



**EDO** Qld.

Environmental Defenders Office

*Using the law to protect  
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15 October 2018

Philip Best  
Mt Coot-tha Quarry Affected Residents  
3 Sir Samuel Griffith Drive  
Mt Coot-tha  
Toowong Qld 4066

*Sent via email only:* [philbest313@gmail.com](mailto:philbest313@gmail.com)

Dear Philip,

### **Advice line enquiry response – Mt Coot-tha Quarry**

Thank you for your enquiry on 1 March 2018 regarding the Brisbane City Council (**BCC**) Development Approval (**DA**) IPDE00920708 (formerly SR0041) dated 5 September 2012 located at Sir Samuel Griffith Drive, 152-170 Mount Coot-tha Road, Mount Coot-tha QLD 4066 (Lot 1 Plan RP18899, Lot 2 Plan SP241566 and Lot 6 Plan RP18899) (**Site**) for environmentally relevant activity (**ERA**):

- a) Extractive and screening activities Threshold 2(c) – extracting, other than by dredging, in a year, more than 100000t to 100000t of material (ERA 16); and
- b) Extractive and screening activities Threshold 3(b) – screening, in a year, more than 100000t to 1000000t of material (ERA 16).<sup>1</sup>

The Site is otherwise known as the Mt Coot-tha Quarry and is operated by BCC.

### **BACKGROUND**

1. The Quarry is owned and operated by the BCC and subject to the conditions of DA and the Environmental Authority (**EA**) Licence No. SR41.<sup>2</sup>
2. The conditions for both the EA and DA in relation to noise are identical.

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<sup>1</sup> Queensland Government, DES, Environmental Authority Permit Licence No. SR41 (**EA**), <<https://environment.ehp.qld.gov.au/env-authorities/pdf/epr00447313.pdf>>.

<sup>2</sup> Ibid.

3. The Mt Coot-tha Quarry is identified on the State Planning Policy (**SPP**) Interactive Mapping System (**IMS**)<sup>3</sup> as Key Resource Area (**KRA**) 42.
4. According to the SPP, a “KRA” means “an identified location that contains extractive resources of state or regional significance...”<sup>4</sup>
5. A KRA includes the following:
  - a) the resource/processing area;
  - b) the separation area;
  - c) the transport route, and
  - d) the transport route separation area.<sup>5</sup>
6. The SPP defines separation area as “an area surrounding the resource/processing area, needed to maintain separation of people from undesirable levels of noise, dust, ground vibration or air blast overpressure that may be produced as residual impacts from existing or future extraction or processing of the extractive resource”.<sup>6</sup>
7. Transport route separation area of a KRA is defined as “the area, measured 100 metres from the centre line of the transport route of a KRA, needed to maintain separation of people from undesirable levels of noise, dust and ground vibration produced as residual impacts from the transportation of extractive resources”.<sup>7</sup>
8. According to the SPP IMS, there are residential dwellings contained within the defined KRA separation area and the transport route separation area.
9. The conditions of the associated DA and EA provide noise limits as measured at a “noise sensitive place” in Schedule F.
10. The relevant conditions remain unchanged between the current authority and a previous licence that took effect on 22 December 2000.

We are instructed that:

11. The Mt Coot-tha Quarry has been operating since the late 19<sup>th</sup> Century.
12. Closure dates have been continually revised with the latest estimated closure date unclear:
  - a) Brisbane City Plan 2014 estimates closure in 2025;
  - b) Brisbane City Plan 2000 estimated closure in 2030;
  - c) BCC voted to extend quarry life to 2032 in 2012.
13. The Mt Coot-tha Quarry operates under a legacy blasting permit, which permits up to 10mm/second for 9 or 10 blasts and unlimited on every 10<sup>th</sup> blast.

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<sup>3</sup> Queensland Government, ‘Economic Growth – Mining and Extractive Resources’ <<https://spp.dsdi.esriaustraliaonline.com.au/geoviewer/map/planmaking>>.

<sup>4</sup> Queensland Government, Department of State Development, Manufacturing, Infrastructure and Planning (**DSDMIP**) (formerly Department of Infrastructure, Local Government and Planning (**DILGP**)), State Planning Policy (July 2017) (**SPP**), p 70 <<https://dsdmipprd.blob.core.windows.net/general/spp-july-2017.pdf>>.

<sup>5</sup> SPP.

<sup>6</sup> SPP, p 73.

<sup>7</sup> SPP, p 74.

