

Report into Potential Breaches of Corporate Governance Standards, Risk Management, Sustainability and Environmental Policies. Failure to comply with Laws, Regulatory requirements and company policies. – Rocla Quarries Calga NSW Australia.

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1. INTRODUCTION

This report has been compiled to advise the Board of Directors of Fletcher Building of potential serious breaches, by a wholly owned subsidiary Rocla Quarries, of Corporate Governance Standards, Risk Management Framework, Sustainability and Environmental Policies, as well as the failure to comply with Laws, Regulations and Regulatory requirements.

The report provides information to assist the Board to identify the key areas of these breaches and provide some supporting background information where this is available to the writer.

It is the opinion of the writer that Rocla Quarries are also in Breach of other operating conditions relating to the Quarry at Calga but, these will be the subject of a separate report.

2. MANAGEMENT SUMMARY

There is substantive evidence that Rocla Quarries does not hold adequate water licenses for its current operations and has not correctly allocated the licenses it does hold. Rocla's original consent requirements specified that all water licenses should be in place before work commenced. It is therefore operating in breach of the Law and Regulations, a situation which has been ongoing for up to 8 years.

This calls into question the overall effectiveness of Fletcher Building's Corporate Governance Standards, Risk Management Policy and the effectiveness of Directors in ensuring such standards are observed. Such a breach also calls into question both the reputation and ethics of Fletcher Building.

There would also appear to be a major breach of the Fletcher Building's Risk Management Policy in that the policy states "the protection of its people, its reputation, shareholder value and the environment are its most important interests". The proposed new quarry at Calga would seem to be a direct contravention of this objective. It will result in the loss of property of significant cultural and spiritual importance to the Aboriginal community. It will adversely impact the environment in permanently damaging a ground water aquifer. It will further risk the non-compliance with legislation in that Rocla does not hold adequate water licenses for the new quarry. Adverse publicity relating to the proposed quarry could also damage the reputation and image of Fletcher Building and even impact on shareholder value.

Fletcher Building is in contravention of its Sustainability Report, Water Stewardship and community obligations with regard to the new quarry. The proposed new quarry contradicts six of the main tenets of the sustainability report and fails to meet Water Stewardship requirements or comply with Fletcher Building community and environmental obligations.

There may also be systemic problems with the management/Directors of Rocla Quarries as there is evidence to suggest that they have falsely claimed in their 2011 AEMR that they had no non-compliances arising from the Umwelt Audit. They have also failed to correctly

minute meetings of the Community Consultation committee. It would appear that Rocla have been knowingly operating the quarry with a debit on their water licences which is in breach of their operating conditions for a number of years.

The cumulative effect of the various breaches identified in this report would indicate that Fletcher Building is not meeting the high standards required of its Corporate Governance Standards and those of the ASX and NZSX.

3. FINDINGS

In order to assist Directors I have attached supporting documentation where it is available and summarised the issues below:

3.1 Background and Water Licenses

I have attached at Appendix A “A brief history of Rocla Sand Quarry at Calga”. This gives a summary of the land purchases and subsequent planning applications.

As a result of investigations into the proposed expansion of Calga Quarry and the objections to the recently approved Stage 4 (new quarry) development that the above breaches have been identified.

It has been identified that the current quarry has been operating without adequate water allocation licences to cover its existing operations. This is a failure to comply with both Laws and Regulatory requirements. This situation has been compounded by a lack of regulatory oversight by the appropriate government agencies. It should be noted that these agencies are currently the subject of a NSW Ombudsman investigation as a result of the corrupt issue of water licences to properties connected with former Ministers.

The poor regulatory framework has allowed the Rocla Quarry to operate without the required water licences assigned. This lack of regulatory oversight does not remove the legal obligations on Rocla, its Directors or that of their holding company. Such failures would be in breach of Corporate Governance Standards and your Risk Management framework.

Attached at Appendix B is a review of the Director General's October 2013 report in which he recommends approval of the new (Stage 4) Calga Sand Quarry. It also gives details of Water Licensing Non-Compliances and analysis of water licenses and water modelling figures.

Attached at Appendix C is a review of water licensing requirements.

Your Corporate Governance Policy includes a statement on Ethical behaviour “These procedures are designed to ensure we act with integrity, honesty and transparency and strive to comply with all laws and with the company’s ethical standards at all times”.

Fiduciary requirements:

Directors must carry out their duties in a lawful manner and use reasonable endeavours to ensure that the company conducts its business in accordance with the law and with a high standard of commercial integrity.

Reputation and ethics:

Fletcher Building employees must maintain the highest ethical and legal standards in all their dealings with customers, suppliers and the public. Only lawful, honest and ethical behaviour will meet the company's policy requirements and safeguard its interests and reputation. The requirement to operate within the law is an essential element of the ethical discipline that must be followed.

Maintaining business records

Fletcher Building keeps a variety of records to meet its legal and financial obligations and to manage its business. These records must be accurate and reliable. It is important that employees ensure that all work reports, vouchers, bill, payroll records, and other such data are factual, complete and maintained according to company practices.

Analysis of the information contained in Appendices B and C would seem to indicate that all these Corporate Governance standards have not been complied with.

The fact that Rocla has not been able to demonstrate it has adequate water licences for its current operation of the quarry at Calga or the proposed new quarry raises a further question for Directors in that: Is there an endemic problem within Rocla and or a deliberate act by Rocla management to misrepresent the company's licenses within New South Wales and its other quarrying operations?

3.2 Ground water and Aquifer Destruction

It is evident that both the existing quarry operation and to an even greater extent the proposed expansion will have a significant impact on the ground water aquifer which is part of the Central Coast water supply providing water for over 300,000 residents, agriculture, businesses and the environment.

Water is a scarce resource with the Central Coast having been on water restrictions for the last decade. Level 2 water restrictions are still in place. The proposed new quarry will create a permanent hole in the aquifer which will have a significant impact of the water supply and the bores of surrounding properties in the area. The aquifer also feeds one of the States significant areas of hanging swamps which will be destroyed by the expansion.

The proposed new quarry expansion does not accord with Fletcher Buildings Sustainability Report which the company claims is intended to improve its environmental and social performance.

The permanent destruction of an aquifer cannot be remediated and therefore the extraction of the sandstone is not sustainable. It does not comply with the company's statement "We are committed to our role as environmental steward" or "incorporating sustainable work practices to reduce our environmental footprint".

Further, it fails to comply with the Company's Water Stewardship Policy "At quarries groundwater management is integrated to ensure a minimum impact on the natural waterways that drain from the site".

The proposed expansion also fails to comply with the Company's Risk management framework as its stated aim is "protecting the environment is a core interest of the company and key consideration when assessing risk".

3.3 Environment, Community, Reputation and ethics

Fletcher Building foundation values are

- To act with integrity, honesty and transparency.
- To treat others with dignity and respect.
- The environment is a key consideration in everything we do.
- We care about the world in which we work.
- Our operations should have a positive impact on the environment, and on the communities within which we work.

