



MEGAN BENSON

OBJECT

Submission ID: 216691

Organisation: <i>Gloucester Environment Group Inc.</i>	Key issues: <i>Biodiversity, Water resources, Traffic, Air quality, Noise, Other issues</i>
Location: <i>New South Wales</i>	
Attachment: <i>Attached overleaf</i>	

Submission date: 21/11/2024 1:37:57 PM

Please find attached further submission regarding issues raised at the Public Meeting and not addressed in the EIS for the Project.

STONE RIDGE QUARRY IPCN FURTHER ISSUES

21st November 2024

Dear Commissioners,

Thank you for this opportunity to add to our original submission.

Statements made by FCNSW regarding the planning and support for the Stone Ridge Quarry Project at the IPCN public meeting has prompted Gloucester Environment Group (GEG) to write to NSW Ministers seeking Ministerial Review of the FCNSW decision to appoint ARDG to develop the Stone Ridge Quarry. (letter attached with further references to the matters below).

We hold concerns that due process has not been followed for the Project by FCNSW. We believe these non-conformances may mean that the Project is unlawful. We hope the Commissioners will address these concerns in your consideration of the Project. FCNSW stated at the public meeting that “*ARDG were developing the site on behalf of Forestry*”, thereby indicating a combined joint venture.

1. Information regarding FCNSW plans to quarry the Wallaroo State Forest either doesn't exist or is inaccessible to ordinary members of the public. The first public announcement made to the community was via an ARDG letter box drop in 2020 which indicates that an agreement was made between FCNSW and ARDG. See below:

<https://www.ardg.com.au/community-consultation.html>

What approval has Forestry Corporation provided?

The Project Area is on land managed by FCNSW. Under the Forestry Act 2012, one of the functions of FCNSW is to “take or authorise the taking of forest materials.” Forest materials include rock, stone, clay, sand, gravel or any like material. At present there are over 20 licenced quarry operations on FCNSW land that pay FCNSW a royalty for materials taken from the land.

Accordingly, ARDG and FCNSW have executed a Deed of Agreement for a Forest Materials Licence (FML) under the Forestry Act, which allows ARDG to seek approval for the Project.

Should the Project be approved, and following receipt of all necessary approvals and licences, a FML will be issued for ARDG to develop and operate the Project. ARDG will pay a royalty to FCNSW (effectively, the State of NSW) for each tonne of quarry product sold.

With reference certain sections of the Forestry Act below:

FORESTRY ACT 2012 - SECT 21

Management plans for State forests

21 Management plans for State forests

- (1) The [Corporation](#) is to prepare and adopt plans for its management of State forests.
- (2) A [management plan](#) may relate to one or more State forests.
- (3) A [management plan](#) must contain such information or other matter as may be prescribed by the regulations.
- (4) A [management plan](#) may be amended in accordance with the procedures and requirements of this Division relating to the preparation and adoption of a [management plan](#).

(Ref: https://classic.austlii.edu.au/au/legis/nsw/consol_act/fa2012139/
https://classic.austlii.edu.au/au/legis/nsw/consol_act/fa2012139/s21.html)

FORESTRY ACT 2012 - SECT 23

Procedures for preparing and adopting management plans

23 Procedures for preparing and adopting management plans

(2009 Reg, cl 5)

- (1) Before adopting a draft [management plan](#), the [Corporation](#) is to ensure that the draft plan is publicly advertised in a notice that--
- (a) is published on the website of the [Corporation](#), and
- (b) includes a brief description of the draft plan, and
- (c) includes a statement indicating a location at which members of the public may examine a copy of the draft plan, and
- (d) indicates a closing date on or before which written submissions may be made to the [Corporation](#) concerning the draft plan, being a date that is not less than 30 days after the date on which the notice is first published.
- (2) The [Corporation](#) is, before adopting the draft plan, to consider any submissions made to it on or before the closing date for submissions specified in the notice.

Ref: https://classic.austlii.edu.au/au/legis/nsw/consol_act/fa2012139/s23.html)

It is our understanding that FCNSW Plans of Management and Amended Plans of Management must be produced and placed on public display prior to changes to the Forest Estate, allowing the community the opportunity to comment. The possible development of a large hard rock quarry is a significant change to how the Wallaroo State Forest is managed. The change should be communicated to the to

the Public and endorsed via a proposed amendment to a Plan of Management. A positive determination should not be issued for the Stone Ridge Quarry Project in the absence of an amendment to the applying Plan of Management.

2. The next matter to be clarified is the leasing arrangement for the Project. The Project is proposed for a 30 year time frame, which is in conflict with the Forestry Act 2012, excerpt below:

FORESTRY ACT 2012 - SECT 42

Forest materials licences

42 Forest materials licences

(1916 Act, s 27C)

(1) A forest materials licence authorises the holder to take forest materials, or such class or description of forest materials as is specified in the licence, from a State forest.

