



General Manager
Flinders Council
PO Box 40
Whitemark TAS 7255

Date - 22-2-17

Dear General Manager,

I/we, Scott Wood, of
2389 Lady Barran Rd Lady Barran

write to lodge a representation expressing

- support for The Gums Quarry (DA2016/00012)
- concern about The Gums Quarry (DA2016/00012)
- Other -

proposed at 634 Palana Road, Whitemark TAS 7030 by Markana Grazing Company Pty Ltd.

Specifically, I make the below comment(s) for your consideration in assessing the application.

.....

I believe this is a positive resource for Flinders Island, and believe this is a good for local employment + opportunity.

.....

.....

Yours sincerely

Scott Wood

Phone - 0429 440400



General Manager
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PO Box 40
Whitemark TAS 7255

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Yours sincerely

Scott Wood

Phone - 0429 440400

General Manager
Flinders Council
PO Box 40
Whitemark TAS 7255



Date - 21-02-17

Dear General Manager,

I/we, David and Penny Conn, of
1581 Memana road, Memana

write to lodge a representation expressing

- support for The Gums Quarry (DA2016/00012)
- concern about The Gums Quarry (DA2016/00012)
- Other -

proposed at 634 Palana Road, Whitemark TAS 7030 by Markana Grazing Company Pty Ltd.

Specifically, I make the below comment(s) for your consideration in assessing the application.

It is vitally important that developments
like this are allowed to proceed for
the economic and social ~~pros~~ prosperity
of the island.

Yours sincerely

 David A. Conn.

Phone - 0427518412

1165 Palana Rd
Blue Rocks
TAS 7255

03-03-2017

The General Manager
Flinders Council
Whitemark
TAS 7255



Dear Bill,

Re Permit Application DA012/2016 under R s57 of the Land Use Planning and Approvals Act 1993

This is my second Submission after re-advertisement of the above application

I consider the permit for Level 2 quarry should be refused because of the following points.

1. The application is based on assumptions for which there is no back up evidence. In particular, that the rock from the quarry that is a Siluro-Devonian Turbidic mudstone can be used for local pavements such as Flinders Island Airport runways and Council and State Government roads. My information from Flinders Council is that this quarry rock is too soft for the pavement of Council owned runways and State Government Roads. Granted it can be used for Council road pavement, private roads and private driveways .It has been used for all these in the past when as a Level 1 quarry .
2. The number of projected truck movements is bound to play havoc with Flinders Island roads .The bitumen ones having just been repaired in 2016 from damage done by Pine plantation trucks. Council ie rate payers had to foot the bill. Council roads top pavement has been rock from the quarry. Perhaps it was the softness of this pavement that led to the destruction by the Pine Plantation trucks. The projected truck movements for the level 2 quarry are much, much greater than those of the Pine Plantation trucks. Especially so for a major project. When this happens where is the benefit to the island. The economic value is negated by the road repair costs
3. The number of projected truck movements will pose a safety threat to other road users particularly during the tourist season.
4. The noise from the number of projected truck movements will be heard from all properties on the route. This environmental effect has not been taken into account in the noise assessment study
5. There are 28 listed commitments. I see little in the application to indicate any assurance they will all be carried out. Flinders Council does not have a Mines Inspector.

6. There are some strange mistakes ie incorrect information by Van Diemen Consulting (VDC) for the Gums Quarry. These mistakes surely nullify the validity of the application
- Extraction to start July/August 2016, - we are passed that date. (Page 19, DPEMP)
 - This quarry is not a coal mine yet the washdown of vehicles instructions assumes it is. Granted washdown principles are probably the same or similar (page 77 DPEMP)
 - Repairs will be floated to the Lilydale Workshop (page 77 DPEMP)
 - The Golder Report seems to apply to a sample of Material from Mt Aitken Road, Sunbury, for the Markana Park runway and the rock mentioned is grey quartz, which is not the Gums quarry rock. (See Attachment 3 DPEMP)
 - There is no Gundagi Rd on Flinders Island (See Attachment 7 Blast management Plan page 12)
 - Time frame is out of date (see page 1 of DA supporting Information)
 - Boyer Rd does not exist on Flinders Island (See page 18 DA Supporting Information)
 - Flinders island is not North East Mainland Tasmania (page 24DA Supporting Information)
 - I hope the photos are of the Flinders Island Quarry and not one on Mainland North East Tasmania (page 25 DA Supporting Information)

There may be other mistakes I have not noticed

7. At the early Level 1 stage this quarry was a blot on the landscape – a scar on the hillside. It still is. I fail to see how it can avoid being a bigger scar at the proposed Level 2 stage.
8. I do not know the exact definition for a working quarry but from my observation, the Gums quarry has not been continuously working since 1986 to the present time.
9. A Level 2 quarry will reduce the market value of the adjoining properties. One of these properties grows a variety of crops. In particular if fly rock lands on an existing crop it will be impossible to clean up after it and the crop will be lost. It seems a lot more attention is given to the possibility of Fly rock on a runway than on the adjoining property.

