

**INQUIRY INTO PERFORMANCE OF THE NSW
ENVIRONMENT PROTECTION AUTHORITY**

Organisation: Sandy Point Progress Association Inc
Date received: 28/08/2014

Sandy Point Progress Association Inc.

C/- Secretary, 152 St George Cres
Sandy Point 2172

The Director
General Purpose Standing Committee No. 5
Parliament House
Macquarie St
Sydney NSW 2000

Submission - Performance of the NSW Environment Protection Authority (Inquiry)

Summary

The Sandy Point Progress Association Inc (SPPA) submits that the Environment Protection Authority (EPA) has failed to achieve its objectives and responsibilities under the Protection of the Environment Administration Act 1991 (the Act), in regard to monitoring and controlling the crushing, grinding, separating and related quarrying activities of Benedict Industries' operation of Environmental Protection Licence (EPL) number 1924 at the quarry known as Sandy Point Quarry on Heathcote Road, Sandy Point NSW.

Further the SPPA submits that the EPA has not adequately used its powers or undertaken its responsibilities under the Act to eliminate or properly mitigate the impacts of the activities of Benedict Industries at the re-opened Sandy Point Quarry. These impacts and activities include: causing noise pollution, air pollution and vibration damage from blasting; causing pollution of the Georges River; and, recycling waste on Crown land without a permit.

Details supporting the submission

1. The Sandy Point Progress Association Inc (SPPA) is a residents group with a long history that advocates for residents of Sandy Point NSW 2172 and surrounding areas in regard to planning, social, environmental, local government, and community safety related matters.
2. Quarrying of sandstone on Crown land adjacent to the residential community of Sandy Point was initiated on a small scale by a Mr A H Walker in 1967. Subsequently Environmental Protection Licence (EPL) number 1924 allowing extraction up to 30,000 tonnes of sandstone per annum was granted to the Chipping Norton Authority in 2000. The quarry was operated at a low level during the early 2000s, but was substantially inactive in regard to extraction for a number of years prior to transfer of the quiescent licence 1924 to Benedict Industries in 2010 without a competitive tender process. Note that the licence was for extraction, crushing, grinding and separating of up to 30,000 tonnes per annum only, and was not for any other activity. The most recent version of the EPL is dated 10 June 2014.
3. The EPA has failed to effectively monitor the extraction activities of Benedict Industries in that it has not validated Benedict Industries self reporting of extraction levels. In its Annual Return to the EPA in regard to licence 1924 for the 2012-2013 reporting period Benedict Industries certified compliance with the 0 to 30,000 Tonnes extraction limit set by the licence. The SPPA understands that in its return to the Department of Crown Lands for the 2013 reporting year Benedict Industries indicated it had extracted 400,000+ tonnes of material from the Sandy Point Quarry. Extraction of 400,000 is also reported by Benedict Industries in an Environmental Impact Study submitted to the Department of Planning and Environment in support of a development application to build a major glass and building waste processing facility on the Sandy Point Quarry site. The EPA Return clearly states that there is a penalty of up to \$250,000 for companies that supply false or misleading information in an EPA Return. The EPA is aware of the anomaly regarding actual extraction levels, however the EPA has not fined Benedict

Industries for certifying false or misleading information in the return. To the knowledge of the SPPA the EPA has also not pursued Benedict Industries for the additional licence fees that would be payable at an extraction rate of 400,000 tonnes per annum.

4. The SPPA contends that the EPA has similarly not effectively monitored the quarrying activities of Benedict Industries in regard to potential and actual environmental and pollution impacts on Georges River National Park, the Georges River, or the residential areas of Sandy Point and Picnic Point, all of which are immediately adjacent to the Sandy Point Quarry site. The EPA does not have the will or capacity to fulfill the obligations it has under the Environment Administration Act 1991 in regard to the “Precautionary Principle” (Section 6 (1) (a)), or its responsibility to prevent “irreversible damage” (Section 6 (2) (a) (i)) to the environment.
5. Between 2010 and 2014 the EPA has notified a limited number of Penalty Infringement Notices to Benedict Industries in relation to licence 1924. However in correspondence attached to its 2013 return to the EPA, Benedict Industries indicated to the EPA that it paid a meager \$1500 fine for an infringement related to inappropriate materials found on site, “... on the basis that it was simply cheaper to do so..”. This demonstrates that low amount fines are insignificant to companies that operate at the financial scale of Benedict Industries. It further indicates that such low level fines, and the relatively low likelihood of detection of non-compliance with licence requirements, do not ensure compliance, and therefore do not provide adequate protection of the community’s environmental interests.
6. In 2012 Benedict Industries removed in the order of 700 trees from the site without the permission of Sutherland Shire Council. The trees were mostly indigenous to the area and formed a part of the flora and fauna ecological system of the directly adjacent Georges River National Park. The Sutherland Council also contends that over 100,000 cubic metres of waste fill material was brought into the site by Benedict Industries without notification or permission. That matter is currently the subject of litigation between Benedict Industries and Sutherland Shire Council. The EPA has not acted on this matter.

7. The SPPA submits that the EPA does not apply enough diligence in monitoring and validating compliance by licence holders as evidenced by insufficient scrutiny of Benedict Industries' operation at Sandy Point Quarry. In the observation of SPPA the EPA is reactive rather than proactive, and as this is the case, it is quite easy for licence holders such as Benedict Industries to undertake activities that are commercially advantageous rather than environmentally responsible, even if they infringe on the environmental protection licence requirements.
8. The SPPA has obtained copies of internal EPA email correspondence through the GIPA Act. Relevant to our submission are the following statements by EPA officers - "We don't have any experience regulating an extractive industry site ", "Can we please quickly resolve who in the EPA is taking the lead on this premises as the issues appear to be escalating". While we are sure that individual EPA officers undertake their duties as competently as possible, these comments indicate a frustration with systemic and resource limitations that restrict the capacity of the EPA to fulfill its responsibilities under the Act.

Concluding submission

The EPA is currently processing an application from Benedict Industries to increase the amount of sandstone it can extract from the Sandy Point Quarry under licence. The SPPA has lost faith in the ability and capacity of the EPA to effectively determine such matters, as the EPA does not appear, in our observation, to be carrying out its responsibilities under the Environment Administration Act 1991.

Phillip Griffiths

President

Sandy Point Progress Association Inc.