

**CONTINUATION OF QUARRYING AND THE PROCESSING OF
SANDSTONE, INCLUDING THE INSTALLATION AND USE OF A
SANDSTONE SAWING PLANT**

Applicant:	Schaffer Corporation Limited (DA 365/90)
Land and Location:	Part Portion 106, Parish of Meehan, Lot 4 DP 556534 and Lot 1 DP 437699, Singleton Road, Kurrajong.
Area:	55.65 hectares
Zoning:	Hawkesbury Local Environmental Plan 1989 Rural 1(b)
Advertising:	Adjoining owners notified with 86 objections being received.
Date Received:	3rd December, 1990.

REPORT

Background

On 14th August 1990 Council considered a similar application to the one now proposed and resolved to refuse the application for the following reasons:

1. Not in keeping with the Rural/Residential character of the area.
2. Increase in the extractive area will cause a substantial impact on the western and northern properties.
3. Time frame of the thirty years for quarrying is far too long.
4. No buffer zone from the northern property.
5. Increased traffic over thirty years will cause road safety problems.
6. The proposal will cause an unacceptable noise nuisance.
7. That the application is not in the public interest and should be located in a more remote area.

Subsequently, the applicant requested a reconsideration of the matter and Council at its Ordinary Meeting of 9th October 1990 resolved that *"the applicant be invited to submit a new application incorporating the following changes from that previously submitted:"*

1. Reduced time to no longer than ten years.
2. Reduced area of extraction commensurate with No.1 as above, and, in any case being no closer than 100 metres from the adjoining land owned by Egan.
3. The application indicating a proposed inland use after extraction and proposal for site restoration after each stage of extraction.

4. The application not propose any works of any kind, including maintenance, outside the operating hours of 7.30am - 5.00pm Monday to Friday.
5. The survey and pegging out of the proposed extractive site to ensure no encroachment.
6. Sealing of the road to the foot of the quarry.

As a result of the above resolution, the applicant lodged a fresh application on 3rd December 1990. This application was reported to a Special Meeting of Council on 18th June 1991 and, as a result of this meeting, Council resolved to approve the application subject to a number of conditions.

On 17th July 1991 Coral Francis Egan and Evelyn Frances Egan lodged an appeal against Council's decision to approve the development application in the Land and Environment Court of New South Wales.

The Egan's Solicitor advised Council that " ... apart from the merit issues, our clients will also be raising legal issues in the appeal relating to Council's non-compliance with certain mandatory provisions of the Environmental Planning & Assessment Act 1979".

On 25th September 1991, Schaffer Corporation also lodged an appeal against Council's determination of their development application, seeking that the Court declare the consent void as Council had not complied with certain mandatory provisions of the Act in relation to advertising the application.

The basis of the appeal was that Council had not placed the "Development Proposal" sign on the land (in fact the sign was placed 12m from the front boundary) and, secondly, that the applicant's name had not been included on the sign.

Based on legal advice, the development application was again advertised by means of adjoining owner letters; "Development Proposal" signs on the land; and advertisements in the paper. Extra care was taken so as not to breach the mandatory requirements of the Act in relation to advertising procedures. The advertising period concluded on 29th November 1991.

On 6th December 1991 the Land and Environment Court heard Schaffer Corporation's appeal against Council's determination of their development application. The Court ordered that:

- (a) the consent was void;
- (b) C. F. Egan and E. F. Egan be joined as respondents to the proceedings.

As a result of the Court ordering that development consent No.365/90 was void, Schaffer Corporation lodged an appeal in the Land and Environment Court on 10th December 1991 against Council's deemed refusal of the development application. The matter is set down for hearing from 18th May to 29th May 1992.

The purpose of this report is to provide Council with an assessment of this application so that in the event of Court proceedings, which are very likely, the Court is aware of Council's position in the matter.

The Proposal

The applicant has provided the following information.

"The existing quarry has been excavated at least 25 metres to 30 metres into the ridge on which it is situated providing substantial acoustic screening of existing and proposed quarrying and processing operations. The expanded quarry will cover an area of approximately sixteen hectares and has a floor area of approximately twelve hectares at the sixty three metre AHD level. Approximately 4.5 million tons of sandstone has been delineated for extraction on the project site over the next ten years, assuming a base quarry level of sixty three metres AHD. The company estimates that approximately 250,000 tons of the sandstone to that level is suited to the manufacture of dimension stone products.

Future quarrying would be undertaken in a matter similar to that of the existing operation with the exception that blocks for sandstone sawing may eventually be cut from the quarry face by a water jet or similar cutting system. In the mean time, all sandstone would be ripped and pushed by bulldozers. Select oversize rocks would be set aside for sawing. No blasting would be undertaken during the remainder of the quarry's life.

The quarry would be developed with final face gradients of 40 degrees with a seventeen metre face and intermediate depressions every six metres to assist in the long term rehabilitation of the quarry. As the quarry is developed, the perimeter would be progressively rehabilitated to ensure maximum possible reduction in visual impact.

Processing of the sandstone would continue to be undertaken by mobile crushers situated on the quarry floor. The sandstone sawing plant would be located in the north eastern corner of the quarry to ensure maximum screening for noise and visual impact.

The quarry and processing plants would operate five and a half days per week; 7am to 5pm weekdays and 7am to noon Saturdays (Public Holidays excluded). Company owned trucks, loaded prior to 5pm on the previous afternoon would be despatched between 6.30am and 7am on the following day. Maintenance work would be carried out in facilities to be established on the quarry floor. To facilitate a reduction in the possible nuisance and noise associated with maintenance, the company will also undertake certain maintenance off the site and will reduce the hours of maintenance at the quarry to conform with the hours of operation.

As a self regulating measure the quarry gates will be opened at 6.30am and closed for all work at 5.15pm Monday to Friday and 12.15pm on Saturdays. No work will be carried out on Sundays or public holidays. Should it become necessary to carry out specific work or maintenance outside the hours of operation, prior approval of the Council will be obtained.

The sandstone products would be transported from the site by company trucks, sub contractors or other individuals. Each would transport about one third of total production. Present truck traffic from the quarry averages 130 movements per day and peaks at approximately 210 per day. When full

production of crushed sandstone and sawn sandstone blocks is achieved, truck movements are anticipated to average 208 per day and peak at 344 per day.

The operator currently employs 15 persons on site and a further 12 subcontractors for product delivery. The expanded operation, when at full capacity, would employ 31 persons plus subcontractors for product delivery."