It was argued that a Level 2 quarry was needed in order to provide material for a major project at relatively short notice. It is not clear what major projects are envisaged unless Markana Park has some in mind for their property. But there are no DA's for such at this time.. If it is a private Markana Park major project that will wreck the Council maintained roads then where is the benefit to the island To maintain the quarry as a Level 1 operation will as before supply material for private roads and driveways and Council Roads if Council so decides.

With kind regards

Doreen H Lovegrove



B & T Jones
947 Palana Rd,
Blue Rocks
Tas. 7255

The General Manager
Finders Council
Whitemark
Tasmania 7255

Re: Permit Application DA012/2016 Extractive Industry in Rural Zone.
634-684 Palana Rd, Whitemark. (Cts: 141190/3, 145854/3, and 245509/1)

Dear Mr Boehm,

We are extremely concerned about the above proposal and think that Council should not support the application for the following reasons:

- The primary problem for ratepayers will be the damage to roads caused by an increased number of heavy trucks on both sealed and unsealed roads. As we saw previously when the logging trucks were travelling from NE River to Lady Barron, the damage to the roads was quite significant. The applicant makes no mention of compensating council and ratepayers for the extra wear and damage to the roads that were never built for such intensive use by trucks. Not only will the road surface be damaged but so will the verges as not all roads are wide enough to allow for large trucks and other vehicles to pass safely;
- The speed and volume of the trucks needs to be limited. The issue of safety on the roads should not be underestimated. Flinders Island is a remote area so the change to traffic conditions caused by large trucks travelling at high speed is a dangerous combination with no room for error. We must all be able to use our roads safely but we believe this will be compromised by such a significant increase in traffic volume by heavy vehicles. Our access gate is on the bend of Palana Rd at Blue Rocks, this is a difficult corner to negotiate and the extra trucks will make it even more dangerous.

- During a major project there may be up to one truck every 6 mins, we believe this is too excessive for a place like Flinders Is. The additional truck movements will create the environment of an industrial zone for the nearby properties which abut the road.
- Loss of amenity due to increase in noise and traffic volume generated by the quarry. Our house is close to Palana Rd so the noise and vibration of the passing trucks will disturb us. The reason we love Flinders Island is for the peace and quiet.
- Devaluation of nearby properties due to the reasons mentioned above.
- The proposed hours of operation for the quarry seem excessive.
- The scarring of the landscape will increase and be more visible if the quarry's use is to be increased and regeneration could take many years.
- Tourism basically depends on people's perception of Flinders as an environmentally clean, green, natural peaceful place. We don't believe visitors will appreciate a steady stream of trucks up and down the roads, stirring up dust and making noise.

With regards to the issues raised regarding the application, we would like the council to respond to the following questions:

As far as we can tell from the literature provided, there are quite a few assumptions made without any evidence supporting it regarding the suitability of the gravel/rock to be used by the council for roads and at the airport. Where is the evidence?

The proposal seems to be for the benefit of one party without any consideration for the island community as a whole. Why should the residents of Flinders Island have to pay for damage to the roads and have an increase in traffic and noise, for the benefit of just one party? How will Council pay for the damage to the roads?

We believe 0700-1900 hrs Mon-Fri (12 hrs/day) is an excessive amount of time to have trucks in and out of the quarry. Most businesses operate 8 hrs/day, please explain why this is necessary and consider reducing the hours of operation;

How will Council guarantee the safety of drivers and cyclists sharing the roads with the extra trucks? Please place a limit on the number of truck movements for both normal and major

production levels as well as the speed of the trucks to ensure the residents and visitors to Flinders Island are safe.

Is it necessary for the quarry to be needing to access such a huge volume of rock for such a small community? Why not consider it on a smaller scale?

Finally, who will be enforcing any restrictions or conditions placed on the quarry's operators by the EPA? They do not have any representatives on the island so the applicant could technically "bend the rules" without any redress. There needs to be strict accountability to both the EPA and Council.

We hope Council will take these matters seriously when considering the application.

Yours sincerely,

Toni and Brendan Jones
Contact mobile 0411 255 929

DA012/2016. Representation relating to the D.A.

Whilst I do not oppose the application at “The Gums” quarry, I have reservations and concerns with the intended processes and output.

The DA proposes to increase the output, and thus, the working hours and noise levels at the quarry. The access road will be diverted from its original route to allow heavy vehicles loaded with gravel and rock to operate within a short distance of the residence to the West of the quarry. Without the complete approval of the owner of that residence, I believe it would be wrong to proceed with any changes to the existing licence at the quarry. The residence is already in the buffer zone. Any proposed changes should be seen as an intrusion on a persons property rights if not fully agreed to by both parties.

The proposed output of the quarry for “major projects” as described in the application papers is obscure. We know from experience the damage continuous heavy vehicle movements cause to our roads. The proposal is for 30 tonne loads of material which would put the gross weight of each load at around 50 tonnes. The roads are not constructed to take continuous heavy vehicle traffic. To do so is beyond the financial means of our Council.

