

**Stone Ridge Quarry Project - SSD-10432**

**Supplementary Submission**

**Objection to proposal.**

**1. Legislation**

The Forestry Act 2012 prescribes by s.42,

**42 Forest materials licences**

- (1) A forest materials licence authorises the holder to take forest materials, or such class or description of forest materials as is specified in the licence, from a State forest.
- (2) The term of a forest materials licence is the term specified in the licence, but the term
  - (a) must not exceed 5 years without the prior written approval of the Minister, and
  - (b) must not, in any event, exceed 20 years.

The SSD application seeks consent for a 30 year term (Umwelt: May 2023 Summary i, ii).

The term of 20 years prescribed by s.42 prevails over the 30 year term sought, and if any consent is issued it is to be so limited.

**2. The Forestry Corporation**

By letter dated 22 April 2020 the Corporation advised the DPIE

2.1 That it was a " 'willing' partner" in the Quarry Project.

It is in the public interest that for the purposes of the SSD assessment process a full disclosure of that partnership should have been made, but has not been made. The NSWFC is after all, a state owned corporation and 'transparency of its dealings is paramount.

2.2 Apparently a Deed of Agreement dated on or about 1 November 2018 exists between the applicant ARDG and the FCNSW for the *signing off* on a proposal to develop an extractive industry at the Stone Ridge site in the Wallaroo State Forest.

It is in the public interest for the purposes of the SSD assessment process that now be full disclosure of the contents of the Deed itself and what the materials were before the Forestry Corporation and the Minister immediately before the date the Deed was executed so that a comparison can be made between that material and the materials now on exhibition.

2.3 The "Agreement is conditional upon ARDG securing the necessary approvals to proceed with the project....FCNSW consent to the proposal is additionally contingent on ARDG meeting and

*complying with all other regulatory requirements that relate to an extractive industry at the scale proposed.””*

If the owner’s consent to the project is so limited by the fulfilment of contingencies, then, with respect, and on this basis alone, there is simply no owner’s consent at all to the SSD application: see Mulyan Pty Ltd v Cowra Shire Council & Anor [1999] NSWLEC 212 per Lloyd J at

*33. It is not necessary in this case to consider Mr Davison’s final submission as to whether an owner of land may withdraw a consent which had been given to the making of a development application. That is not the case here. In the present case the consent, not being operative until the happening of future events, is not in truth a consent at all.*

*34. It remains to consider Mr Green’s final submissions (noted in paragraph 14 above). I have held that a plain reading of the letter of 1 April 1998 shows that it is not intended to operate as a consent unless and until certain things have happened. There is nothing else in the body of the letter to suggest that the various conditions upon which it issued have been fulfilled. If a document cannot in law be a consent, then the opinion of the Council as to whether it was or was not a consent is irrelevant. Section 77(1)(b) is not expressed to be dependent upon any opinion of the Council. It is a condition precedent to the making of a valid development application. It is either complied with or it is not. In the present case it is not.*

### **3. The Extraction**

3.1 The applicant **ARDG’s Scoping Report February 2020** informs that

- *a development application will be lodged with the NSW Department of Planning, Industry and Environment (DPIE) (p1).*
- *The deed allows ARDG to seek consent for the operation of a hard rock quarry within a ‘licence area’ (Figure 1.1) within the Wallaroo State Forest NO,781 of **at least 500,000 tonnes per annum (tpa) for 20 years.**”(p2)*

3.2 The **FCNSW letter dated 22 April 2020** referred to above states

*“The project proposes the extraction of **at least 500,000 tonnes of extractive material per annum over a term of at least 20 years.**”*

3.3 Yet the applicant’s consultant **Umwelt states in its Final EIS May 2023** that the **Limits of Production** are *“up to 1.5 Mta of quarry product/sales per year.”*

And in the same Table under **Product transport** there will be *“Road transport of up to 1.5 Mtpa of product via the Pacific Highway” plus “1.5 Mta equates to an average of 334 heavy vehicle movements...each day...”*. (Table S1).

- 3.4 Clearly, the project the Forestry Corporation purported to conditionally consent to and the project the applicant now brings for determination are totally different. And on this ground alone, how can there be said to be a valid owner's consent to either project?

4. **The Project Area itself**

- In Umwelt's Final May 2023 EIS, the project area is 139 ha with a disturbance area of 79 ha. (Summary Table S1), reducing the advice in ASRDG's February 2020 Scoping Report is "Based on the current conceptual project design, the project area is approximately 89 ha (Figure 1.1).
- " However, in the Scoping Report appears "The licence area covers 391 ha..." (p4).

It is extraordinary that the licence area is so large and beyond the latest 139 ha needed for the project. The reason? And what are all the terms of the proposed licence?

5. **Rehabilitation**

Table S1 in the Umwelt Final May 2023 EIS states

*Rehabilitation and final landform*

*Rehabilitation will be undertaken progressively where appropriate in the context of further resources remaining available in the Project Area at the end of the planned 30-year approval life. A conceptual final landform will be prepared for the Project.*

Leaving aside the imagined *30-year approval* issue addressed earlier, the proposed intensive quarrying of public land such as is here sought, demands immediate, progressive rehabilitation in the public interest. And not left *where appropriate* until the whole resource is exhausted and "everyone has gone home." What guarantee(s) have been offered that rehabilitation will occur? What is the likelihood that the applicant or its successor or assigns will be in a position to rehabilitate at the end of the quarry's life?



Margarete Ritchie  
President.  
VOWW.