The proposed new quarry at Calga fails to meet the above criteria in all respects. As already demonstrated above the proposal will cause irreparable damage to the ground water aquifer. Rocla has not provided evidence it has adequate water licences for either its current operation or proposed Stage 4 development.

The proposed new quarry will cause irreparable damage to all flora and fauna and will destroy the only remaining habitat of the (endangered species) Spotted Quoll on the Central Coast. It will also destroy the wetland hanging swamp.

The new quarry will have a significant negative impact on both the neighbouring community and in particular a neighbouring ecotourism business; The Walkabout Wilderness Park which is a major employer as well as having 75000 visitors a year. This business has made a multimillion dollar investment in eco tourism. The proposed new quarry and eco tourism cannot coexist and the proposal will jeopardise a major investment and destroy The Walkabout Wildlife Park and the local tourist industry.

Attached at Appendix D is a Statement of objection from Mr A Smith, a Trustee of the Walkabout Wildlife Conservation Foundation.

Attached at Appendix E is a Statement of objection from Mr G Barnard, the owner of The Walkabout Wildlife Park. Both of these appendices give more detailed information.

Of equal concern is the significant Aboriginal cultural heritage, and sites of spiritual and sacred significance to both the indigenous community and the greater community. The proposed development will damage and destroy such sites and impact on the cultural heritage of the indigenous community. The site of the proposed quarry contains culturally significant objects and places for Aboriginal people, including a sacred site which has immense cultural significance to Aboriginal women. The entire topography of the area has significant cultural importance for the local Aboriginal community. While legislation in NSW regarding Aboriginal heritage only allows for specific items to be delineated (e.g. an outcropping of rock with grooves), in reality the entire area ear-marked for the new quarry is the site – movement through the landscape and interactions with parts of the topography were and are integral to the initiation ceremonies carried out on this land.

Australia has taken great steps to ensure the integration of the indigenous and non-indigenous communities working to heal cultural and racial barriers and to reengage indigenous youth with its own amazing culture.

Whilst the Australian Federal Government has recognised the rightful custodians of the land and made the “Sorry” declaration, certain levels of government continue to fail to listen to their genuine concerns and continue to persecute the indigenous community by destroying their cultural heritage.

I would not have thought that Fletcher Building would want to be associated with such acts of cultural vandalism and clearly this would not comply with your policies on the environment, community or reputation and ethics.

Attached at Appendix F and G are letters of objection from the Darkinjung Land Council and Guringai Tribal Link Aboriginal Corporation.

There is absolutely no community, Local Council or local business support for the proposed quarry at Calga. At the Planning Assessment Commission meeting held on the 18 November 2013 over 200 local residents attended to object to the proposals and over a dozen organisations representing many thousands of residents and local businesses registered to speak against the development with a further 20 individuals registered to speak against the proposal. All these groups and individuals are now planning a concerted campaign against the quarry using all legal means available, including the media. This campaign will also include direct lobbying of Fletcher Building shareholders and customers. The campaign will endeavour to demonstrate to Rocla and Fletcher Building Directors that they do not have a social licence for this project.

In addition to the environmental factors already documented above there is also the issue of both noise and dust pollution, which Rocla has failed to address to the satisfaction of the local community. Community groups have had their own studies undertaken which have been made available during the course of the application. The failure to address these concerns does not comply with many of Fletcher Building's stated environmental and community policies.

4. CONCLUSIONS

Examination of the information that I have been made privy to indicates that Rocla's operation at Calga fails to meet the high standards required by Fletcher Building. The current quarry is operating contrary to the prevailing Laws and Regulations. The proposed expansion (new quarry) would also appear to have inadequate water licenses. It would also cause significant irreparable environmental, cultural and social damage to the aquifer, flora and fauna, aboriginal cultural and spiritual heritage and threaten the businesses and livelihood of local residents and the community.

Fletcher Building, through its wholly owned subsidiary Rocla, has not complied and is not meeting its stated policies and Governance standards in the following areas:

A. Corporate Governance:

Failure to comply with all legal and regulatory requirements.

Failure of Directors to be diligent and keep themselves familiar with the nature of the company's business and the environments, including political, legal and social in which it operates. Directors should be aware of all statutory and regulatory requirements affecting the company..... and see that such requirements are observed.

Failed to recognise the legitimate interests of stakeholders in particular the community as a whole which puts at risk the company's reputation and ethics.

Foundation values to act with integrity, honesty and transparency. To comply with the value that the environment is a key consideration in everything we do.

Commitment to community - the company's operations should have a positive impact on the environment, and the communities within which we work.

Reputation and ethics – The requirement to operate within the law is an essential element of the ethical discipline that must be followed.

Maintaining business records – to keep records to meet its legal obligations which are factual, complete and maintained according to company practices.

Audit and risk committee charter:

Management will be responsible for implementation of systems of corporate governance in all wholly owned subsidiaries throughout the group. Management should also encourage adequate systems in associated companies where the group exercises significant influence. To ensure a coordinated and effective approach consistent with this charter....

Primary Role to review the policies and procedures in force to ensure they ensure compliance with legal requirements, in respect of accounting policies, financial reporting, internal control, external audit and environmental compliance in all jurisdictions in which the group operates.

B. Risk Management Policy:

Fletcher Building considers the protection of its people, its reputation, shareholders value and the environment to be its most important interests. It is therefore fully committed to:

The prevention of damage to or loss of property and of damage to property and the environment.

The prevention of damage to its reputation or its image and the prevention of loss of shareholder value.

Risk tolerance – in addition to preventing personal injury, particular care is needed when taking action that could:

Result in damage to or loss of property;

Adversely impact the environment;

Adversely impact the reputation of a business unit or the group;

Risk non-compliance with any legislation.

C. Sustainability Report:

Fletcher Building operate with the environment as a key consideration, from sourcing raw materials to the eventual end-of-life and disposal.

Achieving the aim of improving environment, social and governance performance.

Achieving a life-cycle approach to sustainability – for the sourcing of raw materials.

Becoming a more sustainable organisation.

Reducing the environmental footprint of our products.

Work alongside our stakeholders to ensure the environment in which we work are treated sustainably.

Sustainable resource extraction.

When a quarry is vacated Winstone and Rocla both take steps to restore the site so wildlife and vegetation can regenerate.

Water stewardship:

We will actively manage waste to use less fresh water and to maximise recycling. Improve water efficiency and minimise water impacts in land management operations.

Water stewardship – at quarries, ground water and storm water management is integrated to ensure minimum impact on the natural waterways that drain from the sites.

Community:

We recognise the obligations we have to the communities in which we operate and to the people who call those communities home.

We act honestly, in good faith and in the best interests of the company, to ensure that all stakeholders are treated fairly.

4. RECOMMENDATIONS

That the Board of Directors considers the cessation of all quarrying works at Rocla's operation at Calga until the management of Fletcher Building has undertaken a thorough investigation into all the issues highlighted in this report.

That the management of Fletcher Building instigate an immediate review of all Rocla's operations in Australia to ensure compliance with Laws, Regulations, operating consents and the company's Corporate Governance Standards and policies.

That a copy of this report and the investigation by Fletcher Management is submitted to the Audit Committee for review and consideration.