If, for example, the leaseholder intends to stockpile material at Markarna Park in readiness for a “major project”, or initiate a plan to line drains with rock to prevent erosion, the damage to our main roads would be considerable and costly. The cost to local infrastructure needs to be compensated for within the structure of the “major project”.

The application mentions the current expensive way material is transported via a barge from Tasmania, but does not give a comparable price for the alternative option. Without knowing a price of the material it is impossible to know if the quarry is a more favourable option for the community than the existing situation.

I will declare a non-pecuniary interest in the proposed development. In about 2011 when I was a councilor I suggested that Council should own the license to the quarry, but that wasn't supported by the General Manager, and ultimately the majority of Council. I firmly believe that valuable community assets such as “The Gums” quarry should be controlled and operated by Council, for the community.

I have no grievance with the applicant and respect the rights of lease holders to develop their property, but I feel that this application requires conditions to its approval to overcome the aforementioned shortcomings.

Ronald Wise. 07.03.2017

969 Palana Rd
Blue Rocks
Tas 7255

6-3-2017

The General Manager
Flinders Council
Whitemark
TAS 7255

Dear Bill,

RE: Permit Application DA012/2016 under S57 of the Land use Planning and Approvals Act 1993

I am very concerned about this application and consider the permit should be carefully scrutinised for the following reasons.

At the meeting held last year by Van Diemens Consulting, it was projected that if the quarry was to use its full extraction of 100,000m³, it could equate to 30 ton trucks taking 3,333 truckloads of rock from the quarry. This could happen over a period of 60 days at a rate of 56 trucks per day. It might be that it is never used to its full capacity but once this permit is given it can't be changed.

- This would cause untold damage to our roads. Our roads are not built for heavy trucks or even prolonged and constant use by smaller ones. Rate payers would have to pay for this. I suggest that there be a limit to the size of trucks used for this permit and also a limit to the number of trucks to be used each day.
- Having this number of trucks on the road would create a traffic hazard. I suggest that there should be a special speed limit for these trucks.
- The noise from these trucks will be heard from all properties on the route.
- There will be a considerable scar on the landscape that would take years to regenerate.
- Adjoining properties could be subject to constant traffic, blasting and fly rock therefore lowering the market value of their properties. There should be some compensation for this.
- Apart from providing some short term work for a few people, there seems to be little benefit to our island community.

Overall, I feel that a permit of this size is unnecessary and the more conservative production permit of 20,000 tons would be adequate for our island needs.

Kind regards

Janet Toonen

Diana Droog and Hugh Sarjeant
995 Palana Rd
Blue Rocks TAS 7255
info@theperch.com.au
PO Box 7131
Hawthorn VIC 3122

9 March 2017

The General Manager
Flinders Council
PO Box 40
Whitemark TAS 7255

Dear Sir

Application for a Permit DA012/2016 under s57 of the Land Use Planning Approvals Act 1993

Applicant: Markarna Grazing Company Pty Ltd

We have some concerns about this application. Issues are as set out below. References to a Development Plan are from the DEVELOPMENT PROPOSAL AND ENVIRONMENTAL MANAGEMENT PLAN and DEVELOPMENT APPLICATION PLANNING REPORT – LEVEL 2 ACTIVITY by Van Diemen Consulting.

1. Intended use

There are several references in the Development Plan to 'Major Projects'. As the business, of Markana Grazing would appear to be agricultural ("owns and operates a large pastoral enterprise in the northern section of Flinders Island"), rather than as providers of rock, they presumably have other projects in mind. It seems reasonable to ask what they are. It is difficult otherwise to be sure of covering all the relevant issues.

Also, the Applicant states that "The rock when crushed is highly suitable for use in pavement surfaces for roads...". If, for example, it cannot be used for the airfield runway or state roads, it will still be necessary to import further rock.

2. Costs the community has not agreed to cover

Without details of expected impacts on local roads, there is the prospect that ratepayers may be required to cover the costs of upgrades or repairs. It may be necessary to include a levy to cover damage caused by trucks.

3. Environmental Management Measures

'Noise Emissions' are mentioned in the Development Plan, but appear to cover only noise from blasting. There would be other noise, from the quarry trucks. We also note the intended hours for haulage cover the times of 0600 to 1900 hours, including Saturdays.

It mentions the use of the quarry for Major Projects over summer 2017, which is the height of the tourist season. Hours of road use include Saturday when cyclists (both residents and tourists) use the local roads. Council should consider further restrictions on the hours of use.

The Development Plan states "The Progressive rehabilitation will occur at the quarrying operation for those areas that have been quarried and are no longer needed or used for the ongoing operations. In the event of permanent closure of the proposed development a more detailed Decommissioning and Rehabilitation plan will be developed and submitted to the EPA for approval."

The Council needs to consider whether a guarantee needs to be put in place to cover this in case the company becomes insolvent.

In regard to Landscape Visibility Assessment – Consideration should be given to the fact that most tourists arrive and leave by plane, and although not flying directly over, can see the site when flying North-South.

