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21 JULY 2015

EXECUTIVE DIRECTOR
RESOURCES AND INDUSTRY POLICY
DEPARTMENT OF PLANNING AND ENVIRONMENT
GPO BOX 39
SYDNEY NSW 2001

BY EMAIL: information@planning.nsw.gov.au

Dear Sir,

Re: State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

Wycob Pty Ltd ("Wycob") is the owner of a gravel quarry at 475-535 Pacific Highway Crangan Bay sited on 79 hectares. I wish to comment on the proposed changes to the Mining SEPP to remove resource significance as a principal consideration and the effect this will have on our business.

Our quarry has been deemed regionally significant with quantifiable reserves of approximately 13 million tonnes. The material has been used extensively as a road base product for over 45 years. The property also has approval for a resource recovery facility where concrete recycling is conducted as defined under Clause 7 subclause 4(b) of the Mining SEPP. Approval exists to extract 165,000 tonnes gravel and recycle 29,990 tonnes of concrete per annum. The property is located in the Wyong Shire, on the boundary of Wyong & Lake Macquarie Local Government Areas and the nearest residence is over 2.1 kilometres south-west.

The quarry has been operating since the late 60's and was zoned non urban, followed by 7(b) scenic protection zoning in 1983 (IDO No.58 & LEP 1991) which permitted extractive industries until 1997. Since 24 December 2013 the property has been zoned E3 environmental management (which does not permit extractive industries).

The property has been owned by the one owner since 1954. There have been multiple development consents including 1977 and 1983 when, as a condition of consent, the owner was required to pay for road infrastructure into the property as well as the loss of over 5 acres of mineable gravel (not compensated for) to accommodate the expansion of the Pacific Hwy into a dual carriageway. The owner also had land resumed by the State Government in the 70's for the Council reservoir. The development consent for the quarry was further modified in 1984 & 1992. In 2000 (modified 2001) there was approval for intensification of use as a recycling facility, despite extractive industries now not being permissible.

Our quarry was the Council supplier from the early 70's to the late 1990's yet we were not advised by Council of the amendment to the LEP in 1997 removing extractive industries from 7(b) zoning. The economic impact of this decision on Wycob's business resulted in the loss of jobs (previously the quarry operated at full capacity) and an increased cost to the ratepayers of Wyong Shire as the Council now sources its material from outside the local government area.

As evidenced by above, our development has been a long term activity with significant contributions paid by the owner, yet the commercial viability of our development is being threatened and eroded by continual

changes to planning policies by the State Government or non adherence by Council to existing legislation. This is not conducive for investment into NSW.

Our company is already experiencing difficulties in relation to government decision making without the SEPP Mining policy being modified. The down zoning of our regionally significant quarry in the 2013 Wyong LEP has occurred despite:

1. The Department of Trade and Investment specifically requesting in the s.62 submission stage to the draft 2012 LEP that our property be zoned RU1 which permits extractive industries. It advised Council our quarry is regionally significant. The Department of T&I had previously requested to the Dept of Planning that our property not be included in any green corridor in their submission to the North Wyong Shire Structure Plan in December 2010.
2. With the down zoning of the property from 7(b) to E3 Wycob lost viable end use development rights for when quarrying ceased. This has had an effect on the commercial viability of our business and inhibits the future development of the remaining reserves. This is a restriction on the potential development of the site and is contrary to Ministerial Direction 1.3 sub clause 3(b). Wycob has not been able to acquire an explanation for this inconsistency either from the Department or Council.
3. One of the end use development rights removed from Wycob's property was caravan parks/mobile home estates. Council justified the non retention citing SEPP No 36 for manufactured homes despite clause 5 subclause (4) of SEPP 21 for caravan parks overriding this position.
4. Ministerial Direction 3.2 Caravan Parks and Manufactured Home Estates clause 4(a) was overlooked which states that Council must retain zoning provisions for the purposes of a caravan park to be carried out on land when developing their LEP's. Under the 1991 Wyong LEP 7(b) scenic protection zoning permitted caravan parks. This affected 1817 hectares of privately owned 7 (b) land.

