the overall impact of truck usage on Shoalhaven City Council roads of the quarry operations (and any proposed waste operation), the Parnell Road access has the most impact when considering the ripple effect over a much larger length of road network. If assuming all trucks move between the Quarry and the Highway, the Parnell road access impacts on some 9km of local road network. Conditions of consent however only require the applicant to maintain 1.47km of that (i.e. Parnell Road itself).*

** In addition to the substantial pavement damage over the balance of 7.53km that Council has to maintain, is the environmental impacts (noise and emissions) and road safety implications of truck usage along the 9km route including through Tomerong Village, Tomerong Public school, and to the intersection of Hawken Road and Princes Highway. This intersection (Highway) has seen some 6 accidents in the last 5 years of crash data which is of concern. Any reduction of truck usage along this 9km of local road network has considerable benefit to the broader community, and it is surprising that RTA has not commented on this aspect particular considering their interests on the Highway intersection and safety around Tomerong school.*