



30 June 2014

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Hon. Simon O'Brien MLC
Chairman
Environment and Public Affairs Committee
Parliament House
PERTH WA 6000

Dear Chairman

Sales Offices

**Petition No. 20
Proposed Sand Mines at Wellard**

Sydney
02 9632 0122

As you may be aware, Rocla Pty Ltd (trading as Rocla Quarry Products) is the proponent for sand extraction operations on Mining Lease 71/915 in the district of the City of Kwinana and on Lot 6 Banksia Road and Lots 300 and 301 Boomerang Road in the district of the Shire of Serpentine-Jarrahdale.

Melbourne
03 9548 2684

Having recently been made aware (by the Department of Mines and Petroleum) of Petition No. 20, I am writing to you to better inform the Environment and Public Affairs Committee of Rocla's position.

Brisbane
07 3335 1080

Rocla has read the letters provided to the Environment and Public Affairs Committee by Mr Sturgeon (16 December 2013), the Minister for Mines and Petroleum; Housing (18 March 2014) and the City of Kwinana (5 May 2014). Rocla concurs with what has been said by the Minister for Mines and Petroleum; Housing in his letter to you.

Adelaide
08 8304 2344

Rocla agrees with the list of background issues (Attachment 1) to the letter from the Minister for Mines and Petroleum; Housing (which principally, although not exclusively, addresses Mining Lease M70/915 over Crown Reserves 24784 and 32621 (i.e. the former rifle ranges)). In addition, for the sand mining proposal for Lot 6 Banksia Road and Lots 300 and 301 Boomerang Road, Rocla notes that:

Perth
08 9475 2500

- Referral under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) occurred on 25 August 2010. The proposal was determined to be a controlled action on 22 September 2010 and a determination has not yet been made by the Commonwealth Minister for Environment on the controlled action. This approval process includes third party rights of appeal.
- On 7 March 2012, Rocla applied to the Department of Environment Regulation for a clearing permit under section 51C of the *Environmental Protection Act 1986*. That application has yet to be determined. This approval process includes third party rights of appeal.
- On 1 August 2013, the proposal was referred to the Environmental Protection Authority under Part IV of the *Environmental Protection Act 1986*. On 18 November 2013, the Chairman of the Environmental Protection Authority determined not to assess this proposal for the reason that:

"Vegetation, fauna and hydrological processes [are] dealt with under Part V Division 2 of the EP Act (Clearing). Amenity, noise and dust not considered [to be] significant and can be managed under [the] Local Government's Extractive Industry licence [process], Noise must meet the Noise Regulations".

- The State Administrative Tribunal proceedings (i.e. DR 389 of 2013) continue in respect of the requirement for development approval under Shire of Serpentine-Jarrahdale Town Planning Scheme No. 2 (albeit only in respect of some of the conditions of approval). The Shire of Serpentine-Jarrahdale granted development approval and an extractive industry licence on 24 March 2014 and revised certain development approval conditions on 9 June 2014. Both the Principal petitioner and the City of Kwinana have applied to the State Administrative Tribunal to intervene in these proceedings.

- The Western Australian Planning Commission granted development approval under the Metropolitan Region Scheme on 26 March 2014 (as amended by the State Administrative Tribunal on 4 April 2014).

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As can be seen from the Minister for Mines and Petroleum; Housing's list of background issues and the additional matters set out above, Rocla is required to obtain a number of statutory approvals from various agencies before the proposed sand extraction can be undertaken. Those statutory approval processes (at local, State and Commonwealth Government levels) requires consideration of the very issues that are raised by the Principal Petitioner and the City of Kwinana.

Rocla notes that the Committee has a broad power under the Legislative Council's Standing Orders "to inquire into and report on - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment". However, the sand extraction proposals do not raise any concern regarding the adequacy of the current policy framework. The petition merely raises the issues which must be addressed under the existing statutory framework. These issues are regularly addressed by these public authorities.

Rocla notes that under the Legislative Council Standing Orders, the Committee, "*where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment*". Rocla also notes that the principle of ecologically sustainable development is (in accordance with the respective legislative objectives) a requirement of the clearing permitting process under Part V of the *Environmental Protection Act 1986 (WA)* and the development approval process under the *Planning and Development Act 2005 (WA)*.

In Rocla's respectful submission:

- the petition does not raise issues of such public interest that relevantly or appropriately require investigation by the Environment and Public Affairs Committee. Rather the petition raises issues that are properly to be addressed through the existing statutory processes that Parliament has prescribed; and
- the relevant decision-making authorities (the Department of Mines and Petroleum, the Department of Environment Regulation and the Shire of Serpentine-Jarrahdale) are fully aware of the issues raised by the principal petitioner and the City of Kwinana and are capable of assessing and managing the issues.

Further, Rocla respectfully submits that:

- if the Environment and Public Affairs Committee effectively duplicates the current statutory assessment processes, the Committee may undermine those statutory processes by in effect establishing itself as an alternative assessment or appeal body; and
- rather than seek to advance their opposition through the petition process, it is more appropriate for the principal petitioner and the City of Kwinana to pursue third party appeals under the *Environmental Protection Act 1986 (WA)*.

Accordingly, Rocla submits that petition No. 20 should be concluded based on the submissions that have been obtained from the Minister for Mines and Petroleum (including the Minister's identification that the statutory approval processes remain to be determined).

Finally, Rocla notes that it has previously provided information to the public on its sand mining proposals (i.e. through public consultation/advertising requirements of the environmental and planning approval processes). However, the petition, the submission from the principal petitioner and the submission from the City of Kwinana reveal that some local residents appear to continue to hold concerns about the proposals. Rocla will therefore distribute a flyer to local residents.

The flyer will:

- clarify the nature of Rocla's proposals;

- respond to the issues raised by the petitioners and the City of Kwinana; and
- correct some misconceptions that appear to be held by local residents.

Some of the issues the flyer will address include:

- the protection of wetlands and the conservation significance of the land;
- that Crown Reserves 24784 and 32621 are contaminated sites.
- that, without the sand extraction activities, the City of Kwinana will be bear considerable costs for site remediation;
- the risk to the water table that is presented by lead contamination (and the potential consequences for surrounding land and the future development of Crown Reserves 24784 and 32621);
- that extraction activities will need to comply with the *Environmental Protection (Noise) Regulations 1997 (WA)*;
- how dust associated with sand extraction operations will be managed (including air quality monitoring);
- the fixing of traffic routes to the east of and not through the residential cell;
- the rural zoning of the extraction areas and the permissibility of sand extraction within that zoning; and
- the demand for sand resources by Perth communities and the limited availability of resources in other districts.

Rocla would be happy to meet with you to discuss Petition No. 20 if that would assist the Committee's understanding of Rocla's sand mining proposals. Thank you for your time in considering this letter and please do not hesitate to contact me if you have any queries.

Yours sincerely

Vern Newton

Resource and Development Manager