

Council Reference: DA19/0346 LN41634
Your Reference:



27 August 2019

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Please address all communications
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Dear Sir/Madam

Development Application for alterations and additions to an existing water bottling facility at Lot 1 DP 883113 & Lot 2 DP 883113; No. 2574 Kyogle Road KUNGHUR

I refer to the above application for approval for alterations and additions to an existing water bottling facility and wish to advise that a satisfactory response is required in relation to the following matters:

A. Additional Information to enable Council to adequately consider Clause 7.15 titled “Water Bottling facilities in the RU2 Rural Landscape” of the Tweed LEP 2014 and properly consider the hydrogeological merits of the application.

Please note the following additional information in “Point A” and commentary has been requested/provided by Council’s consultants Marten’s and Associates who have been engaged by Council to assist with the assessment:

While your development application has gone some way to describing the local hydrological system, there remains some uncertainty in respect of the impact of the increased groundwater extraction rates. We recommended the following further information is provided:

1. Conceptual model

- a. *A conceptual groundwater model should be provided to demonstrate local groundwater conditions.*
- b. *Details of hydraulic gradients and groundwater level fluctuations, including levels in the absence of abstraction.*
- c. *Monitoring well construction logs.*

2. Groundwater testing

- a. *Long-term groundwater level monitoring data (minimum hourly readings over 3 months) is required at the existing 3 monitoring wells and at additional monitoring well locations (minimum 2 additional*

wells) to confirm local groundwater conditions if only the existing 2 production bores are to be relied upon. Suggested locations of additional monitoring bores are provided in Map MA02, plus any others for a third production bore. Monitoring would require 1 week of no pumping to determine background groundwater levels.

- b. Additional groundwater quality testing should be undertaken at each production and monitoring bore to confirm long-term water quality (minimum 3 samples over 3 months). At a minimum, groundwater should be tested for nitrogen species, phosphorous, salinity, heavy metals and faecal coliforms.
- c. The pumping data and associated calculations already undertaken should be sent in spreadsheet format to allow review.
- d. The groundwater pumping test was undertaken under current production conditions, which represents a third of the proposed extraction rate. Further pump testing at the proposed extraction rate is required to confirm potential groundwater impacts. If pumping at these rates cannot be undertaken, analytical or numerical groundwater modelling is required to confirm potential impacts.
- e. Groundwater pumping tests should be undertaken at each production bore separately (Le. 1 bore pumping only) over a full pumping cycle (12 hours) to determine individual groundwater drawdown cones.
- f. Further testing at each well is required to confirm aquifer hydraulic properties (e.g. hydraulic conductivity) for each layer identified in the construction wells. Reliance on an assumed aquifer thickness of 100m is considered inappropriate.

3. Operational management

- a. Records of historical pumping volumes should be provided to demonstrate the applicant is operating in accordance with their current groundwater licencing requirements.
- b. The Eco Logical report refers to proposed groundwater extraction rates of 150 ML/year and 200 ML/year. Clarification is required regarding the actual proposed extraction rate.
- c. The Eco Logical report states that the current groundwater extraction rates 'have been optimised for consistent and secure recovery...and it is unlikely that either would sustain prolonged, increased pumping rates'. The report also suggests additional production bores) may be required. It is therefore unclear what is proposed as part of the upgraded facility. Further information is required to confirm the proposed extraction activities, including the number of additional bores, their locations, construction details, and how the proposed groundwater extraction rate is to be achieved sustainably. If a new production bore is to be constructed then additional groundwater level monitoring and groundwater quality sampling should also be undertaken for at least 1 additional well in line with the previous comments.
- d. An on-going groundwater monitoring plan is required which includes details of all monitoring equipment (including location, power and

- maintenance requirements), data recording obligations and reporting requirements.*
- e. Engineering plans and details are required showing the location of all infrastructure relied upon for the activity, including tanks, pumps, pump lines, control valves, water treatment systems, monitoring equipment, electrical control boards and any other elements that form part of the water extraction, treatment, storage and delivery system.*
 - f. Details of local on-site sewage treatment and disposal systems, and potential impacts on these are required.*
 - g. Details of extraction well maintenance regimes are required, including chemicals used and flushing cycles.*
 - h. Details of any other waste streams produced are required.*