(2) The term of a forest materials licence is the term specified in the licence, but the term--

(a) must not exceed 5 years without the prior written approval of the Minister, and

(b) must not, in any event, exceed 20 years.

(Ref: https://classic.austlii.edu.au/au/legis/nsw/consol_act/fa2012139/s42.html)

No information has been provided that a special allowance has been granted to allow a 30 year lease for this operation. In particular, there has been no written approval issued by the Minister that is available to the public that establishes and extended time frame of a forestry lease. In the absence of such, the life of the project must not exceed 5 years (or a maximum of 20 years with Ministerial approval).

3. There is also a matter of securing local environmental offsets (see our original submission) as well as the legal requirement for fulfilling obligations to ensure there will be a net gain of land for forestry operations secured prior to the release of a Forest Permit.

FORESTRY ACT 2012 - SECT 60

Forest permits for non-forestry uses

60 Forest permits for non-forestry uses

(1916 Act, ss 31(1)-(2) and 32F)

(1A)

(e) will result in a net gain of land available for forestry operations, and

(1B) The land manager of a forestry area must not issue a permit under subsection (1)(b) unless land used for forestry operations in substitution for the land subject to the permit--

(a) is a similar distance from local timber processors as the land for which it is substituted, and

(b) has an area at least twice as large as the area used for the construction and operation of renewable energy infrastructure, and

(c) is of the same or greater productive capacity, and

(d) has the same or greater average annual rainfall.

(Ref: https://classic.austlii.edu.au/au/legis/nsw/consol_act/fa2012139/s60.html)

The two issues of securing a biodiversity offset to deliver no net loss of biodiversity and securing land that is a net gain for forestry operations are separate lawful obligations.

In relation to land for forestry operations, we say that the Application should clearly identify the location and area that will be acquired and managed such that there is a “net gain of land available for forestry operations” in a way that satisfies s60 of the Forestry Act. This should not be dealt with by way of a condition of consent, as there is no certainty that satisfactory land is available or can be secured. We maintain our comments on the biodiversity offsets as per our original submission; Forest Estate land should not be used for the purpose of establishing a Biodiversity Stewardship Agreement.

4. The DPHI states “*It has (also) considered the suitability of the site and whether it is in the public interest to allow the Project to proceed.*” (Assessment Report p. vii)

GEG believes DPHI in offering an opinion on whether the project is approvable or not, should in the first instance check that FCNSW has fulfilled its obligations under the relevant Act/s and provide clear assurance that all checks and balances have been met including public disclosure. We do not believe this is the case.

Noting GEG believes that any positive determination should be deferred until the matters we raised in our submission dated 13th November 2024 are resolved, we further request the Commissioners address the issues raised in this correspondence prior to

any determination of the Project. The issues raised in this submission relate to whether the project is legally permissible/approvable.

Positively determining the Stone ridge Quarry Project in the absence of proper consideration of these matters would likely place substantial legal questions over any such consent or make it susceptible to legal challenge.

Thank you for your time and consideration.

Yours faithfully,

Megan Benson, Committee Member, Gloucester Environment Group.

Attachment: Letter to Premier and NSW Ministers re Stone Ridge Quarry.

The Hon. Chris Minns, Premier NSW, office@premier.nsw.gov.au
The Hon Daniel Mookhey, Treasurer, office@mookhey.minister.nsw.gov.au

The Hon Courtney Houssos, Minister for Finance and Natural Resource,
office@houssos.minister.nsw.gov.au

The Hon. Penny Sharpe, Minister for the Environment, office@sharpe.minister.nsw.gov.au

The Hon. Paul Scully, Minister for Planning and Public Spaces,
office@scully.minister.nsw.gov.au

Ms Tara Moriarty, Minister for Agriculture, office@moriarty.minister.nsw.gov.au

The Hon Kate Washington, Member for Port Stephens, portstephens@parliament.nsw.gov.au

18th November, 2024

RE: STONE RIDGE QUARRY (SSD-10432) IPCN 14th November, 2024 - DECISION PENDING – URGENT ATTENTION REQUIRED

Dear Premier and Ministers,

With respect, there needs to be Ministerial Review of Forestry Corporation's (FCNSW) decision to appoint ARDG to develop an industrial scale hard rock quarry in the Wallaroo State Forest.