4. Benefit to Flinders Island

Council should consider putting restrictions in place so that any materials extracted be available only for use within the Furneaux group.

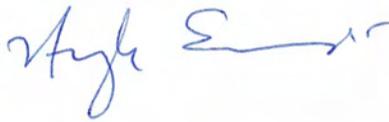
5. Supervision

Level 2 Activities must be referred by the Planning Authority (Flinders Council) and to the Environment Protection Authority (the EPA), for assessment under EMPCA. However, we can see no mention of ongoing supervision of operations, or of consequences for the Applicant if standards are not adhered to.

Yours faithfully



Diana Droog and Hugh Sarjeant



Mr Bill Boehm
General Manager
Flinders Municipality
Tasmania

Dear Mr Boehm,

Objection to Application for Extractive Industry at 634 & 684 Palana Road, Whitemark, (CTs: 141190/3, 145854/3 & 245509/1)

I am objecting to the above application as the owner of freehold land at 260 Long Point Road, Whitemark.

My grounds for objection are:

1. Further large blemishes on the natural landscape quality of the western slopes of Flinders Island amount to an undesirable and unnecessary **permanent** downgrading of the area's scenic qualities for a very short-term financial gain given that quarry material can be imported from mainland Tasmanian sites that are not conspicuous, or part of a high quality landscape like those western slopes. Decision makers' focus on **permanent** irreversible changes to land forms should emphasize the long-term interest of future generations rather than present short-term ephemeral interests.
2. The proposal should include - but does not - the environmental desirability of the [use of recycled material](#), as indicated at that hyperlink by, for example, VicRoads, such as concrete rubble, glass, and other suitable materials, which are presently accumulating at the Whitemark Tip, as a component of road making material, which would have the benefits of reducing the need for quarrying of finite and rapidly diminishing natural landscape features, reducing the amount of landfill or export of waste from the island, and creating new future employment possibilities in such recycling.
3. As the accompanying copy of Figure 8 of the [Development Application Planning Report](#) - which includes my property above - shows, much of the proposed new quarry face will be visible from my property, and that view of a larger scar on the otherwise very attractive range, represents a significant adverse effect on my property. The noticeable increase in that scar would significantly reduce the scenic value for all future users of the only road along the west coast of Flinders Island.
4. The scale of the proposal is excessive in that the annual amount of rock that is proposed to be removed could be, if there is only one 'major project' per year, up to a maximum of 120,000 cubic metres, which is equal in volume to an enormous cube with each of its six faces being 49.3 metres (180 feet) wide. Over the 20 years mentioned in the proposal, that volume could amount to 2.4 million cubic metres, which is equal in volume to a cube with each of its six faces being 133 metres (485 feet) wide. The proposal does not seem to indicate that the operation would require a further approval after that 20-year period, which it should.
5. The application seeks a greatly increased maximum removal of rock on the basis of an accelerated need for road materials that is not justified or quantified, and vague and nebulous 'major projects' none of which are specified. It fails to explain why the quarry has been inactive for over a decade. It would be much more environmentally beneficial to limit the quarry to its present Level 1 status. That would let a newer generation, possibly with quite different priorities, also participate in assessing whether the imposition on the island should continue.
6. The scale of the proposal is excessive in terms of the high frequency of very large truck movements along the Palana Road at an estimated interval of 10 minutes throughout each working day. A Level 1 rate of extraction would produce a much greater interval between truck movements, with obvious benefits in greater road safety and lower maintenance costs, and that scenario would be far more in keeping with the Planning Scheme's desired rural ambience.

Yours sincerely,

Geoffrey Goode

582000

584000

586000

Annexure 4 - A1 - October 2017

VIEW SITE 1

VISIBILITY ASSESSMENT (BARE EARTH - I.E. NO VEGETATION)

- QUARRY FLOOR AND WALL VISIBLE
- UPPER QUARRY WALL VISIBLE ONLY



5568000

5566000

5564000

5562000

5560000



THE GUMS QUARRY - WHITEMARK

FIGURE 8: VISIBILITY / LANDSCAPE IMPACTS



PO Box 1 New Town TAS 7008

BASE DATA BY TASMAR. © STATE OF TASMANIA
BASE IMAGE BY TASMAR. © STATE OF TASMANIA



DATUM: GDA94
GRID: MGA ZONE 55

TASMAR: LEVENTHORPE
CLIENT: 14 DAMS GROUP

DATE: 1ST APRIL 2016



Furneaux Freight

Annexure 4 - A1 - October 2017

Main Street
Bridport
Tasmania 7262
Ph: 03 6356 1753
shannon@furneauxfreight.com
ABN: 44 134 727 263



Wednesday, 8 March 2017

General Manager
Flinders Council
PO Box 40
Whitemark TAS 7255

Dear General Manager,

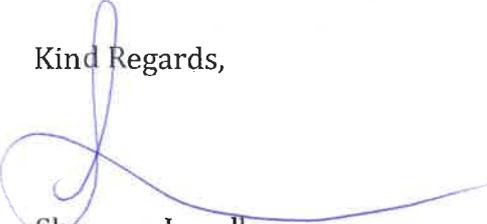
I Shannon Lovell of Furneaux Freight write to lodge a representation expressing support for The Gums Quarry (DA2016/00012) proposed at 634 Palana Road, Whitemark TAS 7255 by Markana Grazing Company Pty Ltd.