That the Board receives a full report on the proposed expansion (new quarry) at Calga to determine whether it should proceed in the light of Fletcher Buildings stated corporate aims and policies.

A BRIEF HISTORY OF ROCLA SAND QUARRY AT CALGA

- The site of the existing Rocla quarry was originally prime agricultural land used for growing vegetables and citrus orchard except for a small portion of rocky ridge on the southern side (see photos). There was a small amount of shale removed from the southern side of the property during the 1970's
- The property changed hands and the new owner illegally started a sand mining business towards the rear of the property which was stopped in 89-90 by Gosford Council and the dispute was taken to the Land and Environment Court.
The quarry was broken into stages 1, 2, 3, and 4.
- 1991 – The Land and Environment Courts decision was handed down approving Stages 1 and 2 ONLY.

Among the reasons for refusal were water issues, and rightly so, confusion with State Planning Policy 8 and 9 and ... the impact this was likely to have on the whole environment.

The approval determined that the quarry would cease operating once stage 1 and 2 were exhausted. The 31st December 2004 was the date that they were to be finished ie: the site totally rehabilitated post quarrying

- 2002 – Rocla purchased existing quarry knowing that there was only 2yrs left to Operate.
- 2004 – Rocla lodged D A to extend the mining area into the adjoining property north of them and also included the previously refused stages 3 and 4. This was done as a state significant Development (being more than 200,000 T/Y) thus taking it out of Local Government control (who had previously refused extraction in this very same area). By deliberately increasing the yearly tonnage from 200,000 to 400,000 T/Y it now conveniently takes it out of Local Government jurisdiction straight into the hands of the Minister of Planning for approval ,under what is now known as part 3A

The owners of the adjoining property pulled out of negotiations. It is interesting to note that these same people had commercial production bores not far from the boundary of Rocla from which they sold water to Coca Cola. By the time the 2004 EA was put on exhibition these bores had been illegally moved further away from the quarry boundary as their original bores had dried up and were no longer viable.

- 2005 – Planning Minister Sartor gives approval to mine stage 3 and 4 but now called it all stage 3...
OVERRIDING The Land and Environment Court decision in 1991. This approval was based on the information provided in the 2004 EA which contradicted the information provided in the 1991 EA
- Rocla have knowingly operated outside conditions of consent for 5 yrs

BACKGROUND OF LAND ROCLA PROPOSE TO MINE. THE SOUTHERN EXTENSION

This land was originally privately owned and had citrus orchards over sections away from the rocky outcrops. A small amount of shale was removed from close to Peats Ridge Rd during the 1960's. You are able to see the shale seam in the cutting just south of Jones Rd.

However when the first stage of the Sydney Newcastle tollway was being developed, the then Dept of Main Roads resumed these properties as they denied access due to the close proximity to the official end of the tollway and still being four lanes. And the major road north until the Mooney Bridge opened in the 80's and took the pressure off Peats Ridge Rd.

The now Roads and Traffic Authority (RTA held onto this land until about 1990/1991 when it subdivided a section off and sold it to former Member for Robinson, Mr Barry Cohen via private treaty. The remainder of the land stayed in RTA ownership until 2005 when it was put up for tender

- Mid 2005 – Land adjoining Rocla, on their southern boundary, owned by the R.T.A., consisting of prime farming land and natural virgin bush containing rare and important Aboriginal ceremonial sites, engravings and art is put up for sale by TENDER.

SURPRISE SURPRISE ROCLA WON THE TENDER.

- November 2009 – Rocla submit Major Project Application No 06/0278 encompassing a new stage 4 and 5 on this land acquired from the R.T.A.
- Dept of Planning deemed the 2009 EA as adequate for public exhibition before receiving responses from the NSW Office of Water or being provided with acceptable, thorough archaeological reports on the area. Mr Appleton's survey is clearly inadequate and fails to mention many of the aboriginal sites on the block, rare flora and fauna unique to this area.
- If it was not for the local and aboriginal community spending a great deal of time and money pointing out these and many other serious issues that involve not only the proposed extension, but serious issues with their current operations this proposal would have been approved long ago. The simple fact of the matter is that they cannot comply in their current operations that is a FACT. They definitely will not be able to comply with their proposed extension which will be approx 4 times larger.
- There is so much evidence on every level of this application and their current operations, which prove that they should be made to cease operations right now and their new proposal be refused.

Appendix B

A review of the Director General's October 2013 report in which he recommends approval of the new Calga Sand Quarry.

Abbreviations:

- Director General (DG)
- The Department of Planning (DoP) or (Department)
- The NSW Office of Water (NOW)
- Environmental Assessment (EA)

On page 69 in the DG's conclusion he says "The Department also acknowledges that the Calga Sand Quarry has long been recognised as a 'sand extraction area of regional significance' under SREP9, and located within a 'preferred location for extractive industries' under SREP8. The Department believes that the project represents a reasonable extension of the existing quarry and would make use of existing quarry-related infrastructure and services."

This is not an extension of an existing quarry. This is a new quarry.

[See attached report on why this is a new quarry]

It is clear that DoP had a bias toward granting approval for the application for the new Calga Sand Quarry.

This may go some way to explain the very poor quality of the 2009 EA submitted by Rocla's consultants. The EA was so flawed it took them some 2½ years to respond to the objections and issues raised by the community and Government Agencies.

The flaws in the original EA were so significant Rocla was required to carry out a great deal of additional investigations which resulted, in November 2012, in a 300 page report entitled "Final Response to Government Agency Submissions and Non-confidential Submissions" and a changed project proposal documented in their "Preferred Project Report".

Rocla's November 2012 response did not substantially respond to the Submissions it purported to address. [These failings are addressed in specific detail in the CPR Inc. and Walkabout Park responses to Rocla's response, submitted to DoP January 2013.]

As further evidence of how flawed the Proposal was, even after 2½ years of further work and a modified proposal, DoP has recommended Rocla be required to abandon one of the two Stages of their proposal in an attempt to make it "fit" environmental, community economic, and cultural heritage requirements.

Rocla's groundwater experts and community-engaged experts contradicted each other. DoP had these independently reviewed by Dr Frans Kalf who concluded that the Rocla groundwater assessment in their EA and subsequent work contained insufficient data to be able to be assessed. Instead of rejecting the EA, DoP gave Rocla a 3rd chance to put together a groundwater assessment. Rocla engaged Dr Noel Merrick of Heritage Computers to undertake additional groundwater computer modelling. It should be noted that Merrick did not deliver any new data, but merely re-modelled Rocla's existing deficient data. As further evidence of Rocla's EA being flawed, Merrick got very different outcomes in regard to impacts on groundwater.

Unable to assess groundwater impacts based on all of the Rocla groundwater assessments prior to the Merrick report, it is apparent that Rocla's Merrick report was the determining report in informing DoP's recommendations. However, this report was kept secret by DoP and never released for public review and response as is required by law.

The favourable view by DoP on the Calga Sand Quarry despite the grave deficiencies in Rocla's original EA and subsequent additional assessments, coupled with the DG's comments in his conclusions in his recommendation of approval, suggests a bias on the part of the DoP.