The applicant has also provided a statement in relation to Council's resolution on the matter dated 9th October 1990. The applicant states as follows:

"This Environmental Impact Statement is essentially an amended version of the April 1990 document but incorporates the company's responses to a range of issues raised in the discussions with Aldermen of Hawkesbury City Council and surrounding residents during and after the assessment of the first Environmental Impact Statement. The principal amendments to the first Environmental Impact Statement are as follows:

- * the approval time sought is ten years*
- * a buffer of 100 metres is proposed between the northern quarry limit and the northern property boundary. The quarry boundary has been changed slightly and the quarry limit reduced in area by approximately 2.3 hectares*
- * all plans have been amended to accurately show the northern property boundary*
- * alternative plans for maintenance are proposed reflecting the company's proposal not to undertake any maintenance outside approved working hours*
- * the location of the proposed sawing plant has been moved to an area within the quarry which would provide greater acoustic protection*
- * updated statistics*
- * final quarry slopes have been reduced from 45% to 40%*
- * all soil would either be placed in a designated stockpile or placed on a previously quarried area to assist in the rehabilitation of that area*
- * the internal hall road would be sealed from the weighbridge to the floor of the quarry*
- * additional rehabilitation is proposed specifically along the northern boundary of the quarry to reduce the potential for siltation of the creek north of the quarry*
- * a commitment by the company/the operator to meet regularly with neighbours to ensure all issues of concern are discussed*
- * further details are provided on the procedures for controlling discharging excess water from the project site. "*

Statutory Situation

Extractive industries are permissible on the site with Council consent.

The proposal is defined as "designated development". The Environmental Planning and Assessment Act 1979 and Regulations specify procedures which Council must observe prior to the determination of an application for designated development. These procedures have been carried out and the matter may be determined by Council.

Public Notification

Council wrote to 25 adjoining residents advising them of the current proposal. Eighty nine (89) submissions have been received in response to the public notification carried out by Council. The names of people who made submissions are shown in Appendix 1 to this report. The grounds of objection contained in the written submissions are summarised below:

Grounds of Objection	Number of times raised
- Increased truck traffic leading to traffic hazard	62
- Truck noise	58
- Dust pollution from trucks and quarrying (Silica dust)	52
- Local roads, especially East Kurrajong Road, are not designed for truck traffic	44
- Spillage from trucks causes a hazard on roads	29
- Quarry trucks break up roads	19
- Back loading of trucks with soil will further degrade roads	19
- Quarry trucks cause a hazard to schoolchildren at East Kurrajong Primary School	18
- Diesel fumes	17
- Inaccurate data for truck movements east along East Kurrajong Road	11
- Dangerous intersection of corner of East Kurrajong Road and Putty Road	8
- Early morning disturbance from truck noise and/or quarry operations	6
- Possible later use as a rubbish tip	3
- Quarry trucks cause hazard on ferries	3
- Quarry noise	46
- Quarrying will cause scarring of the landscape	41
- Quarry is incompatible with rural/residential uses	37
- Quarry devalues nearby properties	30
- Not in the public interest	28
- Incompatible with scenic attributes of area	23
- Negative impacts on wetlands	22
- Threat to the environment	21
- Polluted water from the site	20
- Loss of amenity	19
- Unacceptable impact on local flora and fauna	16
- Increased siltation of local watercourses	16
- Blasting should be prohibited and allegations of blasting	16
- Applicant has not complied with previous conditions of consent	12
- Incompatible with zoning objectives	12
- Council has not enforced past conditions - no confidence in Council	11
- Noise from sandstone saw plant/lack of noise data	9
- Cumulative affect of nearby Readymix Quarry must be considered	8
- Should be located in a more remote area	8
- Ten year quarrying period is too long	8
- Scale of operation is too large	6
- "Protected Lands" should not be mined	6

- Disruption to amenity of area due to "out of hours" work	4
- Two areas quarried simultaneously - this aspect not covered in EIS	3
- No financial or employment benefit to local residents	3
- Hours of operation are too long	3
- Proposal has not been justified	3
- Liquid fuel depot on the site is prohibited use in the Rural 1(b) zone	2
- Unauthorised crushing and screening has occurred on site since 1982	2
- Processing of sandstone is prohibited on the land	2
- Socially and economically detrimental	1
- Delays in rezoning of the locality	1
- Quarry boundary should be pegged prior to determination of DA	1
- Circumstances of the case	1
- Provisions of the Environmental Planning and Assessment Act 1979 have not been complied with	1
- Not a thorough assessment of all issues raised in previous EIS dated (April 1990)	1
- Alternatives to proposal have not been adequately discussed	1
- Consequences of not proceeding with the development have not been adequately discussed	1
- Serious inadequacies and deficiencies in the EIS prevent proper evaluation	1
- SPCC in their letter of 21/2/92 have advised Council that the noise data in the EIS is insufficient	1
- No comparison of economic benefits vs adverse impact suffered by adjoining landowners	1
- Socioeconomic factors have not been adequately discussed	1
- Hours of operation are unacceptable as they are not in accordance with Council's resolution of 9/10/90	1
- Hours of operation will be breached (applicant has not complied with conditions)	1
- Council should purchase site as per original consent	1
- Inappropriate noise level readings (wet on dam mornings)	1
- Increased ground vibration	1

Planning Assessment

As this matter has a legal history, the planning assessment will be formally structured as per Section 90 of the Environmental Planning & Assessment Act, which lists matters that the consent authority should consider in determining a development application.

The provisions of:

- (i) any environmental planning instrument;
- (ii) any draft environmental planning instrument that is or has been placed on exhibition pursuant to Section 47(b) or 66(1)(b);

- (iii) any draft State Environmental Planning Policy which has been submitted to the Minister in accordance with section 37 and details of which have been notified to the consent authority; and
- (iv) any development control plan in force under Section 72 applying to the land to which the development application relates;

The land is zoned Rural 1(b) pursuant to Hawkesbury Local Environmental Plan 1989.

The objectives of this zone are:

- (a) to primarily provide for agricultural uses and animal establishments;
- (b) to ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities infrastructure;
- (c) to prevent the establishment of traffic generating development along main and arterial roads; and
- (d) to ensure that development maintains the rural character of the locality and to minimise disturbance to the landscape through clearing, earthworks and access roads.

The proposal being defined as an extractive industry is permissible with Council consent. Extractive industries are only permissible with Council consent in two zones, namely, Rural 1(a) and Rural 1(b).

In terms of the objectives of the zone, the subject land and surrounding land consist mainly of Hawkesbury sandstone vegetation. Such land is incompatible with a broad range of agricultural and grazing activities. Land to the north of the quarry contains the flood plain of Roberts Creek. The proposal would not preclude the use of this land for agricultural purposes or for animal establishments.

The proposal will not create unreasonable demands for the extension of public amenities infrastructure.

The proposal does not have direct vehicular access to a main road.

The Roads and Traffic Authority has requested certain works to improve the intersection of East Kurrajong Road (No.2) and Singleton Road.