Specifically, I support the development on Flinders Island due to the enhanced economic growth it will contribute to the Flinders Island community through increased job prospects, flow on effects to the local community and enhanced resources for the entire Island to benefit from.

Flinders Island is in desperate need for additional employment and a sustainable manufacturing sector to which Markana Grazing Company through the development of The Gums Quarry provides.

In closing, Markana Grazing Company has the full support of all management at Furneaux Freight and encourage the Flinders Council to also support this development as it is in the best interest of the Island community.

Kind Regards,



Shannon Lovell

Furneaux Freight Pty Ltd



COMMERCIAL
LITIGATION
PROPERTY
LAWYERS

General Manager
Flinders Council
PO Box 40
WHITEMARK TAS 7255

11 November 2016

By email: office@flinders.tas.gov.au

Dear Ms Pitchford

**Permit Application DA012/2016
Quarry at 634 Palana Road, Whitemark, Flinders Island**

We act for Peter and Sharon Guichelaar, the owners of "Richmond Park" on Flinders Island.

We make this representation in respect of the proposed quarry at 634 Palana Road, Flinders Island.

The most critical point is that the access proposed to the development site is not lawful. The right of way over our clients' land does not benefit land in CT 245509/1 and cannot be used to access the quarry.

Our clients object to the approval of this development. In summary, our clients:

1. object to the use and development within the right of way over their land for access to the quarry;
2. object to the noise and dust impacts likely to occur from the use of the right of way only 120m from their house;
3. object to the vibration and fly rock impacts likely to occur from blasting;
4. object to the days and hours of operation in particular weekend and after 5pm use;
5. object to the number and frequency of truck movements; and
6. object to a Level 2 quarry next to a conservation area.

Mr and Mrs Guichelaar have prepared a full list of complaints about this quarry proposal, set out in the attached document. We ask that you have regard to these complaints. This letter addresses the critical complaints and the planning scheme controls.

Richmond Park

Our clients own the adjoining land at 684 Palana Road, Flinders Island, called "Richmond Park".

Richmond Park is a 377 hectare farm, which has been owned and operated by Mr and Mrs Guichelaar for over 15 years. It is used for cropping of hay, silage and grain supplied to other farmers on the island. Our clients used to run cattle but there are no cattle on the land.

Our clients live full-time in the house on their property. The location of their house is shown in the Google Earth image **attached**.

There is currently very little noise experienced by our clients. They use machinery sporadically, due to the nature of cropping. There are no cows or other animals that increase ambient levels in the area. The airport is over 2km away, and there are only a few small planes per day. There are no other farming or industrial uses within 5km of their house. They live in a very quiet, low level noise environment.

No lawful access

Clause 6.6(b) of the Flinders Planning Scheme provides that:

"All Use or Development shall provide satisfactory pedestrian and vehicular access which is suited to the volume and needs of future users."

The Council cannot approve a use that cannot demonstrate lawful access.

The development does not have lawful access to the site along the proposed route. This is critical to the use and development.

There is a right of way over our clients' property (CT141190/3), which benefits Folios 2 and 3 in Volume 145854. However, they are not the development title. The mining lease is located on CT 245509/1. There is no registered right of way benefitting that lot.

As a matter of law, the right of way in favour of Lots 2 and 3 on SP 145854, cannot be used to access land in CT 245509/1.

The law is that the use of a right of way cannot extend beyond the scope of its grant. That includes using it to access other land.

The authority for this is found in the High Court's decision of *Westfield Management Limited v Perpetual Trustee Company Limited* [2007] HCA 45. That case involved an easement providing access over Perpetual's land to a lot owned by Westfield. Westfield tried to use the easement to access other land owned by it.

The High Court found against Westfield, holding:

- The creation of an easement cannot extend beyond the scope of the grant of the easement. There is no ability to extend access to land via an easement beyond the intended dominant tenement.

Intention is not relevant. Under the Torrens Title system, if the right of way is not on the land's title, the land does not have the benefit of any right of way.

The development site does not have a right of access over our clients' land. The Council cannot be satisfied that there is "satisfactory" access and ought refuse the application on that basis alone.

No consent to access

Even if the right of way could lawfully be used to access CT 245590/1 it could not be used for the purpose of a quarry, or a quarry at this intensity.