The Independent Planning Commission held a public meeting to hear the views of community members on Thursday 14 November, in response to DPHI's assessment of the Stone Ridge Quarry Project in the Wallaroo State Forest. (www.ipcn.nsw.gov.au)

Forestry Corporation's Spokesperson informed the public meeting, that Wallaroo State Forest "has long been recognised as having a significant hard rock resource." The area "had been reserved for this quarry for some time" and that ARDG was "developing this site on behalf of Forestry."

At the private meetings held with the Commissioners prior to the public meeting (see meeting transcript notes with Applicant), Commissioners were informed the Project had been planned for around 30 years, advising the Commissioners that "We did some more drilling in the early 2000s and we had to amend the Forestry Act back in 2008 to be able to provide forests materials licence for up to 20 year periods and we did that specifically driven by this project because we understood it was going to be a state significant resource".

This was news to the community. FCNSW support for the project must be questioned at Ministerial level.

There has been no open disclosure about Forestry Corp's plans to develop the Wallaroo State Forest with the public. Certainly, no mention of the "significant state resource" is noted on FCNSW's website – Interactive maps:

<https://fcns.w.maps.arcgis.com/apps/webappviewer/index.html?id=014d0fd4cb1541e58e53b388bfba3ff7>

The writer could locate one reference to Wallaroo State Forest in Hansard:

<https://www.parliament.nsw.gov.au/la/papers/pages/qanda-tracking-details.aspx?pk=52165>

2317 - WALLAROO STATE FOREST

Washington, Kate to the Deputy Premier, Minister for Regional New South Wales, Industry and Trade

- (1) Under the Regional Forestry Agreement, is the Wallaroo State Forest classified as Zone 2 Special Management?
 - (a) What uses are permitted under Zone 2 Special Management?
- (2) Does the Government have any plans for the Wallaroo State Forest?

Answer -

- (1) Wallaroo State Forest contains a range of forest management zones.
 - (a) Information about activities permitted in each of the forest management zoning categories is published on Forestry Corporation's website.
- (2) Wallaroo State Forest will continue to be managed as a multiple-use public forest by Forestry Corporation of New South Wales, with activities within the forest managed in line with the forest management zoning of each part of the forest.

Question asked on 6 February 2020 (session 57-1) and printed in [Questions & Answers Paper No. 47](#)

Answer received on 9 March 2020 and printed in [Questions & Answers Paper No. 54](#)

We cannot locate a Forest Plan of Management for Wallaroo State Forest, and we are unable to locate an amended Draft Plan of Management which proposes any necessary amendments to an original Management Plan that allows for the largest hard rock, industrial scale quarry in the NSW State Forest Estate to operate in a native timber reserve.

https://www.forestrycorporation.com.au/_data/assets/pdf_file/0003/1443567/FCNSW0880-FMP_2022-27020223.pdf see page 41 and

https://www.forestrycorporation.com.au/_data/assets/pdf_file/0003/674724/P2024-10-Forest-Management-Policy.PDF

According to FCNSW's Statement of Corporate intent

https://www.forestrycorporation.com.au/_data/assets/pdf_file/0011/1499276/sci-2023-24.pdf

The principle objectives of the Corporation are as follows:

- a) *To be a successful business and, to this end:*
 - i) *To operate at least as efficiently as any comparable business, and*
 - ii) *To maximise the net worth of the State's investment in the Corporation*
- b) *To have regard to the interests of the community in which it operates*

- c) *Where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the Protection of the Environment Administration Act 1991*
- d) *To Contribute towards regional development and decentralisation*
- e) *To be an efficient and environmentally sustainable supplier of timber from Crown-timber land and land owned by it or otherwise under its control or management.*

Each of the principle objectives of the Corporation is of equal importance.

However, Forestry Corp has prioritised the financial return from the quarry project above environmental and welfare interests of the community in which it operates, and therefore is in breach of its own objectives.

The Stone Ridge Proposal represents the largest hard rock quarry by far in a NSW State Forest. We are informed by FCNSW the Deed of Agreement with ARDG was signed in 2018, yet there is no publicly accessible documentation that the community can access regarding this decision.

Wollaroo State Forest is public land. Full public disclosure of the proposed transformational, permanent change to our Forest should have occurred well prior to the current situation.

It is imperative that the Government ensures correct procedure has been and is followed.

Further, **a cost benefit analysis, conducted by an independent Government authority, must be produced that shows transparent decision making**, consideration of social license and environmental impacts, and sustainable economic benefit, prior to the pending determination of the Stone Ridge Quarry Project by the Independent Planning Commission.

Your urgent response to this correspondence is required. Please note copy of this correspondence will be forwarded to the Commissioners charged with determining the Stone Ridge Quarry proposal.

Thank you for your time and consideration of this request, we look forward to your advice.

Yours faithfully,

Megan Benson,
Committee Member, Gloucester Environment Group.



cc ... Independent Planning Commission