Extractive industries are only permitted within Rural zones in the City of Hawkesbury, therefore it cannot be argued that they are not part of the rural character of an area. The existing quarry workings cover a surface area of approximately 7 ha. The final quarry limit will extend this area to 16 ha. The amount of material won which will be won from the quarry is substantial (4.5 million tonnes). Extraction of the same amount of material in another area would more than likely require more than 9 ha. of clearing and earthworks as the existing pit provides easy access to the sandstone resource. Also, the location of the existing and proposed quarries are such that it is well shielded from most vistas.

In conclusion, the proposed development is considered to be consistent with objectives of the zone.

No draft planning instrument or development control plan is relevant to the assessment of this application.

- (i) any conservation agreement entered into under the National Parks and Wildlife Act 1974 and applying to the whole or part of the land to which the development application relates; and
- (ii) any plan of management adopted under that Act for the conservation area to which the agreement relates;

The land is not affected by a conservation agreement entered into under the National parks and Wildlife Act, 1976.

the impact of that development on the environment (whether or not the subject of an environmental impact statement) and, where harm to the environment is likely to be caused, any means that may be employed to protect the environment or to mitigate that harm;

Noise

The proposal has the potential to generate noise from the following activities:

1. Trucks travelling from the quarry and travelling towards the weighbridge and site entrance.
2. Empty trucks entering the quarry site.
3. Trucks leaving the quarry site.
4. Earthmoving machinery within the site.
5. The crushing plant on the quarry floor.
6. The proposed sandstone sawing plant.

One objector to the proposal has engaged another noise consultant to assess the Sections in the Environmental Impact Statement dealing with noise. The noise consultant has listed a number of deficiencies in the Environmental Impact Statement and his report has been valuable as an assessment tool.

The prediction of noise levels at some future time at adjoining properties is a complicated exercise. Whether these predicted levels are then considered acceptable involve further calculations and assumptions. In a nut shell, there are two criteria which are used in assessing whether the noise impacts of a proposal are acceptable. These are:

1. That noise from any single source does not intrude greatly above the prevailing background noise level; and

2. That the background noise level does not exceed the level appropriate for the particular locality and land use.

It is apparent from the data supplied by the EIS that the first criteria will be breached in those situations where quarrying is occurring above the eighty metre AHD contour as there is limited noise attenuation available apart from existing vegetation. Once quarrying goes below the eighty metre level then the quarry rim will significantly reduce noise levels.

The applicant has agreed to a two fold approach to minimise the noise associated with high level workings. That is, normal operating hours will apply to those areas where there is a minimum 7 metre high bund wall. Where such a level of noise attenuation is not present, the hours of operation will be restricted to between the hours of 9.00am and 3.00pm.

In relation to the second criteria, the acceptable background levels set by the SPCC for a rural/residential land use should not exceed 45dBA. The subject site adjoins a major thoroughfare and therefore the acceptable levels should be raised slightly to say 47dBA. There is little doubt from both the EIS and especially the objectors noise consultant's report that some adjoining residences will be affected by noise during the quarry operations. However, using the State Pollution Control Commission's Guidelines the proposal conforms with the upper limits of the acceptable noise limits criteria.

There will be noise pollution associated with the proposal, however, the magnitude of the pollution is not great enough to warrant refusal of the application.

The EIS mentions that a water jet cutter would be used at some future time in the quarrying operation. The objector's noise consultant indicates that such a cutter would have unacceptable noise characteristics. It is recommended that the introduction of a water jet cutter to the operations should be the subject of a separate development application.

Similarly, insufficient noise data is available for the sandstone saw as it is to be custom built for this operation. The same approach should be adopted as in the previous application where the applicant would be required to build the saw and test it on site. If the saw was to meet SPCC Guidelines then the applicant would submit a noise consultant's report and details of operating procedures for future approval by Council. The applicant has agreed to this procedure.

The sealing of the internal haul road will significantly decrease noise associated with trucks.

The noise impacts due to increased truck traffic do have potential to decrease the amenity of residents in the East Kurrajong Road. This will be addressed in a following section.

In conclusion, the SPCC was requested to comment on both the sections dealing with noise in the EIS as well as the objectors noise consultant's report. The SPCC has replied by stating:

"It is likely that an approval would be given by the commission subject to certain conditions which the Commission feels that the company would be able to comply with."

Air Pollution

A number of objections to the proposal raised the concern that the proposal would cause silica dust to be emitted into the atmosphere with the consequent possibility of residents in the area contracting silicosis.

This aspect was not raised by the SPCC as an area of concern in its comments to the application and, in discussions with the Department of Mineral Resources who are the controlling authority for working conditions for employees at mines, it was indicated that, whilst there are conditions to be met by companies to safeguard their employees, insofar as enclosing of cabins on certain vehicles, etc., the possibility of silica dust causing nuisance or endangering health to others in the locality is too remote to be of concern. A condition will also be imposed requiring that all loads be covered prior to trucks leaving the site. This was not stipulated on the original consent issued in 1973.

An undertaking was included in the EIS accompanying the application that the applicant would wash truck wheels to minimise dust and debris leaving the site. This, in fact, may cause more debris to be deposited on the road. It may be that the length of the paved access road from the quarry face to East Kurrajong Road may be sufficient in itself to minimise dust and debris being deposited on the local roads and it may be more appropriate to waive this undertaking so that the situation can be monitored for a period of say, three months. This has been covered as a condition of consent.

The amount of diesel exhaust generated on site is negligible in the context of overall traffic movements on Putty Road.

Water Pollution

The applicant has proposed to clear approximately 2 to 3 hectares of trees on protected lands as defined by the Soil Conservation Service in NSW. The service has no objection in principle to the clearing of this land, however, it has provided conditions to the applicant on how this is to be carried out.

The proposal has the potential to cause sand, silt and clay fractions to be washed from the site onto adjoining properties and eventually into Halls & Irwins Wetlands. Both the Soil Conservation Service and the Water Resources Commission have provided guidelines on how to minimise the potential of soil erosion from the site. These guidelines can be converted into conditions of consent in such a way that discharges from the site can be relatively easily monitored. Their comments are reproduced in a following section dealing with public authority submissions.

The applicant will also be required to install grease and oil separators especially in the vicinity of the workshop to minimise pollution on downstream properties.

The sedimentation dam on the site has a storage capacity in excess of 8,000 cubic metres which would provide a storage capacity of at least 500 cubic metres per hectare for the final area covered by the quarry. The size and location of the sedimentation dam is satisfactory and it will be required that it be maintained to the abovementioned capacity as a condition of consent.

the effect of that development on the landscape or scenic quality of the locality;

Part of the quarry workings are visible from the Singleton Road when travelling south. The expanse of workings visible from the road are minor when compared to the extensive natural stands of Hawkesbury sandstone vegetation which dominates the landscape in this locality. Given the small area of the quarry both existing and proposed which will be able to be viewed from a public place (Singleton Road) the impact on the scenic quality of the area is minor.

The setting of the quarry is such that visual impact on adjoining properties is well shielded by rock outcrops and natural bushlands. The quarrying techniques as outlined in the EIS ensure that bushland is maintained on the quarry rim.