Our clients do not consent to the use of the right of way proposed, or the works within the right of way. Their reasons are:

1. The right of way was never intended to be used to allow access to a quarry. A small Level 1 quarry had been operating on the development land historically, but has not done so for many years and it used an access from Palana Rd over CT 145854/3, not our clients' land.
2. Indeed, the right of way on our clients' title has never been used.
3. Even if it could be argued that the right of way can be used for a quarry, it cannot be used for a quarry at the intensity proposed in this development application. Table 3 on p17 of the DPEMP estimates that in "normal production" there will be 28 x 30t truck movements per day 5 days a week, or 34 x 20t truck movements per day 6 days a week. "Low volume" production estimates are 18 x 12t truck over two days. It is very unclear what low volume means. "Major Projects" production is up to 68 x 30t truck movements per day over a 60 day period (which we read to be 60 consecutive days). This is a significant increase in intensity, and one not contemplated by our clients on the grant of the right of way over their property.
4. The development requires a significant upgrade to the right of way to cater for these truck movements, to a 6m rural IPWEA standard (at B.5.1, p17 of the DPEMP). This requires widening of the existing track, and removal of vegetation along the right of way.

The use and development within the right of way for is actionable in the Supreme Court. Rather than requiring our clients to go to the expense, the planning authority should not permit the use of the quarry using the right of way. The use and development should be refused on the basis that the access is not satisfactory.

Noise

Our clients are very concerned about noise impacts to their property, specifically from:

- Crushing
- Blasting
- Truck movements.

The VIPAC noise report is deficient in that it:

1. Recommends a noise limit of 50dB(A) when the ambient noise level is assessed as being "typically 15 to 20 dBA (or) lower".
2. Says ambient noise levels are measured at our clients' dwelling are between 40-60dBA from 7am to 5pm, but:
 - a. according to our instructions VIPAC did not measure the background noise levels at our clients' property – no access has ever been provided for that purpose;
 - b. VIPAC does not say what has caused the difference between L90 and Leq events, it could simply be birds, a car, the 2 daily RPT aircraft landing. This does not mean it is a noisy area.
3. In the predicted noise levels, VIPAC simply asserts there is no need to be an adjustment for "impulsivity" but does not model or otherwise show Lmax levels at our clients' property from any of the activities to be carried out. It is impossible to objectively ascertain whether the impulsivity adjustment should be made.
4. Does not measure noise levels of all activities occurring at once, as would occur in a "major project", or so-called "campaign"; p24 shows only the "crushing and hauling" Leq and Lmax levels.
5. In the assessment of truck noise on the right of way, does not show the location of trucks, or measure more than 3 trucks per 10 minutes. It is impossible for the EPA to assess this on the documentation provided. Further, "Major projects" expect 112 truck movements per day. If there were any more than three trucks in any direction in a 10 minute period, the noise limit proposed by VIPAC would be exceeded.
6. Blasting has been assessed as being "approximately" 800m from our clients' dwelling (p25). It refers to the Quarry Code of Practice requirements that air-blast over pressure be measured to "the curtilage of the nearest residence". 800m is between the quarry face and the outer wall of the dwelling, not the curtilage. The distance between blast-points and the curtilage of the residence is more likely to be 770m. This affects the calculation of air-blast overpressure, on VIPACs equation. Given the assessment is 113dBA, these small differences are likely to be significant.
7. Nor has the blast assessment accounted for topography – our clients' dwelling is downslope from the quarry, and likely to exacerbate the noise impact.

8. The blast assessment states "NB the above prediction assumes adequate confinement of the charge mass. Where confinement is not adequate air blast overpressure levels would be considerably higher." No blast plan has been prepared and whether the overpressure levels can be met cannot be objectively assessed.
9. VIPAC gives no working of air-blast overpressure, and there can be no certainty that the requirements of the Code of Practice for blasting are satisfied at the curtilage to our clients' dwelling.

Wedge-tailed eagles

Our client has taken photographs of the Wedge-tailed eagle on his property, which are provided in the photographs **attached**. Wedge-tailed eagles are listed as endangered under both the Commonwealth *Environment Protection & Biodiversity Conservation Act 1999* and the Tasmanian *Threatened Species Protection Act 1996*.

The Forest Practices Authority *Fauna Technical Note No 1: Eagle nest searching, activity checking and nest management* states that:

Management actions recommended to ameliorate the impact of forestry activities within 500 m and 1 km line of sight of eagle nests are delivered through the Threatened Fauna Adviser. While roading, harvesting, burning and carting are considered the highest risk activities, actions to avoid nest desertion may also be required for other activities associated with forestry operations (e.g., boundary marking, planting, tree health monitoring and vertebrate browsing control activities).

While this relates to forestry activities, this indicates that "carting" (ie, use of trucks) within 500m and 1km line of sight of eagle nests may require active management, as may any other human activity. The quarry use will involve significant noise and disturbance within the area, through crushing, screening, blasting, quarry activities, and machinery and truck movements.

The proximity of such an activity close to a nest has the potential to disturb nesting, if any, within at least a 1km radius. Best practice would indicate that this potential for disturbance must be assessed as part of the application, and in accordance with the FPA Technical Note.

The permit applicant has only surveyed the mining lease and access route (see p23 of the Ecological Assessment and Report). It has identified a 1km buffer around the activity area. It has not surveyed that area. It has merely indicating that, without survey, there is no indication that there would be suitable habitat.