This apparent bias, apparent throughout the process, may go some way to explaining Rocla's persistence in ignoring NOW's years of requests to obtain all necessary water licenses for the existing operations, as required in Rocla's 2005 Conditions of Consent for their current operations, and as prescribed in Part 5 of the Water Act 1912.

Rocla is required to obtain Water Works Approval Licenses PLUS Water Access Licenses (WAL) PLUS Water Allocation Shares which must be sufficient to account for all groundwater take (removed) from the aquifer BEFORE commencing any work that might impact groundwater.

In 2013 Rocla has still not met these conditions for either their existing operations or their proposed new quarry.

Fully appraised of this fact and in the absence of any evidence as to why he believes that Rocla will suddenly, after 8 years, be both able and willing to comply, the DG goes into a detailed explanation, in the conclusions of his report in which he recommends approval as to why he is satisfied that Rocla will have sufficient water licenses by the time they begin quarrying the new quarry. This is not borne out by the evidence the DG himself presents. The DG is silent on the fact that the existing quarry is still operating without sufficient licenses.

Water Licensing Non-Compliances

Section 71W of Water Management Act 2000 prescribes that Rocla must demonstrate that they have a Water Access License (WAL) ATTACHED TO each of their Water Works Approval Licenses, as well as Water Allocation Shares which must be sufficient to account for all groundwater take (removed) from the aquifer. All of this must be in place BEFORE commencing any work that might impact groundwater.

The DG says that Rocla has "up to 92 ML per year with a further 37 ML transaction currently under way, however only 6ML is attached to the Calga Sand Quarry site".

The DG's figures do not correspond to NSW official State records.

- Since 2010 Rocla has 6ML allocation attached to Works and WAL licenses.
- Since 2011 Rocla has 46ML allocation on a WAL but not attached to a Works, in fact attached to someone else's Works and on someone else's land.
- Date to be confirmed probably 2012 Rocla has 52ML allocation on a WAL but not attached to a Works, in fact attached to someone else's Works and on someone else's land.
- It is unclear whether the DG's reference to a further 37ML transaction currently underway refers to Works or WAL, and whether this is one of the licenses referenced here or an entirely new license.

Irrespective, using Rocla's most recent estimates of "entrained water", Rocla is currently in deficit by 290ML and no account at all has been made for "inflow" water which will increase this deficit significantly.

In addition, NOW has called for existing licenses to be "retired" because, unlike normal usage where, when pumping stops at the end of operation (e.g. Coca Cola), the take from the aquifer will cease, in Rocla's case the void will continue to bleed "inflow" water in perpetuity.

The DG notes that Rocla has been addressing this administrative issue for some time, that it has sufficient water licensing for its current operations, and that the proposed expansion will have sufficient for all future use based on revised modelling.

We note that Rocla's license conditions state that they must not operate if they will go into debit. They have gone into debit. Their debit has been accumulating since 2005.

This significant non-compliance was noted in Rocla's "Independent Audit" in 2010 (Umwelt), although it is interesting to read the minutes of Rocla's Calga Community Consultation Committee meetings since that time where it was established that Rocla had falsely claimed in their 2011 AEMR

that they had no non-compliances arising from the Umwelt audit. This was brought to the DG's attention by the CCCC community representatives when Rocla representatives refused to do so. [See attached table of licenses, and table of entrained water modelling]

According to NOW, Stages 3, 4 and 5 will produce "as much as 160ML per year" of inflows.
According to NOW, Stage 3 (which is only the yet to be completed section of the existing operation, is producing 28.4ML per year of inflows.
Because it is from the cut sides, each Stage will continue to produce these inflows even after it is completed.
Stages 1 and 2 are larger than Stage 3, so are each more than 28.4L (and ongoing)
For historical modelling purposes, we will only look at Stage 3's impacts.

The community engaged Environmental Hydrolics Pty Ltd (EHPL) to calculate the entrained water that they would remove.
EHPL consulted with Larry Cook & Associates (LCA) when carrying out this work.
Their work was submitted to the Department of Planning (DoP) by the community.
Roda in their "Final Reponse to Submissions" in November 2012 page 13 refuted EHPL and LCA's work.
Strangely, Roda in their refutation claimed a HIGHER water content than EHPL or Roda's own original EA.

	Roda 2009	EHPL 2010	Roda 2012
	62.5	150	174 ML (mega or million liters) of "entrained" water per 1 ton of friable sandstone
ML entrained water in	200000.00	conservative average tons materials removed per year	
12.50	62.50	liters/ton entrained water using Roda 2009 estimates	
30.00	150.00	liters/ton entrained water using EHPL estimates	
34.80	174.00	liters/ton entrained water using Roda 2012 estimates	
5.68	28.4	liters/ton inflows water using NOW's Stage 3 (only) assessment	

Reflecting that only 6ML of water access is attached
This does not include inflows from Stages 1 and 2, which should be added in

year of operation	2005	2006	2007	2008	2009	2010	2011	2012	2013
annual water access in ML	0.00	0.00	0.00	0.00	0.00	6.00	6.00	6.00	6.00
cumulative	0.00	0.00	0.00	0.00	0.00	6.00	12.00	18.00	24.00
annual deficit entrained water if Roda 2009	-12.50	-12.50	-12.50	-12.50	-12.50	-6.50	-6.50	-6.50	-6.50
annual deficit inflows water using NOW	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68
cumulative	-18.18	-36.36	-54.54	-72.72	-90.90	-103.08	-115.26	-127.44	-139.62
annual deficit entrained water if EHPL	-30.00	-30.00	-30.00	-30.00	-30.00	-24.00	-24.00	-24.00	-24.00
annual deficit entrained water using NOW	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68
cumulative	-35.68	-71.36	-107.04	-142.72	-178.40	-208.08	-237.76	-267.44	-297.12
annual deficit entrained water if Roda 2012	-34.80	-34.80	-34.80	-34.80	-34.80	-28.80	-28.80	-28.80	-28.80
annual deficit entrained water using NOW	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68
cumulative	-40.48	-80.96	-121.44	-161.92	-202.40	-236.88	-271.36	-305.84	-340.32

If all ML of water access were attached when purchased (which they are still not)
This does not include inflows from Stages 1 and 2, which should be added in

year of operation	2005	2006	2007	2008	2009	2010	2011	2012	2013
annual water access in ML	0.00	0.00	0.00	0.00	0.00	6.00	52.00	67.00	104.00
cumulative	0.00	0.00	0.00	0.00	0.00	6.00	58.00	125.00	229.00
annual deficit entrained water if Roda 2009	-12.50	-12.50	-12.50	-12.50	-12.50	-6.50	39.50	54.50	91.50
annual deficit inflows water using NOW	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68
cumulative	-18.18	-36.36	-54.54	-72.72	-90.90	-103.08	-69.26	-20.44	65.38
annual deficit entrained water if EHPL	-30.00	-30.00	-30.00	-30.00	-30.00	-24.00	22.00	37.00	74.00
annual deficit entrained water using NOW	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68
cumulative	-35.68	-71.36	-107.04	-142.72	-178.40	-208.08	-191.76	-160.44	-92.12
annual deficit entrained water if Roda 2012	-34.80	-34.80	-34.80	-34.80	-34.80	-28.80	17.20	32.20	69.20
annual deficit entrained water using NOW	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68	-5.68
cumulative	-40.48	-80.96	-121.44	-161.92	-202.40	-236.88	-225.36	-198.84	-135.32

According to NOW, Stages 3, 4 and 5 will produce "as much as 160ML per year" of inflows.
According to NOW, Stage 3 (which is only the yet to be completed section of the existing operation, is producing 28.4ML per year of inflows.
Because it is from the cut sides, each Stage will continue to produce these inflows even after it is completed.
The DG has recommended that Stage 5 not proceed.
Stage 5 is less than 30% of the total, so for conservative reasons we will reduce 160ML by 30% and stage it over time.