The revised EIS provides for a 100 metre wide buffer from the northern quarry limit to the northern property boundary. The immediate objector to the north has provided photographs which showed extensive quarry workings that are visible from their property. Some of the photographs are taken from a sandstone ridge on the opposite side of Roberts Creek. No houses are located on this land.

The design of the quarry is such that the vast majority of the quarry would not be able to be viewed from adjoining properties.

the effect of that development on any wilderness area (within the meaning of the Wilderness Act 1987) in the locality;

This head of consideration does not apply to this proposal.

the social effect and the economic effect of that development in the locality;

The proposal being the extension of a quarry has little social effect in the locality. That is, the proposal may influence the lives of individuals or families (and this is discussed under the heading of amenity), however, the proposal has little effect on relationships between human beings in the community.

The economic effect of the proposal in the locality can be considered in a number of ways. It is unlikely that a quarry producing sandstone products could be located closer to Richmond/Windsor and the general Sydney market within the City boundaries (i.e. there are no sandstone outcrops at Windsor). This being the case, the location of the quarry enables it to be more competitive in the market.

A number of objectors have raised the concern that extension of the operating life of the quarry will devalue property values in the area. Research has shown that the majority of houses in the locality have been erected since the start of the quarry operations. Quite a number of the residences being constructed in the 1980s. These properties were often purchased with the knowledge that the quarry was operating at the time, consequently, the purchase price reflected the existence of the quarry. If the proposal is approved the status quo will not change in that the quarry will continue to operate as it has done for the past twenty years.

A point has been raised by objectors that should this application be not approved then the status quo will only remain during the currency of the present consent, i.e., until August 1993, after which property values may increase by virtue of the quarry no longer operating. Whilst it is conceded that property values may increase as a result of inactivity of the quarry, it is considered that such would be very difficult to quantify and would not likely cause a significant change in valuation such as would outweigh all other issues and warrant refusal of the application.

the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of that development;

The physical characteristics of the site enable the quarry to be developed with minimal impact on the landscape. The size of the quarry is not excessive when compared with other sandstone quarries in the metropolitan area.

the size and shape of the land to which that development application relates, the siting of any building or works thereon and the area to be occupied by that development;

The size and shape of the land does not preclude the proposal, in fact, it provides a satisfactory buffer.

whether the land to which that development application relates is unsuitable for that development by reason of its being, or being likely to be, subject to flooding, tidal inundation, subsidence, slip or bush fire or to any other risk;

The land is within a high bushfire risk area, however, the activity will not increase the fire hazard to any degree, in fact, it can be argued that by removing vegetation the proposal will help to create a buffer to adjoining properties to the east. None of the other factors are relevant.

the relationship of that development to development on adjoining land or on other land in the locality;

The quarry proposal is well buffered by the parcel of land upon which it is located. The connection between the proposal and adjoining lands is through such issues as air, noise and water pollution, visual impact and traffic impact. All these issues are covered under other heads of consideration.

As stated previously, the proposal is not considered to be incompatible with the use of surrounding lands given the zoning is rural.

whether the proposed means of entrance to and exit from that development and the land to which that development application relates are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles within that development or on that land;

The entrance of the quarry site is from East Kurrajong Road, Section 2, and is approximately 200 metres from the intersection of East Kurrajong Road and Singleton Road. The matter was referred to the Regional Traffic Committee who have identified that the abovementioned intersection needs to be improved. That is, a traffic device needs to be provided at the intersection so that trucks coming from Wilberforce along Singleton Road cannot cut the corner. The device will also prevent trucks turning right out of East Kurrajong Road, Section 2, into Singleton Road. This can be covered as a condition of consent.

The layout of the quarry, as well as office and maintenance buildings, is satisfactory in terms of parking, manoeuvring and loading/unloading.

the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system;

The proposal will substantially increase truck movements to and from the site. The applicant has indicated in the EIS that:

"Virtually all the products are currently delivered by trucks turning right from the project site onto East Kurrajong Road (Section 2) and then left into Putty Road. Trucks only turn left into East Kurrajong Road (Section 2) or right into Putty Road when delivering local orders."

The majority of complaints regarding safety and noise are by the residents on or users of East Kurrajong Road (Section 2). This road is of a local rural road standard and does not have the optimum design (vertical/horizontal alignment) or width to sustain an increase in truck traffic. Council now has the opportunity to prohibit usage of East Kurrajong Road (Section 2) by trucks operating out of the Schaffer Quarry. This can be achieved as a condition of consent. This action will overcome the

majority of concerns regarding traffic hazard and traffic noise in the locality. If quarry products are required for destination via the Sackville Ferry the trucks will be required to travel along main roads to reach this destination (i.e. Singleton Road and Sackville Road).

It would be unreasonable, however, not to permit the use of East Kurrajong Road (Section 2) by the applicant's trucks where road repairs are required by Council. This aspect can be covered as a condition of consent.

The Roads and Traffic Committee also stated that:

"The levee of 2 cents per ton towards roadworks levied in 1972 be reviewed to a more realistic levy. The committee considers 3 cents per ton per kilometre a more appropriate levy."

In regard to the above, the applicant would be required to pay a levy to Council of 46 cents per pay load ton. This levy would be allocated to the repair and maintenance of State and Regional roads which are traversed by trucks associated with the proposal. The amount has been calculated in accordance with RTA requirements and as provided in recent land and environment court decisions.

The company, of its own volition, has indicated that it is prepared to relinquish its current consent, which is not due to expire until August 1993, within three months of the issue of the subject consent, subject to the road levy being deferred until the time when the existing consent would expire.

That is, the company is prepared to relinquish its current consent within three months and then operate on the terms of the new consent which would benefit Council insofar as the new conditions and, arguably would not cause Council to lose anything for road royalties as, in theory, even if the new consent is issued, it does not have to be actioned until June 1993, with the company being able to rely on its existing consent until that time. This is considered to be a significant negotiation with the company and, particularly, since they are also prepared to pay an amount of ten cents per tonne royalty until August 1993, in lieu of the current two cents being paid.

In conclusion the capacity of the road system is adequate to carry peak volumes of traffic when the quarry is fully operational.

whether public transport services are necessary and, if so, whether they are available and adequate for that development;

This consideration is not applicable in this case.

whether utility services are available and adequate for that development;

Utility services are available and adequate for the proposal.

whether adequate provision has been made for the landscaping of the land to which that development application relates and whether any trees or other vegetation on the land should be preserved;

The quarry operations are proposed to be staged with the emphasis to be on progressive rehabilitation. The EIS provides satisfactory guidelines for the rehabilitation for the various stages. Put simply, the quarry faces will be benched. The bench or flat parts will be topsoiled, sowed with grasses, then acacias and, finally, eucalypts will be encouraged. To ensure that the proposal conforms with the rehabilitation specifications in the EIS it is recommended that the applicant submit a yearly account of rehabilitation works in the form of a yearly "works as executed" drawing showing both the stage of quarrying as well as the stages of progressive rehabilitation.