TasVeg indicates that within 1km to the east, some 370m from the mining lease boundary, there is a large area of *Eucalyptus viminalis – Eucalyptus globulus coastal forest and woodland*. Given the fact that my clients know that wedge-tailed eagle uses their farm for foraging, and there is a

known nest 2km to the north of the mining lease area, the applicant ought to demonstrate that there is no other nest within an area of disturbance.

The Commonwealth and State listing of this species places the burden on the applicant to demonstrate no impact to the species, or require mitigation of impacts. At a minimum, it may require conditions such as no blasting in breeding season or other conditions. The necessity for this is unknown until the territory of the Wedge-tailed eagle is known. The nearby forest community ought to be surveyed for nests prior to the approval of this quarry.

Planning scheme requirements

In addition to the matters that the EPA is required to consider, Council as planning authority should not approve this quarry application under the *Flinders Planning Scheme 2000 (the Scheme)*.

Council is required to take into account the objectives and intent of the zone and any guidelines in the zone in making its decision under clause 3.10 of the Scheme.

Clause 6 of the Scheme sets out principles that all use and development “must be consistent with”.

There are substantial reasons against the approval of this proposed use and development under the Scheme. The use and development:

1. Does not comply with the Rural Zone intent in clause 5.8.1(a) of the Scheme, because the intensity of the quarry use will spoil or mar the existing rural character of the island, by creating a large quarry area on a hill-face that is likely be visible from Palana Road, the airport and flying into Flinders Island. This will require removal of vegetation within the mining lease area. There is no visual impact assessment to demonstrate the visual impact of removing this vegetation.
2. Does not comply with the Rural Zone intent in clause 5.8.1(b) of the Scheme because this is a non-agricultural use (being listed in the Zone table as an “industrial use”) and it is not compatible with agricultural uses because of its intensity and blasting. In particular, fly rock and dust are not compatible with agriculture. Our clients cannot use tractors in fields containing fly rock, rocks get caught in blades. See pictures **attached**. There is not sufficient separation to prevent fly rock in blasting.
3. Does not comply with the Design Zone Character and Zone Guidelines in clause 5.8.2(b) of the Scheme as the development does not enhance the rural character of the zone. It requires substantial clearing on a hillside, and at the property entrance.

4. Does not comply with clause 6.1(a) or (e) of the Scheme, in that the quarry will unreasonably impact on our clients' land, and will conflict with our clients' use of the land, scenic values and the environment. The noise of truck movements, quarrying, crushing and blasting will conflict with our clients' residential use.
5. Does not comply with clause 6.2(a) of the Scheme in that it does not adequately respect the character of the area. This is a quiet rural area, used for rural residential and farming uses. A quarry of this scale will completely change the intensity of use in the area, and negatively impact on the rural character that our clients value.
6. Does not comply with clause 6.2(c) of the Scheme as the scale and setbacks of the use and development from our clients' house does not adequately respect their residential use. Truck movements will be 120m from our clients' house, and closer to the curtilage of our clients' dwelling. The maximum truck movements are 64 x 30t trucks per day over a number of weeks. The number of truck movements per day, up to 64 movements (potentially 6-10 per hour), will detrimentally impact on our clients' enjoyment of their property, by noise, dust, and visually by seeing multiple truck movements per day. The blasting and crushing within 700m of our clients property does not comply with the Quarry Code of Practice separation distances of 1km for blasting and 750m for crushing, failing to respect the nearby residential use.
7. Does not comply with clause 6.3(b) of the Scheme as it does not accord our clients' or future occupiers of the land with adequate and reasonable level of amenity, in relation to privacy (through truck movements) and noise disturbance. We refer to our response to 6.
8. Does not comply with clause 6.4(a) and (b) of the Scheme, due to potential impacts to threatened species including the Wedge-tailed eagle. The surveys undertaken are deficient, and the Council cannot be satisfied that a quarry so close to a conservation reserve will not have detrimental environmental impacts.
9. Does not comply with clause 6.6(b) of the Scheme as it does not provide satisfactory vehicular access. The owner does not have the legal right to use the proposed access for the purposes of a quarry on title CT 245509/1.
10. There is no traffic assessment of the impact of truck movements on the road network. There are other uses in the area, including the airport, which are likely to be impacted on by these truck movements.
11. Does not comply with clause 6.8.1 as the application does not demonstrate how the use will suit the community interest. The product is not of sufficient quality to serve as road base.

12. Does not comply with clause 6.9(b) as there is no economic benefit to the Flinders Island community. The truck movements on public roads will require more regular upgrading as a result of the numbers of heavy truck movements. The costs of maintaining the road exceed any (unquantified) economic benefits.

It is submitted that the proposal ought to be refused for the above reasons.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Nicole Sommer', written over a horizontal line.