ML entrained water in	1000000.00	Roda is requesting approval for this amount
62.50	62.50	liters/ton entrained water using Roda 2009 estimates
150.00	150.00	liters/ton entrained water using EHPL estimates
174.00	174.00	liters/ton entrained water using Roda 2012 estimates
28.40	28.40	liters/ton inflows water using NOW's Stage 3 (only) assessment
160.00	160.00	liters/ton inflows water using NOW's Stage 3, 4 and 5
112.00	112.00	liters/ton inflows water Stage 3 and 4, so reduce by 30%
	8.36	ML production increase rate of 10% per year

Reflecting that only 6ML of water access is attached
This does not include inflows from Stages 1 and 2, which should be added in

year of operation	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
annual water access in ML	104.00	104.00	104.00	104.00	104.00	104.00	104.00	104.00	104.00	10
annual requirement entrained water if Roda 2009	62.50	62.50	62.50	62.50	62.50	62.50	62.50	62.50	62.50	6
annual requirement inflows water NOW	28.40	36.76	45.12	53.48	61.84	70.20	78.56	86.92	95.28	10
Total requirements per year	90.90	99.26	107.62	115.98	124.34	132.70	141.06	149.42	157.78	16
annual requirement entrained water if EHPL 2010	150.00	150.00	150.00	150.00	150.00	150.00	150.00	150.00	150.00	15
annual requirement inflows water NOW	28.40	36.76	45.12	53.48	61.84	70.20	78.56	86.92	95.28	10
Total requirements per year	178.40	186.76	195.12	203.48	211.84	220.20	228.56	236.92	245.28	25
annual requirement entrained water if Roda 2012	174.00	174.00	174.00	174.00	174.00	174.00	174.00	174.00	174.00	17
annual requirement inflows water NOW	28.40	36.76	45.12	53.48	61.84	70.20	78.56	86.92	95.28	10
Total requirements per year	202.40	210.76	219.12	227.48	235.84	244.20	252.56	260.92	269.28	27

A Review water licensing requirements

[18 Feb 2004 memo from DoP's Mark Mignanelli to DoP's David Kitto]

Re: For DG's Requirements for Preparation of the EIS

"Under Part 5 of the Water Act 1912 all proposed groundwater works including the quarry bores for the purpose of extraction, dewatering, testing or monitoring must be licensed with the Department of Infrastructure, Planning and Natural Resources (DIPNR) prior to their installation. Therefore, the EIS should including information regarding: ... expected annual groundwater extractions from individual dewatering bores."

NOTE: In different internal and external memos, NOW explains to Rocla that the quarry must be considered a massive bore.

[Map of preliminary proposed new site which was to go north-west (later revised to go south) showing Lots 121/755221 and 2/229889]

[Map of 2005 submitted original site – note error on Map where Lot 2/229889 is incorrectly referred to as Lot 1/229889]

[Memo exchanges between DoP's Vicki McBride (colleague of Mark Mignanelli) and DoP's Martin Foreman]

[5 August 2005]

Refers to the fact that "Part 3a" has just come into play confusing the issue of water approvals.

Anticipates that Rocla will use 49ML/year.

Recommends a Special Purpose License (SPL) under Part 5 of the Water Act PLUS a statement in the License Conditions that "the 49/ML cannot be traded once converted".

NOTE: Cannot be traded because must stay attached to property because after cessation of quarry activities and rehabilitation, the water take will continue in perpetuity from the cut sides of the aquifer.

[12 August 2005]

"Yes – our real legislative teeth will come from **the license**."

NOTE: The importance of this is recognition that the License Conditions are legally binding.

[16 August 2005]

"We resolve the following advice.

"1. License the mine pit under Part 5 of the Water Act 1912 as "aquifer interference"."

"2. Request a WMA2000 work approval application for the pump/ work used to extract the water from the pit licensed under Part 5. ... Water source as Mangrove Mountain Zone XYZ."

NOTE: Rocla is in Zone 7 – this is important as it is unclear whether their newly acquired WALs are in Zone 7 – TBC.

"3. ... **Ensure the nominated work is that work identified by the work approval** resulting from 2 (above).

[12 February 2013 Letter from DPI in response to Rocla's 2012 (final) "Response to Submissions and Preferred Project reports]

"The NSW Office of Water has identified the access license shares held by Rocla Materials Pty Ltd which are attached to the excavation work are **insufficient** to account for **all** groundwater take by the **existing** extractive operation. Rocla needs to ensure the **current** operation accounts for all groundwater take by means of an aquifer access licenses **which are attached** to the excavation work ..."

“Further detailed comment on the issues requiring revision and recommended conditions should the application be approved are provided in Attachment A.”

[Attachment A]

“Modelled groundwater inflows for the approved Stage 3 area are 28.4 ML/yr. Given Rocla has only 6 access shares attached to the excavation work on the subject site, the current allocation is insufficient to meet the Stage 3 requirements.”

NOTE: Stage 3 is the last stage of the EXISTING operations which is proposed should be included in the new quarry.

“There are several water access licenses are attached to other works within the KMMWSP that are in the name of Rocla Materials and include 20AL211011 (46 unit shares) and 20AL212213 (15 unit shares). These are located within the Lower Mangrove and Popran Creek groundwater source but not linked as yet to the subject property. Rocla must demonstrate it has attached the access licenses it possesses to a nominated work by means of a dealing under **Section 71W of the Water Management Act 2000**, in conformity to the **rules of the WSPKMMGWS**.”

“Rocla has acknowledged its additional groundwater licensing requirement for the extension proposal. However, the predicted inflows are modelled to be as much as 160ML/yr.”

NOTE: It may be that what his stopping Rocla attaching these is that they are outside Zone 7 so cannot be attached as there is a moratorium on new licensing in Zone 7 and licenses cannot be transferred into Zone 7. Alternatively, it may be that Rocla is avoiding attaching these to the existing operation as they don't want to be forced to account for their deficit and/or they don't want the allocations to be retired and therefore not available for the new quarry.

NOTE: NOW says 20AL212213 (15 unit shares) whereas the license papers we have obtained say 52 unit shares but include a disclaimer that there may be errors. As 52 unit shares is the total of their prior holdings being 6 + 64, it is likely that the 52 unit shares is an error and it is actually 15 unit shares. This needs to be investigated.