The company, after negotiation, is further prepared to provide a cash bond of \$10,000 in respect of the restoration required as part of the EIS for each stage, with the Council being able to redeem part or all of the bond if it is not satisfied that restoration is being carried out in accordance with the EIS and with the bond to be made to be "topped up" by the company should it wish to continue operation.

The EIS concludes the section on rehabilitation by stating;

"The company's products are often despatched to sites where excess soil is present. It is the company's intention wherever possible, to back load with imported soils for use in the long term rehabilitation. These soils will be placed either directly onto areas requiring rehabilitation or onto the designated top soil stockpiles. No materials other than topsoil are to be back loaded to the quarry. It is proposed that the use of the imported soil be confined mainly for the revegetation of the quarry floor."

The importation of soil onto the site is not supported because from experience it is difficult to control the quality and quantity of soil being imported to the site. In fact, some fill may be contaminated and thus effect downstream wetlands. Furthermore, imported fill can also contain a variety of weeds which may be detrimental to the surrounding natural bushland. Enough overburden and topsoil exists on site to rehabilitate the land.

The applicant has indicated that when finally rehabilitated the quarry floor would have an area of approximately 12 hectares and would be suitable for subdivision into rural residential lots. The quarry haul road could be incorporated into the subdivision.

This may be a feasible option, however, the drainage of the site would need to be carefully designed. This is for future examination and does not prohibit the determination of the proposal.

No significant trees or other vegetation preclude the proposal from proceeding.

whether that development is likely to cause soil erosion;

Advice has been received from the Soil Conservation Service and excerpts are produced as follows:-

Excerpt from letter dated 29th November 1991:

"The document has been reviewed and the site inspected as outlined in our letter of 18th February 1991. The Service has no objection to the proposed development providing these comments are considered. A copy of this previous correspondence is enclosed. Also enclosed is correspondence forwarded to the proponent, outlining remedial measures required to the existing operation's sediment control measures.

The spillway and downstream batter of the sedimentation dams was of particular concern at that time. This matter was brought to the attention of the Service by Mr. Halpin and remedial measures have been recommended. The spillway is an essential part of the design of the sedimentation dam, to cater for the discharge from the site. These works are of great importance in relation to site stability and should be implemented and then maintained in a functional state. Their importance is highlighted by the terrain below the spillway and the impracticality of installing sediment control measures."

Excerpt from letter dated 18th February 1991:

"The document has been reviewed and the site inspected. The Service has no objection to the proposed development providing the following additional comments are considered:

- i) p29, Section 3.2 Topography *"Figure 3.1 shows that some ..., the area is minimal". It is stressed that the statement "The area of land defined as 'protected' on Figure 3.1 has been clarified in terms of the area where slopes exceed 18 degrees, that is the area is minimal", is incorrect, in that the area affected by protected land legislation is that which is mapped as protected land, regardless of the existing slope. The conditions pertaining to protected land have been outlined in a letter to R.W. Corkery Pty. Ltd. (19/3/90). A copy of this letter is attached for your information. The clearing of less than 2 ha. of protected land (p34 of EIS) must therefore relate to the areas mapped as protected land.*
- ii) p48, Section 4.2 Water Pollution Controls *The Sedimentation dam does not have a constructed spillway and the downstream batter is eroding. This matter was brought to the attention of the Service by Mr. Halpin and remedial measures have been recommended (see letter to Mr. J. Halpin 7/2/91). The spillway is an essential part of the design of the sedimentation dam to cater for the discharge of water from abnormal rainfall events.*
- iii) p27, Section 2.14.1 Rehabilitation *Discussions with Mr. Halpin indicate that the proposed small depressions to remain in the batters are to be constructed as the batter is being formed. It is recommended that the direct seeding of native trees and shrubs at the time of sowing of other grass species be considered. The Service has successfully utilised this procedure*

in the rehabilitation of quarry faces within the Metropolitan area.

- iv) p28, Section 2.14.1 *It is noted that imported soils are to be placed either directly on areas to be rehabilitated or on the quarry floor. Soil testing for the physical and chemical properties of the topsoil is essential prior to its testing of both subsoil and topsoil."*

The Soil Conservation Service comments are endorsed and have been included as conditions of consent. It should be noted that the quarry operator has constructed a temporary spillway, in solid rock, from the existing sedimentation dam to comply with the Soil Conservation Service requirements.

any representations made by a public authority in relation to that development application, or to the development of the area, and the rights and powers of that public authority;

Roads and Traffic Authority

"The Committee raises no objection to the amended application for the continued use of an existing sandstone quarry at East Kurrajong provided the following points are addressed:

1. *The levy of \$0.02 cents per tonne towards roadworks originally levied in 1972 be reviewed to obtain a more realistic levy.*

The Committee considers \$0.3 cents per tonne per km a more appropriate levy.

2. *All trucks leaving the site should have their wheels washed to minimise dust and debris being deposited on Putty Road. All loads leaving the site should also be covered.*
3. *A median strip be constructed on East Kurrajong Road (Section 2) at Putty Road to improve traffic conditions. Cost to be borne by the developer."*

State Pollution Control Commission

"The premises are scheduled under both the Clean Air Act and the Noise Control Act. Therefore, the Company will be required to make application to the Commission for a Pollution Control Approval prior to any alterations in the method of operation or for installation of further equipment. It is likely that an approval would be given subject to certain conditions which the Commission feels the Company would be able to comply with."

Water Resources Commission

"Previous concerns about chemical pollution have been adequately addressed in the EIS.

The Department is concerned about the effectiveness of measures taken to avoid solids entering Roberts Creek. After site inspection and detailed discussions with the Soil Conservation Service, it is recommended that:

- a) the suspended soil concentration of water discharged from the sedimentation dam should not exceed 50 mg/l (NSW SPCC guideline);*
- b) suitable measures to minimise sediment transportation should be installed to the satisfaction of the Soil Conservation Service and the SPCC if water discharged from the sedimentation dam contains more than 50 mg/l of suspended solids; and*
- c) a mechanism to monitor and review the effectiveness of all environmental safeguards should be incorporated as a condition of consent to the subject development application."*

Department of Planning

"...The Department has examined the submissions and considers that this proposal is appropriate for determination by Council, taking into account the various matters that have been raised. Council will be aware that the determination of the proposed development should take into account all those matters specified in Section 90(1) of the Environmental Planning and Assessment Act, 1979.

In this regard it is noted that considerable concern has been expressed in the submissions about the adequacy of the EIS. Council should, in the circumstances, satisfy itself that it has adequate information to determine the application. Your attention is drawn to the SPCC's letter to Council dated 21 February 1991.