Dobson Mitchell Allport

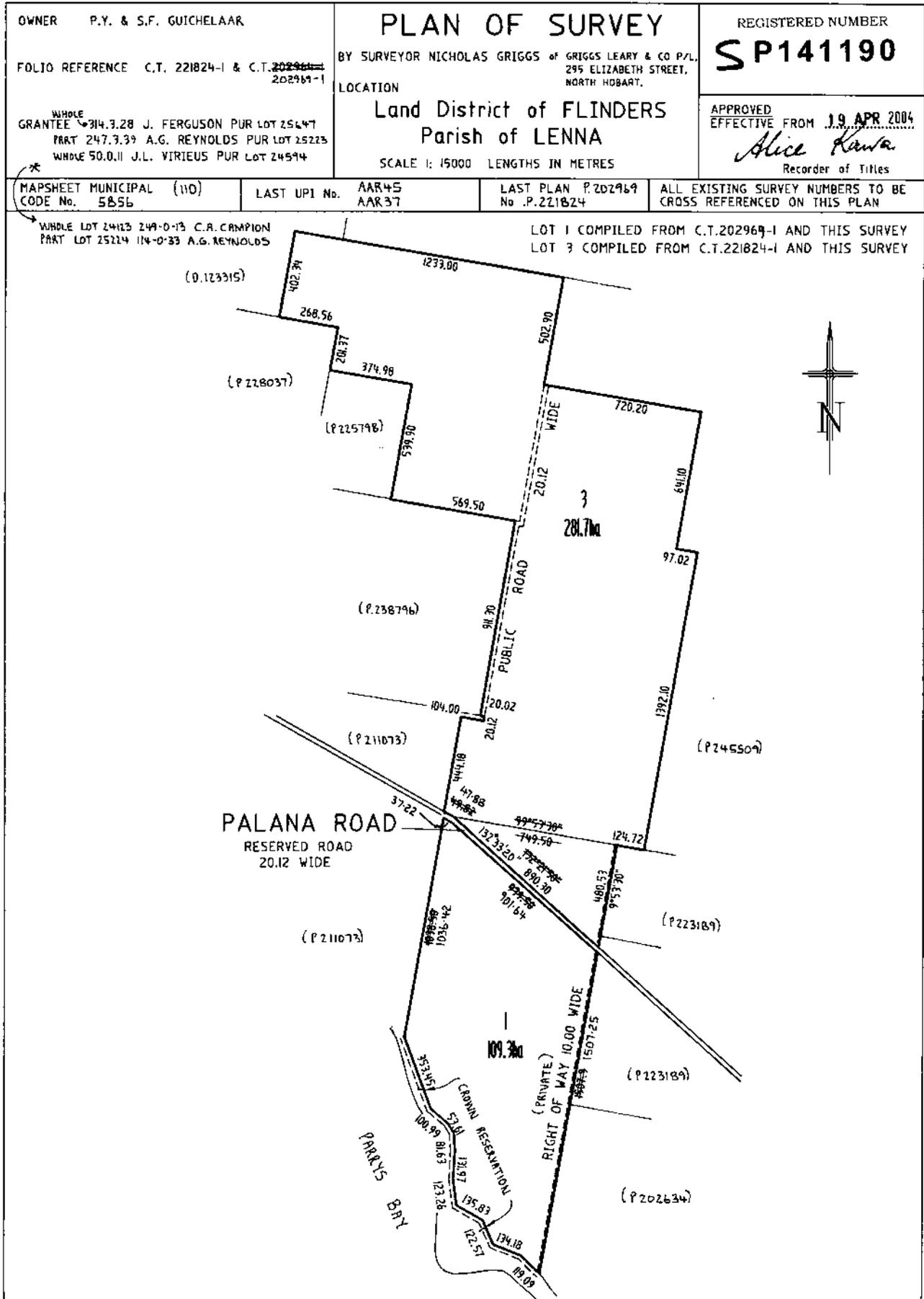
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Encl:



SEARCH OF TORRENS TITLE

VOLUME 141190	FOLIO 3
EDITION 2	DATE OF ISSUE 02-Jan-2015

SEARCH DATE : 09-Nov-2016

SEARCH TIME : 04.52 PM

DESCRIPTION OF LAND

Parish of LENNA Land District of FLINDERS
 Lot 3 on Sealed Plan 141190
 Derivation : Whole of Lot 24123 Gtd to C A Champion, whole of
 Lot 24594 Gtd to J L Virieux and Part of Lots 25223 and 25224
 Gtd to A G Reynolds and part of Lot 25647 Gtd. to Jas. Ferguson
 Prior CTs 221824/1 and 202969/1

SCHEDULE 1

C325867 TRANSFER to PIETER YNTE GUICHELAAR and SHARON FRANCES
 GUICHELAAR Registered 04-Dec-2001 at noon

SCHEDULE 2

Reservations and conditions in the Crown Grant if any
 SP 141190 EASEMENTS in Schedule of Easements
 D129690 MORTGAGE to Rabobank Australia Limited Registered
 02-Jan-2015 at 12.01 PM

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



Quarry Lease

Proposed access road

House

Image © 2016 CNES/Airbus
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Imagery Date: 12/25/2015 40°03'53.56" S 147°58'51.94" E elev. 133 ft eye alt