[15 November 2013 Email from NOW to community]

“Groundwater taken through both inflow and through entrained water must be accounted and licensed.”

“Total water in any account at any time may not exceed a volume consisting of: 120% of the aquifer access license share component ... A maximum of 20% of any aquifer license share component may be carried forward in a water allocation account from one water allocation accounting year to the next. ... A water allocation account shall remain at or above zero at all times. ... Water allocations will be accrued into water allocation accounts each water accounting year”

[12 August 2004 memo from DoP's Vicki McBride to DoP's David Kitto]

General Terms of Approval to be included in 2005 approval under Part 5 of the WA.

“Any water entitlement granted as part of the license is not transferable to any other water user and must be surrendered at the end of the operations.”

NOTE: This clause was not ultimately included in the 2005 Conditions of Consent.

[28 October 2005 Development Consent for existing operations]

“Surface and Groundwater. Note: The Applicant is required to obtain licenses and permits for the development under the **Protection of the Environment Operations Act 1997** and the **Water Act 2012**.”

“Prior to carrying out **any** development, ... the Applicant shall prepare and subsequently implement a Water Management Plan ... include a Water Balance ... The Water Balance shall: include details of all water extracted (including water make), dewatered, transferred, used and/or discharged by the quarry”

“Annual Independent Groundwater Audit. Reporting. Each year from the date of this consent, the Applicant shall: ... report the results of this review in the AEMR, including ... the results of the

independent groundwater audit (including a copy of the report); and details of the measures undertaken/proposed to address any identified issues.”

NOTE: Significant non-compliance with licensing requirements was noted in Rocla’s “Independent Audit” in 2010 (Umwelt), although it is interesting to read the minutes of Rocla’s Calga Community Consultation Committee meetings since that time where it was established that Rocla had falsely claimed in their 2011 AEMR that they had no non-compliances arising from the Umwelt audit. This was brought to the DG’s attention by the CCCC community representatives when Rocla representatives refused to do so.

My name is Andrew Smith. I am a Trustee of the Walkabout Wildlife Conservation Foundation.

The overarching purpose of the Foundation, as stipulated in the Foundation's Trust Deed, is to protect and enhance the natural and cultural environment by managing and protecting the 180 acre bush wildlife sanctuary in the Calga region operated by Australia Walkabout Wildlife Park and its owners.

Our interest here today, therefore, is to defend Walkabout Park and its owners' ability to continue their conservation work.

Firstly it is important to note that the new quarry, and it is a *new quarry*, is not protected by the Sydney Regional Environmental Plan No. 9. The Director General says this himself in his recommendations where he states that the existing quarry is afforded protection under SREP9, but the new quarry on the ex-RTA land next door is not. In this, the Director General is correct.

Rocla's attempt to argue that this is an expansion of their existing quarry appears to be an attempt to extend the SREP9 protections to the new quarry.

The new quarry is on a separate title which is not covered by SREP9.

There is no reasonable prospect of the land for the new quarry being joined to the land on which the existing quarry operates. This is because the existing quarry land, purchased from Voutos, by Rocla, some time after they lodged their application for this new quarry, is contracted to be returned to the Voutos family once it is exhausted. Stage 3, the final stage of extraction of the existing quarry, is close to completion.

The cleverly named "Stage 4" and "Stage 5" are actually the first and second stages of a new quarry that only coincidentally adjoins the existing quarry, currently in its "Stage 3".

SREP8, which does apply to the new quarry, requires that its consent authority must ensure that any activity of the new quarry does not sterilise land usage next door.

The Director General says that he has applied the "25% Rule" when considering impacts on Walkabout Park should Stage 4 of the new quarry be allowed to proceed. He explains that, under this rule, if less than 25% of the area of a neighbour's property will be affected by a proposed activity, it is assumed that the benefits of the activity outweigh any negative impacts on the neighbour and no detailed impact assessment needs to be undertaken.

This logic is flawed because the area the Director General is referring to as being impacted by Stage 4 (north of Walkabout Park's fox-proof fence) is 60% of the *freehold* land on which Walkabout Park operates.

The Director General appears to have erroneously included in this consideration, the *leasehold* Crown land, which is partly inside the fox-proof fence and mostly south of the fox-proof fence. This Crown land is not only unsuitable for the sanctuary's operations, but it is also covered by a limited term year lease with no option to renew. It therefore cannot be considered when applying the "25% Rule".

SREP8 and the Department's 25% Rule together *require* that the Department, as the consent authority, *must* do a complete assessment of the potential impact of the new quarry on Walkabout Park and the owners of the land on which it operates. This assessment is necessary as the Department must be satisfied, not only that the benefits of the new quarry outweigh any negative impact on them, but also that Walkabout Park's operations will not be sterilised by having a quarry on their doorstep.

Possibly due to the misapplication of the "25% Rule", *no such assessment has been made*.

Potential impacts that must be considered in the assessment of potential to sterilise Walkabout Park's activities include the impacts of noise and groundwater disturbance on Walkabout Park.

Noise poses the most immediate threat to Walkabout Park's ongoing viability because it will drive visitors away, and Walkabout Park is totally reliant on visitor fees and purchases to fund their conservation work.

The Planning Department visited Walkabout Park in 2013, heard and remarked on the noise coming from the existing quarry 1.2 km away, and measured it with an iphone. All so-called independent noise testing at Walkabout Park using calibrated equipment has been conducted at times when the quarry is inaudible, with the exception of one hour of testing when noise levels exceeded tolerance but were excluded in the final analysis.

Noise testing during periods of noise from the existing quarry is required before the potential impact on Walkabout Park can be assessed. Only once these results are obtained will it be possible to do sound power modelling to determine how the new quarry, which will eventually be 700 meters closer to Walkabout Park than at present, will be experienced. At this stage, no such testing and modelling has been done.

We are particularly concerned about impacts on Walkabout Park's groundwater supply, not only affecting its bore, but also affecting the natural groundwater that sustains this natural bush sanctuary.

Rocla has stated that the Walkabout Park bore *will be the most impacted of all surrounding bores*. We note that Conditions of Consent governing Rocla's existing quarry require that Rocla source water for neighbours whose bore water supply is proved to have been impacted by Rocla's activity. We note *that the onus of proof lies with the neighbour*, and that it is impossible to prove causation where so many factors can impact groundwater levels. We therefore have no confidence that this Condition of Consent is of any value.

Rocla has not been asked to provide any assessment of, or guarantees regarding, the supply of groundwater to maintain the natural environment which is crucial for Walkabout Park's conservation work. Dewatering of the bush would result in loss of

fauna habitat, destruction of flora, and increased bush fire risk. This poses a real threat to the conservation work at Walkabout Park.

Because Walkabout Park is a natural sanctuary that is contiguous with adjacent bushland, the species at Walkabout Park are directly impacted by effects on the flora and fauna in the adjacent bushland of Popran National Park and Rocla's proposed new quarry. The direct and indirect impacts of digging a crater 36 hectares wide and up to 30 meters deep are considerable. Despite Rocla's consultants' modelling showing impacts will not be significant, we believe it is improbable that removing a stream and producing a crater of this size and depth in the aquifer, will not impact habitat up- and down-flow from it.