14. This is as measured at any one point within one metre of any residential boundary or in or on any other noise sensitive place.
15. There is minimal separation between the defined resource/processing Area and the local residents. Data gathered by you indicates:
  - a) approximately 2,277 people live within 1,000 metres of the Mt Coot-tha Quarry;
  - b) approximately 337 people live within 500 metres;
  - c) 83 people live within 100 metres of the approved Transport Route used by quarry trucks;
  - d) the shortest distance between the Mt Coot-tha Quarry and a residential property is 36 metres.

We understand that you are seeking advice regarding:

1. Whether monitoring inside residential dwellings is considered a valid “noise sensitive place” with respect to the ongoing EA conditions for the Mt Coot-tha Quarry.

## **SUMMARY**

For the reasons set out in the advice below:

1. Conditions F4 and F5 of the EA do not exclude the taking of measurements from inside dwellings.
2. Condition F6 is ambiguous, however there is no definition of “noise sensitive place” within the EA that would exclude the inside of dwellings.
3. It is appropriate to consider that the conditions would align with the *Environmental Protection (Noise) Policy 2008 (EPP)*<sup>8</sup> and the Department of Environment and Science’s (DES) (formally Department of Environment and Heritage Protection (DEHP)) *Noise Measurement Manual*.<sup>9</sup> These specifically indicate monitoring may be conducted inside buildings that best represent the most affected location, in this instance dwelling houses.

We have answered your query below.

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<sup>8</sup> *Environmental Protection (Noise) Policy 2008* (Qld).

<sup>9</sup> Queensland Government, DES, Noise Measurement Manual <<https://www.ehp.qld.gov.au/licences-permits/pdf/noise-measurement-manual-em1107.pdf>>.

## ADVICE

We have considered the EPP, the DES's Noise Measurement Manual and the EA conditions<sup>10</sup> for the Mt Coot-tha Quarry.

The EPP defines a "sensitive receptor" as "an area or place where noise is measured".<sup>11</sup> The EPP prescribes acoustic quality objectives (measured in decibels) for different types of sensitive receptors (see Schedule 1). Schedule 1 indicates that the indoors of a dwelling is a type of sensitive receptor.

The DES Noise Measurement Manual is a policy document which prescribes the processes required to measure noise in accordance with the *Environmental Protection Regulation 2008* (Qld) (**EP Reg**). The expert you have engaged to measure the blasts should be following this manual.

The Noise Measurement Manual states that:

*...when assessing under the Environment Protection Act 1994 (Qld) (EP Act), investigating officers should select the location that is considered to best represent the most affected location. These measurements are typically conducted in or near buildings and are not required to be in a free field.*

This indicates that monitoring completed inside a dwelling is a valid location to complete the measurement.

The EA conditions for the Mt Coot-tha Quarry state limits for noise emanating from blasting operations when measured "at any noise sensitive place or commercial place" (see Conditions F4 and F5).<sup>12</sup> The EA conditions also state limits for ground vibrations caused by blasting operations "when measured at any point within one metre of any residential boundary or in or on any other noise sensitive place" (see Condition F6).<sup>13</sup>

In our view, Conditions F4, F5 and F6 do not exclude the taking of measurements from inside dwellings. Furthermore, the EA does not define "noise sensitive place" and would be interpreted consistently with the statutory context, including the EPP definition of "sensitive receptor", which does not exclude measurement inside.

Accordingly, we do not think that the EA conditions depart from the approach taken in the EPP and the Noise Measurement Manual. We consider that blast monitoring taken inside dwellings which are "sensitive receptors" to the Mt Coot-tha Quarry will be valid, provided they meet the other requirements of the Noise Management Manual.

We note that for such measurements to stand up in court will likely require an expert witness who can exclude extraneous noise sources from any measurement and attest to the noise level emanating from the blasting pressure.

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<sup>10</sup> Queensland Government, Environmental Authority Permit Licence No. SR41 (EA), <<https://environment.ehp.qld.gov.au/env-authorities/pdf/eppr00447313.pdf>>.

<sup>11</sup> *Environmental Protection (Noise) Policy 2008* (Qld), Sch 2 – Dictionary (Definition of *sensitive receptor*).

<sup>12</sup> See EA Conditions F4 and F5.

<sup>13</sup> See EA Condition F6.

We hope the information we have provided in this response is of assistance and we will now attend to closing your file. We will keep your file for 7 years, after which time it will be destroyed.

Please do not hesitate to contact us if you have any questions or would like to discuss this matter further.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Sean Ryan', written in a cursive style.

**Sean Ryan**  
*Principal Solicitor*

*To provide feedback on EDO services, write to us at the above address.*

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