It is noted that a number of the submissions express concerns about the ability of the proponent to manage the environmental impacts of the development and also the ability of the Council to enforce controls on the development.

Under the circumstances, should Council determine to grant approval, it should satisfy itself as to the good faith and ability of the proponent to comply with and implement controls that protect the environment. Additionally, the Council should examine its own position and consider its own willingness and ability to monitor and enforce any such controls.

Council is reminded that conditions attached to a consent should be specific enough to allow any member of the public to observe their compliance. The consideration by Council of a condition requiring a bond equivalent to the estimated cost of rehabilitation works to be lodged with a responsible body may be appropriate. Similarly, a sunset condition may be appropriate.

If Council proposes to refuse the application, it should still consider the need for rehabilitation measures.

It is noted that considerable concern has been expressed in the submissions about the transport impacts of the subject operation and its proposed expansion on the condition and safety of Putty Road and East Kurrajong Road. In this regard, the requirements of the Roads and Traffic Authority as outlined in their letter dated 1 February 1991 should be incorporated into any consent granted by Council.

It would be appreciated if a copy of the Council's determination could be forwarded to the Department for our information."

The advice of the Roads and Traffic Authority, the State Pollution Control Commission and the Soil Conservation Service of NSW have been discussed in previous sections.

The Department of Water Resources' comments are noted and have been included as conditions of consent.

The Department of Planning's comments are also noted, especially those which relate to the company's ability to comply with and implement controls that protect the environment. The Department's comments regarding Council's position are also worthy of comment.

Numerous objectors have stated that the operators of the quarry in the past have not complied with Council requirements nor the conditions of consent.

Council's records show that Council officers have investigated the site on many occasions after allegations of out of hours work and noise problems. Sometimes these allegations were found to be incorrect and at other times the applicant was advised to adhere to the conditions of consent or face legal proceedings.

The loose wording of the original 1973 consent also made it difficult to enforce problems with the quarry such as traffic hazard and spillage of loads.

Council has also, over the last ten years, become more aware of its responsibilities as an environmental "policeman" and accordingly new consents are more strictly conditioned and enforced.

the existing and likely future amenity of the neighbourhood;

Many aspects of the amenity of the locality have been covered in previous sections, i.e. dust, visual impact and general quarry noise.

Residents concerns in relation to the disruption to the amenity of the area due to out of hours work is acknowledged. The applicant's proposed starting time of 6.30am for trucks loaded the previous day would be difficult to police. That is it would be difficult for Council to ascertain whether trucks leaving the site at 6.30am were loaded in the morning or were loaded the previous evening. A more effective means

of controlling our to hours work would be to stipulate a single opening and closing time for the quarry.

Negotiations were held with the Company in relation to restricting the quarry operating hours to between 7am to 5.15pm Mondays to Fridays and from 7am to 12.15pm on Saturdays with no work to be carried out on Sundays or public holidays.

The Company has indicated that the quarry industry relies on early starting times so that material can be provided at an early time at construction sites. The Company has suggested that there could be an additional gate on the property which restricts access to the extraction site and that rucks could be allowed to enter the site generally but not the extraction site which, in turn, would obviate their need to park on the road and therefore cause less nuisance to nearby houses. This has apparently been utilised on other extraction sites with success and the suggestion is supported.

Furthermore, the application contains the statement that all maintenance on site will be carried out within the proposed operating hours with the proviso that urgent repair or work (e.g. flood control), may be required out of hours and on these occasions Council approval would be sought. This is acceptable and can be conditioned.

without limiting the generality of paragraph (a), any matter specified in an environmental planning instrument as a matter to be taken into consideration or to which the consent authority shall otherwise have regard in determining the development application;

This head of consideration does not apply in this case.

any submission made under Section 87 ("designated" development submissions); the circumstances of the case; the public interest; and any other prescribed matter;

The majority of concerns expressed by objectors have been covered in this report. This section will comment on the remaining concerns which do not neatly fit into the abovementioned categories.

Quarry trucks cause hazard to schoolchildren at East Kurrajong Primary School

East Kurrajong Public School is located some 5 km from the proposed quarry. Numerous trucks travel along East Kurrajong Road and, as the principal supply route from the proposed quarry is Singleton Road, it is unlikely that the truck traffic generated by the proposal will cause a significant hazard to children at the school.

Blasting

The EIS specifically states that no blasting will take place. The consent is linked to the EIS and no extra specific condition is required.

No Justification of the Proposal

The applicant has justified the proposal by stating the following:-

"The consequences of not proceeding with quarry extensions beyond August, 1993, are as follows;

- 1. A resource of approximately 4.5 million tons of sandstone would not be extracted, resulting in greater costs for construction companies, home builders and local councils.*
- 2. The owners and staff of Halpin Quarries Pty Ltd would be forced to look elsewhere for future employment. The local community would lose a substantial prospective economic benefit.*
- 3. Some of the demand for replacement products would be met by the Ready Mix Quarry, located two kilometres beyond the company's quarry on East Kurrajong Road (Section 2). This would result in increased traffic levels on this section of the road.*
- 4. The opportunity to produce a range of sandstone pavers and blocks within the Hawkesbury City Council area would be lost."*

The applicant's remarks in this regard are supported.

Increased Ground Vibration as a Result of the Proposal

No evidence exists to support this allegation.

Cumulative Effect of Nearby Ready Mix Quarry

The two quarries are located within 2 kilometres of each other. The cumulative noise, air pollution and traffic impacts are not of such significance as to warrant refusal of the application, especially since the proposal only uses 200 metres of East Kurrajong Road (Section 2).

Proposal Should be Located in a More Remote Area

The Hawkesbury sandstone formation extends for many hundreds of square kilometres, west and north of the subject land. Numerous sites have the potential to be developed for a quarry but given the locations and extent of works of the existing quarry, there are economic and environmental benefits for the proposal.

Delays in Rezoning of the Locality

Not relevant as zoning changes do not rely solely on location of individual land uses.

Ten Year Quarry Period is Too Long

Given the scale of works proposed, ten years is a reasonable period to carry out the works.

Processing Sandstone is Prohibited on the Land

The applicant has consulted with the Department of Planning who have advised that "As development consent is required for the proposal, and it is a designated development within the meaning of Schedule 3 of the Environmental Planning and Assessment Act Regulation, 1980, as amended, an Environment Impact Statement must accompany the Development Application to Hawkesbury City Council."

The information supplied in the Environmental Impact Statement provides the basis for categorising the development. It is considered that the overall development complies with the definition of extractive industry as contained in the model provisions of the Environmental Planning and Assessment Act, 1979. Put simply, extractive industry is the winning of extractive material. Extractive industries may take the form of dredging operations, quarrying operation and various other forms of land excavation. The processing of extractive material on the same site as the winning of the material, may also constitute an extractive industry. The nature and extent of the processing activity determines how consent authorities define the proposed activity on a site.

