Contact: Alana Jelfs
Phone: 02 9383 2100
Fax: 02 9383 2133
Email: pac@pac.nsw.gov.au

Matthew Floro
Corrs Chambers Westgarth
PO Box 9925
SYDNEY NSW 2001

11 October 2017

Dear Matthew,

Access to information under the GIPA Act

I refer to your application received on 28 August 2017 under the Government Information (Public Access) Act 2009 requesting access to information pertaining to the Gunlake Quarry Extension Project (SSD 7090) and the Land & Environment Court (LEC) Appeal 2017/00108663 between Gunlake Quarries and the Minister for Planning.

I hold authority to make decisions on applications made under the GIPA Act for access to information held by the Commission. The Commission has checked all its records and identified a number of documents that fall within the scope of your application. The table in Attachment A provides a response to each item requested in your application as well as any relevant background information.

I have found public interest considerations in favour of the release of several documents that fall within the scope of your request. These documents are contained in Attachment B. All personal information and Commercial in Confidence information has been redacted.

Certain documents that fall within the scope of your application relate to the LEC appeal (2017/00108663) and are being withheld on the grounds of legal professional privilege, as per Schedule 1, Clause 5 of the GIPA Act. In reaching this decision I considered if it would be appropriate for the agency to waive its privilege but found no reason to do so.

Pursuant to section 14 of the GIPA Act, some of the documents requested are being withheld on the grounds that the release of such information is not within the public interest, specifically that they:

- *Reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of government or an agency;*
- *Prejudice the effective exercise by an agency of the agency's functions; and*
- *Reveal commercial-in-confidence provisions of a government contract.*

Rights of review

The decision against disclosure of information on grounds of legal professional privilege is not a reviewable decision under Part 5 of the GIPA Act.

You have a right to seek an internal review of other aspects of this decision under Part 5 of the GIPA Act. An internal review request should be made in writing to the Chair of the Commission within 20 working days of this notice of decision. Alternatively, you have a right to seek a review by the Information and Privacy Commission or by the NSW Civil and Administrative Tribunal.

Their contact details are:

Information and Privacy Commission NSW
GPO Box 70111
SYDNEY NSW 2001
Phone: 1800 472 679
Email: ipcinfo@ipc.nsw.gov.au
Website: www.ipc.nsw.gov.au

NSW Civil and Administrative Tribunal
Administrative and Equal Opportunity Division
Level 10, John Maddison Tower
86-90 Goulburn Street
SYDNEY NSW 2000
Phone: 1300 006 228
Website: www.ncat.nsw.gov.au

An application for NSW Civil and Administrative Tribunal review must be made within 8 weeks of this notice of decision or within 4 weeks after completion of any review undertaken by the Information and Privacy Commissioner.

Should you have any questions on the above, please don't hesitate to contact Alana Jelfs, of the Commission Secretariat, on 9383 2100.

Yours sincerely,

David McNamara

Director, Secretariat
Planning Assessment Commission

Attachment A

Requested documents	Commission response
1. *In the period between 1 July 2016 and the present, records of all meetings (including telephone conferences) between the Planning Assessment Commission (or any of its members) and either the Minister for Planning or any one of the Senior Department Officers in relation to:* • *transport of construction materials in the Sydney Region;* • *heavy vehicle transport in the Sydney metropolitan, Illawarra and Southern Highlands area;*	Records released – document 1. Records of meetings held in relation to the Gunlake Quarry Extension Project are already publicly available on the Commission's website (refer to www.pac.nsw.gov.au). A further meeting was held between the Commission and the Department on 3 February 2017. A copy of this meeting record is now provided. No further records were found.
2. *Copies of all documents being hard copy or electronic communications between any one or more of Lynette Briggs, Brian Gilligan, Roger Fisher and Paul Forward in relation to:* • *SSDA 7090 (the Gunlake Quarry Extension Project); and/or* • *Land & Environment Court Appeal 2017/00108663 between Gunlake Quarries and the Minister for Planning.*	Record released – document 2. Documents were found but not provided on grounds that the release of such information was subject to legal professional privilege and/or is not within the public interest, as specifically it would: • *Reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of government or an agency;* • *Prejudice the effective exercise by an agency of the agency's functions.*
3. *In relation to the retainer of Paul Forward as an expert witness in Land & Environment Court Appeal 2017/00108663 between Gunlake Quarries and the Minister for Planning:* • *a copy of any brief or retainer agreement between Mr Forward and any one or more of the following:* • *the Minister for Planning;* • *the Planning Assessment Commission; and/or* • *the solicitors on the record for the Minister for Planning;*	Record released – document 3 and 4. Other records within the scope of the request are already available to you. A letter of instruction from Lindsay Taylor Lawyers was attached to Mr Forward's signed Statement of Evidence, which was previously provided to Corrs Chambers Westgarth during the LEC appeal. A further copy of this document is provided.
• *a copy of any disclosure by Mr Forward on the Planning Assessment Commission's conflicts of interest register in relation to this retainer; and*	No records identified in relation to this part of the request.