4. *Impact assessment*

- a. Details of all surface and groundwater levels at all production and monitoring bores, and bed and water levels at all water bodies and creeks are required in mAHD to enable assessment of groundwater levels with respect to nearby groundwater users and receptors.*
- b. The extraction bores are located in close proximity to a number of natural watercourses. Further information is required in respect of the hydrological character of the nearby natural watercourses which may be affected by the proposed development.*
- c. An assessment of the potential impacts of climate change on the proposed development is required.*
- d. An assessment of the impact of low historical rainfall on any groundwater monitoring (i.e. drought impacts).*
- e. Further information is required to demonstrate there is no connection between local surface water and groundwater systems. There is currently insufficient information to demonstrate that the proposed increased extraction will not have an adverse impact on nearby natural water systems, as required by Clause 7.15 of TSC LEP 2014.*
- f. An assessment of the impacts on the potential agricultural use of the land is required as per Clause 7.15 of TSC LEP 2014.*

In addition, we have discussed the Eco Logical report with a NSW Department of Industry (Dol) hydrogeologist who has reviewed the application. The advice provided by Dol is not dissimilar from our own. They have advised that:

- 1 Since the original approval was provided the groundwater impact assessment criteria have changed.*
- 2 The current groundwater assessment criteria are summarised in the NSW Dol document Water Resource Plans Fact Sheet - Assessing Groundwater Applications (September 2018. available at:*

<https://www.industry.nsw.gov.au/data/assets/pdf/file/OO081175931/Assessing-groundwater-applications-fact-sheet.pdf>

3. *This document requires no more than 2m of drawdown within 40 m from the high bank of a 3rd order watercourse for porous and fractured rock ground water sources.*
4. *Production bores 1 and 2 are located approximately 55 m and 40 m from the high bank of the large site dam which is a 3rd order watercourse based on the Strahler classification system.*
5. *Pump testing demonstrates the drawdown associated with the current site use exceeds this criterion and as such DOI would not support an increase in extraction from the existing bores.*
6. *Any increased extraction would require a new extraction bore (or bores) located such that the expected drawdown does not exceed the relevant criteria. Design details of any such additional bores would be required. and an updated hydrogeological assessment would need to be supported by additional groundwater monitoring and aquifer testing.*
7. *The information provided is insufficient to demonstrate that there is not a hydrological connection between the surface water and groundwater systems.*

In the absence of the above information our preliminary view is as follows:

1. *There is insufficient information provided to prepare a conceptual groundwater model of flows, flow rates and flow directions.*
2. *There is insufficient information provided to understand seasonal site groundwater conditions.*
3. *Production bore pump testing undertaken to date is deficient, the following would be required:*
 - a. *Pump testing of individual bores separately for a minimum of 12 hours.*
 - b. *Pump testing at the proposed extraction rate for the proposed extraction duration if possible, and if not, analytical or numerical groundwater modelling is required.*
4. *Clarification of the proposed site operations including additional extraction bore location(s) and construction details are required.*
5. *Because of these deficiencies, the connection between the groundwater system nearby watercourses and groundwater dependent ecosystems has not been properly assessed, and hence the impact of the proposed pumping regime on the receiving environment is unknown.*

We request the spreadsheets used to assess the pump test data be sent through to us to enable review whilst the additional groundwater data is being collected.

B. Water NSW Response to Integrated Development Referral:

Water NSW has reviewed the documents provided for the above integrated referral and advises that, under the provisions of section 91A of the

Environmental Planning & Assessment Act 1979 (EPA Act), Water NSW intends to refuse to issue a Water Supply Work approval under the Water Management Act 2000 (WM Act) for the current proposal.

Our assessment indicates that adequate arrangements are not in place to ensure no more than minimal harm will be done to any water source or waterfront land as a consequence of the carrying out the proposed work or activity.

Consequently, Water NSW is refusing to issue General Terms of Approval (GTA) for the proposal as submitted.

Further information on Water Supply Work approvals under the WM Act can be obtained from the Water NSW website at:

www.waternsw.com.au Customer Services Water licensing Approvals.

Please direct any questions or correspondence to Melissa Hundy, Melissa.Hundy@waternsw.com.au.

C. Detailed site audit explaining how each part of the business intends to relate to the previous various consents and related plans that sit on the land and how this relates to ongoing site operations.