Changes in water levels, flow rates and quality will impact the surrounding bushland.

Of concern to the Foundation is the erroneous suggestion that the offset areas, including Rocla's "Stage 5 offset area" as recommended by the Director General, are sufficient to offset the direct and consequential damage caused by the new quarry. A fundamental principle of offsets is that the areas preserved must in some way *be improved*. Not only does Rocla not commit to any active management of these areas that would in any way improve them, but the close proximity of the offsets, particularly the "Stage 5 offset area", to Stage 4 will result in changes to the *offsets'* groundwater.

Before consent for the new quarry can be considered, offset areas that will not themselves be at risk from the new quarry must be provided.

We note too that the maps in the Director General's recommendations include an access route to Glenworth Valley which impinges on the offsets areas with no buffer zone. No assessment has been made of the impact of the access road on the offsets areas. Unless or until impact studies have been done on the access road, including effects on wildlife, habitat, Aboriginal sites and the nearby Walkabout Park's ability to continue its conservation work, the access road should be excluded from consideration.

We believe that the access road itself is outside the jurisdiction of the consent authority for the new quarry because it has no relevance to the new quarry operations, especially with the new quarry limited to Stage 4 as recommended by the Director General.

Lastly, but no less important, is our concern for the anticipated destruction of the Aboriginal Cultural Landscape. The purpose of the Foundation, as stipulated in its Trust Deed, extends to protecting the Aboriginal sites at Walkabout Park and their relationships with other sites in Calga, together forming the Cultural Landscape.

Alongside all Australians – Aboriginal and non-Aboriginal – we have a responsibility and reserve our right to preserve Australia's Aboriginal heritage. We hope that the consent authority for this new quarry does the same.



Andrew Smith

0402 893 378

Appendix E

I, Gerald Barnard, object to the entire proposal – as it is entirely lacking merit in every area. I request that the Panel refuse this proposal outright on the basis of impact on community cost, incompatible land use and, in particular, the sterilisation of Walkabout Park's tourism operation which has been deemed State Significant since its inception.

The Director General's report in no way constitutes a proper or adequate assessment of all relevant information required for evaluation of the merits of this proposal.

My wife and I have been given 5 minutes each, plus a further 5 minutes. In this 15 minutes we must cover all the issues that affect each of us personally, our family, my wife as landlord of Walkabout Park, me as sole Director of Walkabout Park, Walkabout Park's contribution to tourism and the Central Coast visitor economy, Walkabout Park's contribution to employment, and our conservation work.

We cannot cover all of this. I will cover just 4 issues.

FIRSTLY: THE PAC SHOULD BE AWARE THAT THE NEW SOUTH WALES STATE GOVERNMENT DETERMINED IN 1989 THAT WALKABOUT PARK, THEN NAMED CALGA SPRINGS SANCTUARY, WAS OF STATE SIGNIFICANCE.

More than this, the State Government prescribed that the land on which it now operates must be used to establish a wildlife sanctuary and tourist park, and must not be used for any other purpose.

In 1990 the State Government sold the land where Walkabout Park is today to Barry Cohen, ex-Minister of the Environment.

The sale was by Private Treaty because of the State Significance of the project.

The project was to set up a flora and fauna sanctuary and tourist park.

The reason the project was deemed State Significant was its unique and important contribution to conservation and tourism in NSW on the Central Coast.

The Contract of Sale required that Barry Cohen MUST set up a sanctuary and tourist park.

A Deed of Agreement was entered into which required that, if Barry did not set up a sanctuary and tourist park, he MUST sell the land back to the RTA.

It was not allowed to be used for any other purpose.

There are boxes of documents dating back to 1989 that record the process and the terms of this contract.

SECONDLY: THE PAC SHOULD NOTE THAT ROCLA KNOWINGLY PAID A REDUCED PRICE FOR THE LAND BECAUSE THEY COULD NOT GET THE RTA TO AGREE THAT THEY COULD HAVE A GUARANTEE THAT THE NEW QUARRY WOULD BE APPROVED.

Rocla reduced their offer after they were told that they would have to carry the burden of risk that they might not be allowed to quarry the land.

In 2005 the NSW State Government, again the RTA, agreed to sell the land next door to this State Significant wildlife sanctuary to Rocla.

We requested the sale documents under Freedom of Information.

Our request was refused.

Later Lee Rhiannon got the documents under parliamentary privilege and we were permitted to read them in her office.

These documents revealed that Rocla initially offered a higher purchase price for the land, but this was a conditional offer to purchase. The condition was that they receive confirmation that they would be allowed to quarry the land.

This conditional offer was rejected by the State Government. Rocla was told that there were no guarantees. They would have to go through the process of applying for development permission.

Rocla then made another offer.

This second offer was significantly lower than the first, because of the risk that they might not be able to quarry the land.

This second lower offer reflecting Rocla's risk was accepted by the RTA.

A delay of some months was agreed, during which time the RTA conducted core testing on the site to prove to Rocla that there was a worthwhile sand resource there before the sale was finalised.

After the test results were in, which proved that there were enough materials on the site to make it worth Rocla's while, the land was transferred to Rocla at the reduced price in early 2006.

The price reflected the risk that Rocla might not be permitted to quarry the site, even though the materials were there.

THIRDLY: The freehold land that Walkabout Park operates on is zoned for tourism.

Tourism and sand quarrying cannot coexist.

We have already demonstrated in our previous submissions that a nature tourism establishment cannot operate with a sand quarry meters from its boundary.

The loss of this important conservation and tourism asset to NSW, has not been properly taken into account in the assessment of the economic impact of the new sand quarry.

FOURTHLY:

Everything my family owns and has saved is invested in Walkabout Park. The devaluing of our investment has not been properly taken into account in the assessment of the economic impact of the new sand quarry on the community.

IN CONCLUSION:

For the reasons I have mentioned plus all those reasons I haven't had time to include, I am firmly of the belief, and our legal advice has been, that the panel does NOT have adequate material to make **a lawful decision** to approve this proposal with or without modifications.

The only lawful option, based on merit, is outright refusal.



Local Aboriginal Land Council
DARKINJUNG

168 Pacific Highway Watanobbi NSW 2259
PO Box 401 Wyong NSW 2259
Phone (02) 4351 2930
Fax (02) 4351 2946
ABN 99 583 297 167
Email darkinjung@dlalc.org.au

NSW Government
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Ref number: 06_0278

23rd January 2013

To whom it may concern

**RE: MAJOR PROJECT APPLICATION – 06_0278 CALGA SAND QUARRY SOUTHERN
EXTENSION**

I am writing to lodge a formal objection to the Major Project 06_0278, Calga Sand Quarry Southern Extension.

Darkinjung LALC is constituted under the *Aboriginal Land Rights Act 1983* (NSW) and is responsible under section 52(4) of the *Aboriginal Land Rights Act 1983* (NSW) for:

- a. taking action to protect the culture and heritage of Aboriginal persons in the Council's area, subject to any other law, and
- b. to promote awareness in the community of the culture and heritage of Aboriginal persons in the Council's area.

