



## Department of Lands

*Land Administration & Management  
Property & Spatial Information*

EXC08/435

DIRECTOR GENERAL  
1 Prince Albert Road  
Queens Square  
SYDNEY NSW 2000  
AUSTRALIA

Senator Anne McEwen  
Chair, Standing Committee on Environment,  
Communications and the Arts  
PO Box 6100  
Parliament House  
Canberra ACT 2600

GPO Box 15  
SYDNEY NSW 2001  
AUSTRALIA

T (612) 9236 7600  
F (612) 9236 7631

[www.lands.nsw.gov.au](http://www.lands.nsw.gov.au)

Dear Senator McEwen

**Subject** Inquiry into the Operation of the Environment Protection and Biodiversity Conservation (EPBC) Act 1999

I refer to your letter dated 2 October 2008 and thank you for the opportunity to respond to comments made in a submission in context of the inquiry concerning the NSW Department of Lands. The submission concerns the North Shore Quarry which is located on crown land near Port Macquarie, NSW.

### **Background – North Shore Quarry**

NSW Department of Lands (Lands) is responsible for all Crown Land in NSW under the auspices of the Crown Land Act 1989. This includes submerged land as defined by the area between mean high water mark and the State's territorial limit which extends 3 nautical miles to sea. This area of responsibility encompasses the ocean floor, most coastal estuaries, lakes and lagoons and some coastal wetlands.

Lands is also responsible for 27 river entrances, 21 small craft harbours and 8 hard rock quarries along the coast of NSW located outside the main shipping ports of Newcastle, Sydney, Port Botany and Port Kembla. This responsibility includes the maintenance of critical state infrastructure such as river entrance breakwaters and training walls and harbour facilities such as breakwaters, rock revetments, wharves and jetties. The hard rock quarries, originally established for the construction of the river entrance and harbour infrastructure, are now maintained and used on an "as needs" basis by Lands and are considered a strategically important resource for the provision of suitable rock armour units for the timely and economical repair of the breakwaters and training walls. Moreover, I would like to emphasise that should the predictions of sea level rise and increased storminess eventuate, these quarries will have greater importance.





The North Shore Quarry was opened in the 1950s to supply large rock for the construction of the Hastings River entrance breakwaters and training walls. Since then, rock from the quarry has been used "as needed" to repair these structures. In recent times, repair work on the breakwaters at Port Macquarie has occurred in 2007/08, 2003 and 1992. Rock from the North Shore Quarry for breakwater repairs was last taken in 1992.

In 1995, a development application (DA 1995/205) was lodged with Port Macquarie Hastings Council (PMHC) under State Environmental Planning Policy No.37 (Continued Mines and Extractive Industries) to formalise planning approval for the continued operation of the quarry. Unfortunately due to a number of reasons DA 1995/205 has not been finalised.

In 2006, PMHC advised Lands that DA 1995/205 remained unresolved and sought to finalise the matter. At about the same time, the Department of Lands became aware that the Green and Golden Bell Frog (GGBF), listed under the EPBC Act and NSW Threatened Species Conservation Act (TSC Act), had been observed at the quarry in January 2001. Based on the TSC Act, the statewide GGBF "Recovery Plan", specific "Priority Actions" for Port Macquarie area and a GGBF Plan of Management (prepared by Dr. A. White, 2006), the Department of Lands met with officers from the NSW Department of Environment & Climate Change (DECC) to discuss potential conservation measures that could be implemented at the quarry to achieve beneficial outcomes for the GGBF. The conservation measures discussed included the establishment of artificial breeding ponds for the GGBF at the quarry.

DA 1995/205 seeks consent for the continuation of the quarry on an infrequent basis only for the purposes described above.

#### **Parameters to Response on adverse comments made on Department of Lands**

Lands has limited its response to the following factually inaccurate sentences noted in the written statement submitted to the Standing Committee. These are:

1. There is a DA from Department of Lands for a resumption of mining at the North Shore Quarry at Port Macquarie to obtain stone for the breakwater nearby.
2. The quarry was closed in the 80's amid threats of joint action by the residents within 800 metres suffering damage to their properties and mental well-being from blast effect.
3. The Project Manager appointed by CMA NR to position the breeding ponds was deliberately disregarded by DoL and the ponds were placed 750 metres away in a dry, sandy environment.
4. The whole project was a debacle that reiterated to me the appalling disfunctionality and lack of professionalism of the Department of Lands and highlighted their inability to manage biodiversity on lands under their management.



