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**Bartier
Perry**

Howard Reed
A/Director,
Mining and Industry Projects
Department of Planning
GPO Box 39
Sydney NSW 2001

17 January 2011

Our ref MLT

Email plan_comment@planning.nsw.gov.au

Dear Sir

**Oberon White Granite Quarry Project (07_0122)
Submission against the Expansion of the Existing Quarry**

We act for Mr and Mrs Peter Loftus of 183 Burroughs Crossing Road, Edith NSW (PO Box 411, Oberon 2787) who, as Sutfol Pty Ltd, are the owners of this property in close proximity to the quarry which is proposed to be extended.

We are instructed to thank the Minister for the opportunity to make a submission objecting to this proposal.

We are also instructed to advise the Department that no political donations have been made by our clients in the past two years.

The client's property, in the name of Sutfol Pty Ltd, is shown at reference 11 on the map attached to the Environmental Assessment of RW Corkery & Co Pty Limited, in Section 4 at page 10. The arrow shown on the property marked "BB" is not showing the position of the residence.

Our clients advise that they bought this property in 2006 after conducting extensive research to find a suitable agricultural site. They have commenced a new rural venture designed to be environmentally sensitive, economically sustainable, and with a possible future use as a rural tourist destination. The new agricultural venture involves the growing of black truffles which, in the climate of Oberon, would be an ideal new agricultural use. A relationship has been formed with the well known Perigord truffles of Tasmania.

This property was chosen from amongst 43 properties in the Oberon area to find suitable topography and soil characteristics. Research carried out in regard to the operation of the existing quarry found that, at the time, its activities were small enough and there was little noise nuisance. The noise of rock crushing plant was noticeable but it only operated at infrequent intervals. For our clients to learn that the current proposal is to increase the output tenfold for long operational hours Monday to Saturday, and with truck movements

on Sunday, was a great shock and one which has caused them to have concern about their personal residential amenity, the impact on the seclusion of a pretty valley with magnificent rural views, and the agricultural/tourism potential of their property.

Since 2006, they have carried out an extensive amount of work to plant the trufferie, build irrigation system, dams, electric isolation fencing and plant 4,600 oak and hazel trees. It is one of the largest trufferies in NSW. In addition, a further 3,000 native trees (mainly eucalyptus) as a boundary buffer zone and wildlife corridor have also been planted and it is hoped that 2011 will be the year in which the first truffles will be produced.

Our clients have two concerns about this expansion. The first is the impact of dust and the second is noise impact. On the subject of dust, there is no dust that affects our clients' property at the present time but clouds of dust can be seen arising from the operation from a distance. Our clients would like confirmation that the dust will not extend to their crops or their residence.

From our client's reading of the environmental assessment, they are concerned that, when the wind is from the east, (the predominant direction except in winter) the noise increase will be immediately obvious and unsatisfactory. The hours now proposed for the increased tonnage, will occur six days a week (Monday to Friday, 7.00am to 6.00pm, Saturday, 8.00am to 6.00pm) with truck movements on Sundays. They have retained Steven Cooper, acoustic engineer of The Acoustic Group, an acknowledged acoustic expert witness in the Land and Environment Court. Our clients were so concerned that they had gone to the expense of having the material in the environmental assessment relating to the noise impact assessed by Mr Cooper. His memorandum to this firm is attached.

From this you will see as follows:

1. Mr Cooper claims errors in the acoustic assessment;
2. The Loftus residence position is incorrectly shown;
3. No assessment has been made of the impact at the Loftus residence;
4. Land holdings south of the Duckmaloi river do not appear to have been assessed;
5. Processing – that is, the noisy activity – is to occur at (M-F: 7-6; S: 8-6) 6 days a week for either 10 or 11 hours per day;
6. Transportation is to occur outside the processing period, namely **6.00am** to 6.00pm Mondays to Fridays, and will therefore intrude into the “night period” as defined by the EPA noise standards.
7. DECCW's Noise Guide does not appear to have been followed;
8. The report suggests the daytime background noise level and then recommends the acceptance of a higher background level as the basis for conditions of acceptability [this is not explained and the finding appears to be perverse];
9. The impact assessment is not based upon actual assessment of a **hard rock** quarry;
10. The report suggests to Mr Cooper that wind effects may not have been properly assessed;

11. There is no suggestion of how a noise management zone will meet the appropriate specific goals;
12. Restriction on the use of the dozer does not appear in the recommendation section of the report;
13. Noise associated with clearing of the land appears to have been treated as construction noise rather than operational noise – the number of times that this will have to occur would suggest it should be more properly assessed as operational noise.

In short, our client's property has not been assessed. The assessment that has been made appears to accept criteria greater than that which should be acceptable under DECCW criteria without justification; the possibility of noise breach will occur both at night and during the day and for long hours during the week. The use on Sundays is unacceptable. The material from this quarry is not so important that a seven day per week operation is necessary.

Accordingly, our clients seek a delay in this matter until an accurate and comprehensive noise assessment has been made and all the documentation made public so that a real understanding of the impacts can be known and analysed and then if necessary the correct mitigating measures be proposed. Our clients will continue to retain the acoustic engineer to advise them. At the moment they are not in the position to make an informed objection and are required to do so.

We ask attention to this concern as a matter of urgency. It is not apparent whether other residences have also been missed in the noise assessment or any other part of the assessment by the applicant's environmental consultant. Our clients note that they have been visited by representatives of the quarry at a time when their house was almost fully completed and the failure to assess the noise at their property is not understandable and has caused them distress.