In this case, the dominant purpose for which the applicant seeks consent is the winning or quarrying of the sandstone. The secondary purpose of the activity is the preparation of that material for sale. This preparation includes crushing, screening and sawing extractive material into a saleable commodity. As these activities are derived from the primary activity on the site it is considered that the processing of extractive material is part of the overall extractive industry on the site.

Liquid Fuel Depot Prohibited on the Site

The storage of fuel is ancillary to the principal use of the land which is for the purpose of an extractive industry. Without a reasonable fuel store, the proposal would be difficult to manage in an economical manner.

Unacceptable Impact on Flora and Fauna

The proposal results in the removal of 9ha of Hawkesbury Sandstone habitat. No rare or endangered species will be affected. On a regional scale the impact of removing this habitat is negligible.

Unauthorised Crushing and Screening has occurred on site since 1982

Council has received advice from its Solicitors that, given the history of the matter, Council would be unsuccessful in taking legal action.

CONCLUSION

The steep nature of the topography in the vicinity enables the proposal to be visually as well as acoustically shielded. The close proximity to a main road (approximately 200 metres minimises conflicts with residential traffic).

The sandstone won from the quarry is extensively used in the district and economically there are flow on effects to the local community. The quarry proposal has been designed in such a way as to minimise environmental pollution.

There will be noise impact experienced by adjoining residents, however, the quarry operators will be required to take all practical measures to minimise these noise effects.

On balance the proposal has been well designed and is located in an area that enables a minimum of people to be affected by an activity that is needed by the community.

IT IS RECOMMENDED THAT approval be granted to the application subject to the following conditions:

1. The extraction operation, including rehabilitation works is to be carried out in accordance with the details contained in the Environmental Impact Statement, prepared by Robert Corkery dated November, 1990.
2. Further approval is required from Council prior to installation and operation of any cutting mechanisms as specified in the Environmental Impact Statement. Such approval will only be granted after it has been demonstrated, in the form of a noise impact assessment acceptable to both Council and the State Pollution Control Commission, that the apparatus can be contained on site in a satisfactory manner.
3. Compliance with any requirements of the State Pollution Control Commission.
4. Compliance with any requirements of the Soil Conservation Service of NSW, especially the requirements specified in their letter dated 18th February, 1991.

5. Operations involving extraction, processing and transportation of raw materials shall not take place on the land except between 7.00am and 5.15pm, Monday to Friday and between 7.00am and 12.15pm, Saturday and at no time on Sundays and Public Holidays. In this respect there shall be erected a gate between the road boundary and the extraction site, which is not to be opened until 7.00am, and a further gate on the road boundary which is not to be opened until 6.30am but which, after opening, may permit the passing of unladen trucks to enable them to be contained on site awaiting the opening of the 7.00am gate.
6. Quarrying operations which are carried out above the 80m (eighty) AHD contour shall only take place between the hours of 9.00am - 3.00pm unless there is provided a noise attenuation earth or quarry face bund of minimum 7m (seven) in height. Such bund is to be positioned so as to minimise noise emissions and shall apply in addition to requirements of the State Pollution Control Commission.
7. No trees are to be cleared or lopped outside the limits of the proposed excavation without prior approval of Council.
8. The access road to the quarry floor shall be sealed prior to the completion of Stage 1.
9. Parking shall be provided for 23 (twenty three) vehicles in accordance with Council's regulations and parking policy. Parking spaces, access ways and aisle widths to conform to Council's specifications and to be constructed, drained, sealed and marked. Full details of works shall be submitted for approval with the building application.
10. Submission of a building application, plans and specifications complying with Ordinance 70.
11. The applicant shall construct a traffic device at the intersection of Singleton Road and East Kurrajong Road, Section 2, such work shall not commence until plans have been submitted to and approved by the Manager of Engineering Services and the Roads and Traffic Authority, should that be required. The works are to be completed within 6 (six) weeks of approval of the engineering plans.
12. From the 1st July, 1993, the applicant shall pay or procure payment to Council of a contribution under Section 94 of the Environmental Planning and Assessment Act, 1979, at the rate of 46 (forty six) cents per tonne of all extracted materials transported from the subject site and in respect of the said contribution the following provisions shall apply:-
 - (i) The said contribution shall be calculated and paid monthly from the date on which the development consent became effective.

- (ii) The said contribution will be indexed and adjusted annually as from the date the consent became effective in accordance with the Road Construction Index applicable to each year ending 30th June, for the duration of the development consent and the said adjustment to the contribution shall take effect from and including July each year for the duration of the consent.
- (iii) On or before the 14th day of each month the applicant shall deliver or procure delivery to the Council of the true certified copy weighbridge or other returns or records showing the true quantities of extracted materials transported from the property during the immediately preceding months and the Council will then as soon as it can conveniently do so issue to the applicant or its consenting assignee an invoice for the contribution payment payable for the month, which payment the applicant or its consenting assignee will pay to the Council within 14 (fourteen) days of the date thereof.
- (iv) The Council has the right to inspect and have the original records relating to any of the extracted material, including numbers and types of laden trucks and trailers and load quantities transported from the property, audited by any person nominated by its internal accountant at any time as and when he may by written so require.
- (v) The Council will pay all of the said contribution payments into a specially identified trust account for payment towards the rehabilitation, restoration, repair and/or maintenance of State and regional roads used by trucks transporting material from the quarry.

From the consent date until 30th June, 1993, the contribution rate shall be 10 (ten) cents per tonne.

- 13. Prior to leaving the site, all loaded trucks shall have their payloads fully covered by a suitable material to prevent spillage from the truck onto the road.
- 14. Council reserves the right to impose a condition to have a mechanism whereby wheels of trucks leaving the site are washed to minimise dust and debris being deposited on roads, however, shall monitor the operation for 3 (three) months without such a facility to ascertain whether such is required.
- 15. The sedimentation dam on the floor of the quarry shall be constructed to a capacity of 500 (five hundred) cubic metres per hectare of disturbed area.
- 16. The sedimentation dam shall be cleared out if it does not meet the specifications in Condition 15.
- 17. Water emanating from the sedimentation pond shall not have a suspended solid concentration exceeding 50mg (fifty) per litre.