	• *documents evidencing any payment of fees paid to Mr Forward in relation to this retainer as an expert witness.*	Record released – documents 5 and 6. Documents evidencing payment of fees to Mr Forward in relation to retainer as expert witness are provided. Various personal information and Commercial in Confidence information has been redacted including for persons not subject of the request. Other records falling within the scope of this request were identified but not provided on grounds that the release of such information is not within the public interest, as specifically it would: • *Reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of government or an agency;* • *Reveal commercial-in-confidence provisions of a government contract*
4.	*Copies of any documents authorising the Planning Assessment Commission to conduct Land and Environment proceedings on behalf of the Minister for Planning.*	Record released – documents 7, 8, 9. Several emails are provided that fall within the scope of the request. A copy of the Applicant's Class 1 Application filed and sealed by the court on 10 April 2017 is also provided.
5.	*Copies of any internal procedure documents describing the procedures to be followed by the Planning Assessment Commission members when acting as a consent authority under delegations from the Minister for Planning.*	Records within the scope of this part of the request are publicly available. The procedures to be followed by Commission members when acting as a consent authority under delegations from the Minister for Planning are provided on the Commission website www.pac.nsw.gov.au.

Attachment B

Document 1 *Meeting record*: Gunlake Department meeting record 3 February 2017

Document 2 *Email*: New merit appeal – Gunlake Quarry Extension Project SSD 7090

Document 3 *Email*: Paul's details

Document 4 *Document*: Mr Paul Forward's Statement of Evidence with Letter of Instruction from Lindsay Taylor Lawyers at Appendix B.

Document 5 *Email*: RE: Minister for Planning ats Gunlake Quarries Pty Limited, 715 Brayton Road, Marulan LTL:[DOP17003]

Document 6 *Payment schedule*: Mr Forward invoice/payment schedule

Document 7 *Email*: Minister for Planning ats Gunlake Quarries Pty Ltd

Document 8 *Email*: FW: Minister for Planning ats Gunlake Quarries Pty Ltd

Document 9 *Letter*: Gunlake Quarries Pty Limited v The Minister for Planning Land and Environment Court Proceedings No. 2017/00108663

Appendix X
Gunlake Department meeting

This meeting is part of the Determination process.		
Meeting note taken by Alana Jelfs	**Date:** 3 February 2017	**Time:** 1pm
Project: Gunlake Quarry Extension Project – D447/16		
Meeting place: Planning Assessment Commission (PAC Office)		
Attendees: Commission Members: Lynelle Briggs (Chair), Roger Fisher and Brian Gilligan Commission Secretariat: David McNamara (Director) and Alana Jelfs (Planning Officer) Department of Planning and Environment: Marcus Ray (Deputy Secretary Planning Services), Howard Reed (Director Resource Assessments) and Oliver Holm (Executive Director Resource Assessments and Compliance)		
The purpose of the meeting: For the Commission and the Department to discuss the transport options considered for the Project		

The following matters were discussed:
 	
• The involvement of the Department in getting a range of transport options considered by the Applicant.
• Road transport options:
  o Proposed primary transport route and the private haul road option
• Rail transport options:
  o Options considered by the Applicant
  o Viability of rail transport and establishing infrastructure
• Issues discussed at the public meeting and with the Council, including:
  o road safety
  o noise
  o rehabilitation
  o integrated transport solution
• Conditions of consent
• Significance of the Marulan/Southern Highlands region in supplying aggregate for the construction industry in the Sydney basin.		

Outcomes/Agreed Actions: N/A		
Meeting closed at 2pm		

From: Lynelle Briggs
To: David McNamara
Cc: Roger Fisher; Brian Gilligan; Alana Jelfs; David Koppers
Subject: Re: New merit appeal - Gunlake Quarry Extension Project - SSD 7090
Date: Wednesday, 12 April 2017 3:25:37 PM
Attachments: image001.png

Thanks for letting us know. Lynelle

Sent from my iPhone

On 12 Apr 2017, at 3:23 pm, "[redacted] <[redacted]> wrote:

FYI below the not unexpected appeal for Gunlake has been lodged.

There is nothing required from Commissioners at this time.

The Department litigation team take the lead on all appeals to Ministerial decisions and the Secretariat will provide instructions as required. As an initial step the Secretariat will be providing our electronic file to DPE legal next week. I will keep you updated on progress, though in reality we will have little knowledge of their case until after the first court date on 15 May.

Kind regards
David

David McNamara | Director Secretariat
NSW Planning Assessment Commission
Level 3, 201 Elizabeth Street Sydney NSW 2000
e: [redacted] | p: [redacted] | f: 9383 2133 | www.pac.nsw.gov.au

Please consider the environment before printing this e-mail.

