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Department of Planning and infrastructure  
Att: Howard Reed  
Mining & Industry Projects  
GPO Box 39  
SYDNEY NSW 2001

Dear Mr Reed

**SUBMISSION – PART 3A PREFERRED PROJECT REPORT – CHAMPIONS QUARRY**

Thank you for the opportunity to provide a submission in response to the Preferred Project Report ("**the PRP**") for the proposed expansion of Champions Quarry at Tuckurimba in the Lismore City Council Local Government Area.

I am submitting this material in a private capacity, though there is reference to Lismore City Council's submission.

I ask that the Department consider the judgments of Senior Commissioner Moore in *Champions Quarry Pty Ltd v Lismore City Council* [2011] NSWLEC 1124 (DA Appeal) and *Reavill Farm Pty Ltd v Lismore City Council* [2010] NSWLEC 1207 (Section 96 Appeal). These appeals consumed over a month of hearing dates at great cost to the Council, and involved the compilation of large amounts of expert evidence from both parties. The Applicant's appeals were both dismissed. I believe there are similarities between the project now under consideration and development application/section 96 appeal considered and determined by Council and defended upon appeal that are relevant to the determination of the Part 3A project. Virtually all of the material lodged with the Part 3A application was, in one form or another, presented to the Land & Environment Court by the proponent in response to Council's concerns about the operation and impacts of the proposed quarry expansion. The amended EIS lodged in the DA Appeal is based upon and relies on the work that was completed for the Part 3A project now awaiting determination. I maintain that it is essential that the Department have regard to the Land & Environment Court's findings. It is simply untrue that the appeals involved different development proposals. In the DA Appeal, Senior Commissioner Moore accepted the interchangeability of documentation between the Part 3A appeal and DA (see comments at para 39 of judgment).

## Summary

I believe there is no better summary of this PRP than that provided in the précis of the Land and Environment Court decision:

'The reconstruction of the bund adjacent to the Woolley residence is unacceptable on acoustic impact grounds. A reconstructed bund adjacent to the Woolley residence is unacceptable on visual impact grounds. Both these grounds separately are sufficient to reject this structure. Rejection of this structure would require rejection of the proposed quarry in its entirety. There are other acoustic impacts of construction activities that would require rejection of the proposed quarry in its entirety. There are further, lesser impacts that would not require rejection of the proposed quarry in its entirety but which, when accumulated with other impacts, would all collectively require rejection of the proposed quarry in its entirety. **There are insufficient public benefits to outweigh the adverse impacts and thus the quarry expansion is rejected** (my bold)'

## Quality of the product and Quarry Management

Washed sand product is the focus of the original and additional PRP work undertaken by Robertson in Annex E of the PRP (see also Coffey's Geotechnics Report of 2007), but the proponent says that they are no longer seeking approval for this. If washed sand product is taken out nothing is left except fill – **a significant implication for the public benefit test**. The sandwashing aspect of the proposal was removed during the DA Appeal because the proponent was unable (or unwilling) to adequately address the issues related to environmental damage related to sand washing.

The proponent has made many recent public comments that Lismore City Council needs his product to blend with its own quarry product to improve local road making. I approached Council's Executive Director of Infrastructure Services on this topic and he stated there was no substance to this proposal.

I saw Mr Don Reed Lismore City Council's expert witness in the Land and Environment Court and strongly suggest the Department seek the record of Mr Reed's evidence. Mr Reed is highly qualified to comment on the quarry proposal and found many aspects of the quarry development proposal which were not capable of being managed.