1. For example DA05/0995 approved a rural industry for water bottling comprising the old bottling plant. This bottling plant will no longer be required due to the bigger bottling plant approved by DA16/0579. Mr Martin mentioned at the site visit that he intends to move the water tanks inside this old bottling facility when the new bottling facility is up and running. How do you intend to seek approval for the relocated tanks? In the meantime does the business wish to utilise DA05/0995 and if so in what capacity? Does this part of the business need to retain any deliveries at all? Please detail explicitly having regard to the approved development, and how DA16/0579 now relies on the bore water from DA05/0995. Please specify what trips would occur under DA05/0995, and for what purpose, what time of day etc.
2. For example DA16/0579 approved alterations and additions to a water bottling facility and approved certain trips, hours of operation etc. Please explicitly detail whether the vehicle trips proposed under DA19/0346 will be additional to that sought under DA16/0579 or replace those approved under DA16/0579. This would need to be clarified by way of either voluntary surrender of part of the consent or detailed conditions of consent on DA19/0346 that would have the effect of modifying DA16/0579 and possibly DA05/0995. What deliveries are associated with DA16/0579 that are different to water carting?
3. Please provide a detailed Plan of Management for the site which could include matters such as (but not limited to):

- a. What is involved at the site (bores, reticulation, treatment, and storage, filling of trucks, bottling etc.)
- b. Water bores and their associated infrastructure
- c. The truck filling process and recording of truck activity
- d. Truck movements for bulk water carting with details on carrying capacity
- e. Truck movements for bottled water deliveries with details on carrying capacity
- f. Truck movements for deliveries
- g. Plastic bottle usage per year
- h. Glass bottles usage per year
- i. Employment Numbers (noting any place of employment with more than 25 employee's requires a Socio Economic Impact Assessment as per Tweed DCP Section A 13)
- j. Hours of Operation linked to a noise management plan
- k. Waste Management (having regard to Council's Tweed DCP Section A15)
- l. Truck Driver Code of Conducts
- m. Options for onsite compliance monitoring (for example CCTV kept and provided to Council provided upon request, log books provided to Council quarterly etc.)
- n. Complaints Handling Process
- o. How to undertake modifications to the Plan of Management

D. Revised Noise Impact Assessment:

1. The submitted Environmental Noise Impact Assessment Report (Reference: 18130 report REV 1) prepared by CRG Acoustics and dated 09 May 2019 does not adequately assess the impact of road traffic noise. Detailed noise assessment and measurements in accordance with the NSW Road Noise Policy is required for:
 - a. All of the proposed operational hours
 - b. Trucks entering and leaving the site at 2574 Kyogle Road Kunghur
 - c. Details of truck sizes
 - d. Details of whether there are routine truck movements in particular in the night time periods and proposed truck movements in the night time period
 - e. Noise impacts of trucks moving through Uki Village and Murwillumbah
2. Applicant to modify the Environmental Noise Impact Assessment Report (Reference: 18130 report REV 1) prepared by CRG Acoustics and dated 09 May 2019 where truck movements have been referred to as approximately 16 trucks per day to a maximum number of truck movements allowed per day.
3. Applicant required to provide further background noise measurements or to adequately clarify why the Rating Background Levels for the morning and night period in Table 2 of the Environmental Noise Impact Assessment

Report (Reference: 18130 report REV 1) is the same as the daytime and evening period and justify the certainty of this result. Any further background measurements to ensure that the temporary diesel generator currently situated and in use at the water bottling facility is not audible.

4. Applicant to provide more details and conduct noise measurements in Section 5.0 Calculations and Results of the Environmental Noise Impact Assessment Report (Reference: 18130 report REV 1). The Noise Report has used noise prediction modelling for the assessment of predicted operational onsite noise and has noted that this had been done due to the building and bottling plant not yet being constructed. A site visit on the 9 July has indicated that the building and bottling plant has been constructed and installed. Assessed operations to include the use of glass bottling.
5. The applicant is to provide a noise management plan for operational procedures that minimise noise. The noise management plan to provide details on best management practises as detailed in The Noise Policy for Industry 2017 Section 3.4.1 Reducing noise at the source.
6. Applicant to modify the Environmental Noise Impact Assessment Report (Reference: 18130 report REV 1) prepared by CRG Acoustics and dated 09 May 2019 at the last point in Section 6.0 of the Noise Report. The wording to be modified from 'Provide the nearest noise sensitive receiver' to 'Provide all noise sensitive receivers'.

E. Natural Resources Access Regulator (NRAR) have asked for the following additional information on 26 August 2019:

- *The proposed development include upgrading an existing road along the Tweed River a 5th order stream.*
- *The proponent is to provide further details regarding offsetting of vegetation affected with the upgrading of the road. The proponent is to provide additional plans identifying road works, impacted vegetation and vegetation offsetting locations.*

Additional information on the requirements for working on waterfront land including guidelines are located at the link below.

<https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>

Clause 67 of the Regulation allows NRAR to specify a reasonable period within which the information requested must be provided. In this case, NRAR considers 90 days from the date of this letter as a reasonable period of time within which the requested information must be provided.