18. Stormwater run-off from the workshops shall be directed through oil and grease separators.
19. Works as executed drawings shall be submitted for Council's information every 12 (twelve) months from the date of the issue of consent. The works as executed drawings shall show quarrying as well as rehabilitation works.
20. No fill shall be imported to the site.
21. The consent is limited to a period of 10 (ten) years. Any further extensions will require separate application and consideration by Council at that time.
22. No trucks entering or leaving the quarry shall travel along that section of East Kurrajong Road, Section 2, which is located east of the access road to the quarry apart from trucks delivering material for works associated with East Kurrajong Road, Section 2, or with properties fronting that road.
23. All maintenance and repair to plant and equipment shall take place only between 7.00am and 5.15pm, Monday to Friday and 7.00am to 12.15pm, Saturday and at no time on Sundays and public holidays.
24. Suitable measures to minimise sediment transportation shall be installed to the satisfaction of the Soil Conservation Service and the State Pollution Control Commission if water discharged from the sedimentation dam contains more than 50 mg/l of suspended solids.
25. The applicant shall provide a report once every 3 (three) months, prepared by a qualified professional, in relation to the quality of water flowing off the site from the sedimentation dam.
26. The applicant shall pay to Council a bond in the amount of \$10,000 (ten thousand) in a form acceptable by Council, such bond to be utilised by Council in the event of there not being satisfactory restoration for each stage as incorporated within the Environmental Impact Statement. Should the bond be utilised by Council, the amount is to be "topped up" by the applicant within 2 (two) months otherwise further extraction cannot continue.
27. The existing development consent on the land is to be relinquished within 3 (three) months of this consent date.

APPENDIX 1

Antrum M
Andrew K
Bullock R E & H A
Bryant D L
Bryant G W
Crosby J & G
Chaseling S & C
Chinner S H
Cooke L & K
Cutts J H
Chellingworth E
Chapple D J & J A
Chellingworth B
Dolan S
De Paoli A
De Paoli G
Donohoe D & G
Dolan P
Douglas C
Diehm J
Deasy B
Danes R
Douglas I
Edwards J N & R J
Egan C F & E F
Forster M
Ferguson P S & L A
Ferguson S
Gracie G & E
Greenhalgh R & J
Giteau Mr C & Mrs C & C
Gordon H & Harvey J
Hinder P K & J L
Highnam D
Hammond E
Henderson R
Ironside N
Janson C A & J C
Kennedy E
Knapman M & R D
Lloyd P
Linfoot G
Latta P J
Larking S & M
Lloyd E F
Lance K
M.O.S.E.S.
Melville S

Martello C
McDonald K
Mohr G
McGowan T & D
Milligan C
Milligan A E
McGloin N
McGovern R A A
McGovern R L
Moerig A A M & M
Millen F
Magdi Mr & Mrs
Nepean/H'bury Catch. Man. Council
Packer L
Packer J
Rowell S & P
Raphael N M & A P
Rutter A & E
Rankin G
Ross R A
Rothwell S
Rees B
Rees P
Rees D
Rees K
Rees M
Rees S
Soil Conservation Service
State Pollution Control Commission
Sullivan N
Spence D
Small E
Stephenson E B
Taylor C & V
Tanner C
Taylor P A
Thorn K & B
Water Board
Williams I & L, Burns L, Moran R
Water Resources
Department of Planning

CONSULTANTS - EIS - SAND MINING

1. R. W. Corkery & Co.,
P.O. Box 80,
Orange NSW 2800
Telephone - (063) 625411

2. Resource Planning Pty. Ltd.,
Metford Road,
Metford NSW 2322

P.O. Box 388,
East Maitland NSW 2322
Telephone - (049) 342355

3. Earth Resources Australia Pty. Ltd.,
621 Pacific Highway,
St Leonards NSW 2065
Telephone - (02) 430747

4. Robertson Australia Pty. Ltd.,
77 Pacific Highway,
North Sydney NSW 2065
Telephone - (02) 9573199

Babiana Abattair (Kill Figures)

Owner - Vollman Enterprises.

	<u>CATTLE</u>	<u>SHEEP</u>	<u>PIGS</u>
1983 - 84	2524	6328	1782
1984 - 85	3201	29789	409

Owner Babiana P/L.

	<u>CATTLE</u>	<u>SHEEP</u>	<u>GOATS</u>
1988 - 89	279	120,995	2883
1989 - 90	2972	95,743	1416

NB



KILL UNITS - 1 COW = 5 SHEEP.

CHURCH & GRACE

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JAMES ARTHUR CREECH, LL.B.

CONSULTANT:

FREDERICK JAMES CHURCH, O.B.E., LL.B.

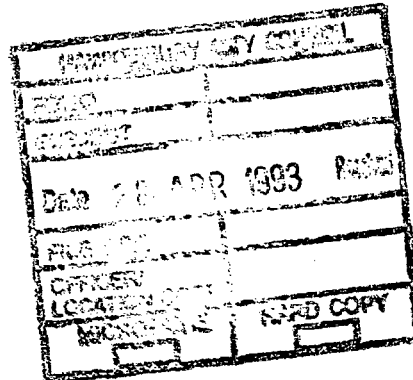
YOUR REF

OUR REF NHG:naw:921462

27 April 1993

CERTIFIED MAIL

The Town Clerk
Hawkesbury City Council
Council Chambers
George Street
WINDSOR NSW 2756



Dear Sir

EAST KURRAJONG SANDSTONE QUARRY

We act on behalf of Coral Francis Egan, Evelyn Frances Egan and the East Kurrajong Residents and Owners Environmental Protection Association. All of our clients are residents and/or owners of property in the immediate vicinity of the East Kurrajong Sandstone Quarry operated by Schaffer Corporation Limited.

As you will be aware, Judgment was handed down by the New South Wales Court of Appeal on Wednesday 21 April 1993. A copy of that Judgment is enclosed. In that Judgment the New South Wales Court of Appeal held that the crushing activities carried out by Schaffer Corporation Limited at the East Kurrajong Sandstone Quarry were prohibited under Hawkesbury Local Environmental Plan 1989.

The unlawful crushing activities have occurred at the East Kurrajong Sandstone Quarry since 1982. Our clients have suffered adversely from them since that time. Instead of taking any action to prevent the continuance of unlawful crushing, Council proceeded to approve a Development Application which included permission to crush sandstone for a further 10 years. In consequence our clients were involved in lengthy and costly proceedings before the Land and Environment Court and latterly the Court of Appeal.

Our clients continue to suffer from the adverse consequences of the unlawful industrial activity taking place at the East Kurrajong quarry and we would respectfully submit that it is Council's duty to take such steps as may be necessary to cause the unlawful use to cease.

g to your attention the following words of Mahoney JA in the Court of Appeal findings:-

"The land is, as the evidence shows, in what is pre-eminently a rural area, generally free from industrial activity other than the present. The context of the Plan provides reason for thinking that in such an area, industries generally would be unwelcome. The Plan, in terms, proscribes all other forms of industry and does so by use of the wide term "industry" as well as the more closely defined terms. For myself, I find difficulty in seeing why it should have been intended to throw open the area for extractive industry when all other - and less obtrusive - uses have been excluded."

We are instructed that since the recent judgment of the Court of Appeal our clients have observed the operator of the East Kurrajong Sandstone Quarry to be continuing the unlawful crushing of sandstone at the subject site.

We ask that you advise us as soon as possible of the action Council intends to take to cause the unlawful use to cease.

Yours faithfully
CHURCH & GRACE



N H Grace