Darkinjung LALCs core business is Land Management and the care and protection of Culture and Heritage within our boundaries. Darkinjung LALC reviews and responds to all Aboriginal Heritage Impact Assessments, this includes liaising with Archaeologists, Developers and other stakeholders, in addition to this we develop, review and monitor Plans of Management for all cultural heritage sites and places, review and respond to all Applications for Aboriginal Heritage Impact Permits.

Darkinjung LALC has been involved in this Proposed Development Application from the 8th December 2005. Darkinjung LALC has been actively engaged over the past 7 years conducting site surveys, preparation of Aboriginal Heritage Impact Assessments, Night Recordings, and identification of new Aboriginal sites within the proposed extension area. To date we have conducted 8 site surveys over the 7 years and also formally responded to other professionally produced reports.

Darkinjung LALC has been consistent in our view on this proposed extension of the Calga Sand Quarry. Darkinjung LALC recommendation is NOT to DEVELOP due to the high Aboriginal Cultural and Heritage significance and content in this immediate area.

Darkinjung LALC has now reviewed the latest Preferred Project Report and Attachment 4 Supplementary Aboriginal Heritage Assessment (July 2012) Report.

Darkinjung LALC would like for you to consider the following comments and recommendations regarding this Proposed Extension:

- The subject land and surrounds contain culturally significant *objects* and *places* for Aboriginal people;
- Of particular importance, is the site and surrounds of AHIMS No. 45-3-0119 (also recorded as 45-3-2195), which has immense cultural significance to Aboriginal women;
- Whilst some objects have been recorded upon the subject land, due to the heavily vegetated nature of the site, it is highly likely that the site contains many other objects, sites or places which have not yet been recorded. Further detailed assessments have also been limited by the site tenure (i.e. privately owned land) and limited resources;
- A review of Aboriginal Heritage Assessments for the site reveals significant discrepancies in the location of objects found upon the site. This can be demonstrated by comparing those AHIMS site locations from Fig 4.1 of the Supplementary Aboriginal Heritage Assessment (July 2012) to Figure 8.1 of the same document (noting that Fig 8.1 appears more accurate), to further overlays prepared by ADW Johnson.

Note: Many Aboriginal sites listed on the AHIMS data base often are not situated within the location as shown on maps referring to the AHIMS information. Therefore it can be difficult to locate the precise position of many registered Aboriginal sites due to some of the following reasons:

- Registered sites were recorded before the introduction of GPS units.
- In the past many registered Aboriginal sites were recorded on a topographical map with a scale of 1:25000. The co-ordinates were acquired by cross references to easting and northing figures located along the side of the map. The site was then marked as a point on the map and as a result of this, the co-ordinates could be up to 1 millimetre off, on the map, which then results in the sites location recorded as an error of up to 250 metres on the ground.
- Sites were frequently recorded in different datum for example: Some site were recorded in AGD which has now change to GDA 94 therefore the site could be out by as much as 200 metres on the ground.
- Human error, locations of Aboriginal sites may have been incorrectly recorded.
- Inability to visually relocate sites due to thick bush, vegetation, leaf litter, silt and other debris, and hazardous or inaccessible topography.
- Past practices have included the recording a 'starting' coordinate, then describing the pathway to a site, rather than recording the site itself.

Discrepancies as outlined above have resulted in systemic confusion in the field.

- The provision of a buffer or setback is often used to protect and preserve the integrity of a sensitive item or location. In this instance, we do not believe the use of buffers or setbacks is adequate until the extent and accuracy of cultural sites upon the land is fully known and recorded. Accordingly, it would be premature to approve this development until such time that the impact, or potential impact upon cultural sites, including any ameliorator measures for places, are fully understood.

The accuracy of currently recorded sites is of significant concern, particularly when buffers or setbacks are proposed from those points.

- The relationship of individual sites (and places) within a broader landscape is often misunderstood or not valued. Fortunately for Aboriginal people of the Central Coast, the Land & Environment Court is placing greater recognition on the cultural landscape as reflected in at least 2 of its recent decisions including *Kirkness V Gosford City Council [2012] NSWLEC 1060* and *Glendinning Minto Pty Ltd V Gosford City Council [2010] NSWLEC 1151* ("Bambara Road")
- The Darkinjung LALC has consistently opposed mining proposals upon the Somersby/ Peats Ridge/Kariong plateau area due to the inter-relationship of individual sites within the broader cultural landscape.

Recommendations:

- 1) Darkinjung LALC objects to this Major Project Application. We also find that this current format (preferred project report) lacks information directly relating to the potential impact on cultural objects, sites, or places with a broader landscape having cultural significance.

Please find attached four maps that clearly show the Aboriginal registered sites on this property and the cultural significance of the immediate and surrounding area. Due to the sensitive nature and/or location of sites, we request that the attached plans are used for Departmental assessment only and not released for general public viewing.

We note that this preliminary succinct submission has been prepared within limited timeframe due to the Christmas holiday period and can be supplemented, if required by the Department, within 28 days of a request. Darkinjung LALC can also provide an evidential report on the current impact to Aboriginal registered sites and the proposed and possible future impacts on Aboriginal registered sites and sites yet discovered on this property.

If you wish to discuss this matter further please do not hesitate to contact Suzanne Naden Operations Manager on 02 43512930.

Kind regards



Sean Gordon
Chief Executive Officer



Guringai Tribal Link

Aboriginal Corporation

ABN 18 351 198 069. ICN 4270

(Traditional Owners of the NSW Central Coast)

PO Box 4061,
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Mobile: 0404 182 049

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12th February, 2013

Mining and Industry Projects
Department of Planning
GPO Box 39
SYDNEY, NSW. 2001

Emailed to: plan_comment@planning.nsw.gov.au

Re: CALGA QUARRY PROJECT (06_0278)

Guringai Tribal Link Aboriginal Corporation (GTLAC) strongly object to the proposed Calga Sand Quarry Extension Project (06_0278).

The area for the proposed extensions to the existing sand mine is an extremely sensitive and culturally significant area containing several engraving and art sites that are of the highest significance to the local Aboriginal community and to the history of the area.

GTLAC are not satisfied that all of the constraints in relation to Aboriginal Cultural Heritage, have been identified during the surveys performed. This fact has been voiced to the attending archaeologist, Amanda Atkinson and to the Project Manager, Tabitha Kuypers, R.W Corkery and Co. to no avail.

Considering the magnitude of destruction that the proposed mining activities would have on the sites within and surrounding the subject area, GTLAC are with the clear opinion that the proposed protection methods outlined in the Archaeological reports and the Calga Quarry Project (06_0278) application to protect our cultural heritage, will be frivolous and the implications catastrophic.

I can not stress enough, the high importance and cultural significance of the area.

Please find attached:

Comments on Aspects Relating to Aboriginal Heritage, by Mr. Ian Sim.
Retired National Parks and Wildlife Ranger/Officer of the Calga area.

Respectfully yours,

Tracey-lee Howie
Chairperson
(contacts above)