## Traffic Impacts

The following is a quote from the Lismore City Council business paper of 13 April 2010

### 'Section 94 Contributions

The Environment Assessment - Appendix F Traffic Impact Assessment\_

presents an argument from RoadNet (a traffic engineering consultant) that significantly reduces the section 94 contributions payable by Council. To put this into context the following sets of calculations are provided as a comparison between the contributions plan and the RoadNet calculations:

**Assumptions from our Section 94 plan and inputs from application**

Cost of construction = \$369,000

ESA load =  $6.74 \times 10^6$

CPI Dec 03 to Dec 09 = 1.1776

Administration levy = 2.5%

Convert m<sup>3</sup> to tonnes = 1.7

Credit for extraction = 5000m<sup>3</sup>

Extraction PA = 250,000t

Levy =  $(\$369,000 / 6.74 \times 10^6) \times 15 \times (250,000 - [5000 \times 1.7]) \times 1.025 \times 1.1776$

=  $0.0547 \times 15 \times 241,500 \times 1.025 \times 1.1776$

= \$239,176

This is the maximum charge in year 1.

Expressed as a \$ per tonne at quarry gate = \$0.96 + CPI\*

\* CPI to be calculated from date of consent.

**Recalculation based on RoadNet figures from part 3A EA**

Cost of maintenance = \$50,000

ESA load =  $6.74 \times 10^6$

CPI Dec 03 to Sept 09 = 1.1776

Administration levy = 2.5%

Convert m<sup>3</sup> to tonnes = 1.7

Credit for extraction = 5000m<sup>3</sup>

Extraction PA = 250,000t

Levy =  $(\$50,000 / 6.74 \times 10^6) \times 15 \times (250,000 - [5000 \times 1.7]) \times 1.025 \times 1.1776$

=  $0.0074 \times 15 \times 241,500 \times 1.025 \times 1.1776$

= \$32,357

This is the maximum charge in year 1.

Expressed as a \$ per tonne at quarry gate = \$ 0.13 + CPI\*

\* CPI to be calculated from date of consent.

NOTE: RoadNet's calculations come to \$0.11 per tonne but this doesn't account for application of CPI from December 2003 to today's date.

The total cost of S94 payments as per the plan over the 25 year life of the quarry is: \$5,979,400 + CPI.

**This reduces to \$808,925+ CPI under the RoadNet proposal giving Champion a net saving of \$5,170,475 + CPI over the life of the quarry. It is the position of staff that the Minister should apply the contributions plan and not adopt the RoadNet Figures (my bold).'**

While this matter maybe easily dealt with in terms of the conditions imposed on the development I believe it goes to the attitude of the proponent who is

essentially seeking a \$5m subsidy over the life of the quarry from the Lismore community.

Additionally the proponent is seeking to increase the daily traffic movements of the 30 tonne trucks involved to 50 laden movements a day. Counting return movements that is quarry truck coming or going from the quarry every 6 minutes. This is simply unacceptable in terms of noise generated and in terms of road damage and safety on Wyrallah Rd. It should be noted that the proponent has little control over these trucks or their drivers as they are independent contractors. Noise and smoke emissions and in fact routes will be largely determined by the truck drivers.

### **Noise**

There is still no construction noise management plan provided as referred to in the DP&I letter of 29 June 2011, and there seems to be no justification to support the assessment of the construction noise impacts.

Lismore city Council in its submission contends that the Sound Power Level allocated for the rock hammer in the proponent's acoustic assessment is too low and needs to be increased to approximately 120 dB(A) for correct modelling of impacts. The submission also contends that the Sound Power Level for the bulldozer used in the Applicant's acoustic model is approximately 10 dB(A) too low and does not represent the impact of noise from the tracks when the machine is operated in reverse which will occur for approximately 50% of its operational time.

### **Aboriginal Heritage**

The proponent has left unanswered many significant issues that were raised in the Land and Environment Court which contradicted his claim that the site was of no significant Aboriginal heritage. On this basis alone I believe the DP&I should reject the PRP.

### **Compliance**

This project where a major quarry is to be developed within a relatively densely populated rural area will always produce, and is already producing a significant number of compliance issues. Historically the proponent has shown himself to be reluctant to deal with these compliance issues. I maintain that acceptance of this proposal would place an unacceptable burden on the compliance authority and generate continuing conflict in the community with 'insufficient public benefit'.