Please let this firm know of the applicant's intentions in this regard. Consideration will have to be given to legal redress through the Courts if a flawed assessment is to be allowed to proceed further at the expense of our clients' investment.

If you have any enquiries in relation to this objection, please contact Mary-Lynne Taylor of Bartier Perry on 8281 7935.

Yours faithfully
Bartier Perry



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41.4906.M1:ZSC

MEMO TO: Mary Lynne Taylor

FROM: Steven Cooper

DATE: 10th January, 2011

RE: OBERON WHITE GRANITE QUARRY

Further to your request I confirm my verbal advice there are a number of errors in the acoustic assessment prepared by Spectrum Acoustics for the Mudjee Stone Company Pty Ltd proposed Oberon White Granite Quarry.

Figure 1 does not show any residences between Burrough Crossing Road and the Duckmolo River. The client has indicated that their residence falls into this category and is not shown in Figure 1 of the acoustic assessment. Therefore the application requires an amendment to address the impact at the existing residence not included in the assessment.

Section 2 of the report nominates 24 weeks to complete the site establishment – which may be considered to be a construction activity not an operational activity.

The clearing of vegetation covers a two week period to accommodate 5 years worth of operations. The acoustic report considers such clearing activity to be construction and not an operational activity.

Table 1 nominates processing to occur 7am to 6pm Monday to Friday and 8am to 6pm on Saturdays.

Transportation is proposed to occur between 6am to 6pm Monday to Friday and 8am to 6pm on Saturdays and Sundays. Therefore there is the potential for noise from the site to occur 7 days per week and to occur during the EPA “night period” of 10pm to 7am Monday to Friday.

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THE ACOUSTIC GROUP

Section 3.2 provides an example of relatively noisy crickets and events that relate to the various acoustic metrics.

In relation to the L1 level the description is incorrect. The L1 for sleep arousal is over a 1 minute period not the 150 seconds identified in the text. Therefore the L1 level for Figure 4 will be higher than 92 dB(A).

The DECCW's Noise Guide for Local Government nominates use of $L_{1,1 \text{ min}}$ and L_{max} as the limit for sleep arousal.

Generally the noise criterion for continuous operations is expressed as background + 5 dB(A). No measurements of the ambient noise were taken for the subject assessment.

Reference is made to measurements in 2003 (for what purpose, where and by whom?) to obtain a daytime background level of 28 dB(A) and a night time background level of 26 dB(A).

The report nominates the use of a background level of 30 dB(A) to then provide a noise target of 35 dB(A) for the operational activities and 40 dB(A) for construction activities.

However, if background + 5 dB(A) is considered the threshold for annoyance then a noise limit of 35 dB(A) is above that threshold and would result in a noise that is clearly audible.

The sleep arousal criterion is background + 15 dB(A) which therefore should be $26 + 15 = 41$ dB(A), not the 45 dB(A) limit nominated in Section 4.4.

Section 5.1 nominates processing would utilise a crushing and screening unit located on the floor of the extraction area.

The noise source data set out in Table 5 is acceptable.



Table 7 indicated the position for loading trucks prior to 7am would be near the site office. If that is the case then that should be a condition of consent.

The computer model used for calculations is the ENM and produces the contours shown in the Appendices. The predicted levels identified in the Tables for the receiver locations are point source calculations that are more accurate than the contours. In general as one moves further out from the noise source the contours become less accurate.

The blasting information is theoretical and from Section 5.6.2 is based upon blasting for a coal mine in the Hunter Valley – not a hard rock quarry.

Section 6 provides a series of Tables for predicted noise levels that relate to the various noise contour graphs.

Whilst not related to your client's property there is reference to a noise issue for receiver location EE that seem at odds with an expectation of wind effects.

Firstly the operational phase of the development reveals noise levels at location EE well above the 35 dB(A) limit.

Secondly location EE is north east of the quarry yet when compared to calm conditions when the wind is from the SSE there is an increase in noise at location EE.

I am not sure what the last paragraph n page 4-29 means. Having an agreement for levels below the agreed maximum levels doesn't make sense.

Table 9 considers the consequence of levels above the criterion over more than 25% of a land holding (H.R. & S.P. Webb). Where is the similar exercise for land holdings south of the river?

The second paragraph on page 4-29 confirms noise levels above the project specific goals and disregards such exceedances as within a "noise management zone".



The third paragraph on page 4-29 nominates restriction on the use of the dozer in exposed areas that fails to be mentioned in the recommendations section of the report.

With respect to locations south of the Duckmaloi River the noise contours seem to show a propagation of noise out to the SE that then under a NE wind tends to sweep the contours around to the SW to follow the east west line of Burrough Crossing Road.

Figures 7, 25, 28, 31 and 34 reveal operations south of the Duckmoloi River to be above the nominated criteria.

Based upon the construction noise contours the first paragraph in Section 7 is incorrect. Similarly the claim as to operational noise compliance is not accepted as your client's property has not been assessed.

Conclusion

At the present time the acoustic report indicates noise greater than the project specific criteria and therefore is unacceptable for the long term operations for the subject quarry.

It is appropriate for an operation that will continue for many years to have the project achieve acoustic compliance.

Furthermore it is appropriate that the acoustic assessment consider all residential receivers. The absence of your client's property and the 25% assessment of open land for properties south of the river will require additional noise control measures for the subject quarry.