The future development of our property beyond quarrying has been stymied at a time when the alternative action Council is proposing is to build affordable housing on parks and reserves of which they own over 3000 hectares.

I cannot reconcile the environmental arguments used to justify the down zoning of our site to E3 when:

5. The neighbouring adjacent sand quarry in Lake Macquarie LGA was allocated the zoning applicable to all quarries in the Lake Macquarie LGA, not an E3 zoning.
6. The other quarries in Wyong LGA (both disused and not regionally significant) received favourable zonings compared to Wycob's land (RE1 & RU2). These quarries are owned by Council and the Roads and Maritime Services.
7. The adjacent property south of Wycob's land, owned by Council, retained all the viable end use development rights Wycob lost. This property is zoned RE1 with a zone objective to provide linked open space for ecosystem continuity – the objective used to substantiate Wycob's down zoning. This property is now zoned for use as a waste management facility (landfill, transfer station, resource recovery facility) – the same activity we currently conduct on our land - which is not permitted under the E3 zoning in the 2013 LEP but only permitted through a sub clause of the Mining SEPP.
8. In not supporting the Department of Trade & Investment's recommendation of a RU1 zoning, Council, in the draft 2012 LEP, did not address the environmental impacts of the continual

transportation of road base materials from the present Council suppliers located outside the Wyong LGA, approximately 60 kilometres south of our location. The lack of support of our operations by Council is a continual economic cost to the ratepayers of Wyong Shire.

9. Over 84% of the Shire was already zoned for natural waterways, national parks, state forests, parks and reserves and environmental lands before the down zoning of 7(b) land to E3 in the draft 2012 LEP. Following the gazettal of the LEP Council reaffirmed the pre existing resolution that green corridors not be placed on privately owned land. Council has now publically stated in its Your Future Central Coast discussion paper that the vegetation corridors are not feasible. No adjustment has been made to 7(b) property owners affected by the earlier down zoning.

Furthermore, from 1 August 2015 the NSW Government is imposing the waste landfill levy of \$133.10 per tonne on recycling businesses, another activity referenced in the Mining SEPP. Increased reporting requirements are also being imposed on business. Stockpile limits are being introduced for sites. This is a restriction of trade for businesses who have existing Council approval to process at set tonnage levels and counterproductive to encouraging recycling when the impact results in increased tip fees.

Although the Government introduced the Standard Instrument for LEP's this did not result in a standardisation of zonings for extractive industries. If our property was located in the neighbouring Gosford LGA our 7(b) zoning would have been converted to the less restrictive RU2 which permits extractive industries. As mentioned previously, Lake Macquarie City Council also zoned its quarries differently. This is a concern for our business if Wyong LGA is amalgamated into either of these Council areas because we would have a more restrictive zoning than our competitors.

Government cannot legislate for the location of mineral resources. They exist where they do due to geology and when identified need to be protected for development. At a time when quarry products are being transported to Sydney from as far afield as Port Stephens local businesses need the zoning support of Government to reduce the environmental impact of haulage. Councils are looking at issues from a micro level when the mining industry needs State government to take a global view.

Having made significant financial contributions to the State in the past our company has seen our development rights eroded and our zoning changed from one which permitted extractive industries to one which prohibits mining with conflicting zone objectives.

Recently the then Minister for Planning, Ms Pru Goward, invited Wycob to discuss our issues with the Acting Executive Director for Regions (currently Mr Tim Hurst) to seek a resolution. We have lodged a submission seeking reinstatement of a zoning permitting extractive industries (RU1) and a restoration of the development rights we lost in the 7(b) conversion to the Standard Instrument and which were retained on the property next door. We are seeking that these changes be incorporated into the First Amendment of the Wyong 2013 LEP. I would appreciate, as the officer in charge of resource policy, if you could offer any assistance in this matter to effect this course of action.

In addition to the reasons detailed in this letter regarding our development, the removal of regional significance for existing operations wishing to expand give no confidence to business owners for future development. Please reconsider this stance.

Yours Faithfully
Wycob Pty Ltd

Sandra Kay
Director