## Response

1. In 1995, a development application (DA 1995/205) was lodged with Port Macquarie Hastings Council (PMHC) under State Environmental Planning Policy No.37 (Continued Mines and Extractive Industries) to formalise planning approval for the continued operation of North Shore Quarry. Unfortunately due to a number of reasons DA 1995/205 has remained unresolved.

Nevertheless, Lands is working with PMHC to finalise DA 1995/205. For your information Lands engaged an environmental consultancy to undertake an ecological survey of the North Shore Quarry and prepare a revised quarry plan. The consultant was required to take into consideration a reduction in the scale of the quarry to the extent that avoided any interference with groundwater and the existing quarry pond and to minimise as much as practical any potential ecological impacts.

The outcome of the consultant's work resulted in the document entitled "North Shore Quarry Port Macquarie – Statement of Environmental Effects (SEE) Addendum" (Department of Lands, March 2008) which was submitted to PMHC in support of DA 1995/205. The SEE takes into consideration relevant Commonwealth and state legislation including the EPBC Act. The SEE and previous documentation concerning DA 1995/205 was placed on public exhibition in June and July this year. Following the close of the exhibition period PMHC has since written to the Department of Lands seeking further information on a number of matters including blasting and threatened species.

2. Lands is not aware that the quarry was "closed". Rock from the North Shore Quarry for breakwater repairs was last taken in 1992.
3. In regard to the Northern Rivers Catchment Management Authority (NR CMA) it is Lands understanding that the NR CMA provided funding to Wetland Care Australia (WCA) to establish artificial breeding ponds for the Green and Golden Bell Frog (GGBF) in the vicinity of North Shore quarry. Lands became aware of the project when WCA sought land owner's consent to establish the breeding ponds at the quarry. At the time, WCA was advised that Lands was in the process of preparing a revised quarry plan for submission to PMHC in order to resolve outstanding DA 1995/205 and land owner's consent for the establishment of the breeding ponds at the quarry could not be endorsed on the basis that DA 1995/205 was unresolved and any GGBF recovery actions (under the statewide GGBF "Recovery Plan") required consultation and approval from DECC and PMHC.

Lands understands that the funding from the NR CMA was time dependent and WCA was under some pressure to complete the project.

Lands suggested to WCA that it place in storage any materials purchased for the construction of the ponds and offered assistance to WCA to establish the ponds at the quarry once the appropriate approvals had been granted.



Nevertheless, WCA decided to establish the ponds at a location some 750 metres to the north of the quarry. A Crown Lands licence was issued to WCA to occupy Crown land and establish the ponds. It was noted at the time that WCA considered the ponds to be relocatable and could be moved to the quarry site at a later date should the necessary approvals be granted.

At the time of the above, any discussions relating to the breeding ponds were between Lands and a representative from WCA. Lands is not aware of any direct contact on the matter with NR CMA.

In the Statement of Environmental Effects Addendum (Department of Lands, March 2008) submitted to PMHC, Lands proposed to the implementation of a number of measures to provide and enhance suitable habitat for the GGBF. The measures include the creation of breeding ponds and the rehabilitation of habitat adjacent to the existing quarry pond. Should DA 1995/205 be approved by PMHC, any decisions regarding the location and nature of such measures would be done in consultation with DECC.

4. I am satisfied the Department of Lands has and continues to follow the appropriate process as prescribed under the relevant environmental and planning legislation. Should Port Macquarie-Hastings Council approve the continued operation of the quarry, the Department of Lands will actively engage with residents of North Shore to ensure they are aware of any proposed quarry activities and that any off-site impacts are minimised as much as practically possible.

Should you require any further information or clarification of any of the above please contact Mr Craig Abbs at the Department of Lands on 0249 205 085.

Yours sincerely



Warwick Watkins  
Director General

14.10.08