From: Lauren Sims
Sent: Wednesday, 12 April 2017 12:16 PM
To: David McNamara <[redacted]>; Howard Reed <[redacted]>; Oliver Holm <[redacted]>
Cc: James Hebron <[redacted]>; Marcus Ray <[redacted]>; Sacha Vukic <[redacted]>; Louise McAndrew <[redacted]>
Subject: New merit appeal - Gunlake Quarry Extension Project - SSD 7090
Importance: High

** CONFIDENTIAL LEGAL COMMUNICATION **

Good morning

Gunlake Quarries Pty Ltd has commenced a merit appeal in the Land and Environment Court against the PACs refusal of the DA for the Gunlake Quarry Extension Project. A copy of the court document is **attached**.

The matter is first in Court on **15 May 2017** for directions to be made to prepare the matter for hearing. Under the Court's Class 1 Practice Note, the Minister's Statement of Facts and Contentions is required to be filed by **10 May 2017**.

As the Department recommended approval, we will be in contact with David about the conduct of the litigation, however if you have questions in the meantime, please feel free to contact me.

Regards

Lauren Sims
A/Principal Legal Officer
320 Pitt Street | GPO Box 39 | Sydney NSW 2001
T [redacted]

<image002.jpg>

<image004.jpg><image006.jpg> <image008.jpg> Subscribe to our newsletter

This document may be subject to legal professional privilege. If you are departmental staff, disclosing this document or discussing its contents with a third party may mean that legal professional privilege is waived. Please contact Legal Services before this document or its contents are disclosed to a third party. If you are a third party and have received this document in error, please delete it, destroy any hardcopy and advise the author as soon as possible.

<3313_001.pdf>

Document 3

From: David McNamara
To: Sue Puckeridge
Subject: Paul"s details
Date: Wednesday, 24 May 2017 10:10:00 AM
Attachments: image001.png

Hi Sue,

I have spoken with Paul Forward and he is happy to consider the public interest matter. I said you would be in touch today to discuss the matter in more detail including timing. I flagged that ideally we could get some initial thoughts from him in the next 48 hours and then further detailed consideration could occur next week.

Paul's mobile number is [redacted] and email [redacted]

Regards
David

David McNamara | Director Secretariat
NSW Planning Assessment Commission
Level 3, 201 Elizabeth Street Sydney NSW 2000
e: [redacted] | p: [redacted] | f: 9383 2133 | www.pac.nsw.gov.au

Please consider the environment before printing this e-mail.

STATEMENT OF EVIDENCE
PAUL FORWARD
26 JUNE 2017

LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES
CLASS 1 APPEAL
CASE NUMBER: 108663 of 2017
GUNLAKE QUARRIES PTY LTD V THE MINISTER OF PLANNING

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1. INTRODUCTION

ACKNOWLEDGEMENT

1.1. I have read the Uniform Civil Procedure Rules 2005 [NSW] Schedule 7 Expert Witness Code of Conduct and agree to be bound by it. I have prepared this report in accordance with the Rules.

EXPERT QUALIFICATIONS

1.2. I have a Bachelor of Commerce Degree in Economics (UNSW) plus post-graduate Masters degrees in Economics (MCom UNSW) and Planning (MSc University of London).

1.3. My CV is attached at Appendix A of this statement.

1.4. Particular relevant experience for this matter includes:

- Chief Executive of the Roads and Traffic Authority of NSW 1999-2005
- Director Road Network Infrastructure RTA 1996-1999
- Member NSW Government's Transport Advisory Board 2012-2016
- Chairman of Austroads 2003-2005
- Deputy Chairman of Austroads 2000-2003

PURPOSE OF REPORT

1.5. Gunlake Quarry Pty Limited ('Gunlake') has lodged the appeal against the refusal of the Planning Assessment Commission ('Commission') as the delegate of the Minister for Planning to approve an application for development consent for the extension of the Gunlake Quarry located at Marulan. The Project application is an application for development consent for state significant development SSD15-0790.

1.6. I have been engaged by Lindsay Taylor Lawyers on behalf of the Minister for Planning to provide a statement of evidence in regards to public interests matters for the above appeal. A copy of my letter of instruction dated 26 May 2017 from Lindsay Taylor Lawyers is attached at Appendix B.

1.7. In particular, this evidence has been prepared to address Contention 1.4 of the Statement of Facts and Contentions dated 15 May 2017 as particularised in the letter to Corrs from LTL dated 25 May 2017 ('Response Letter') and Gunlake's Reply to the Statement of Facts and Contentions dated 22 May 2017 ('Reply').

LITERATURE OR OTHER MATERIALS UTILISED

1.8. In preparing this statement of evidence I have also had regard to the following documents:

a. NSW Freight and Ports Strategy (NSW Government, November 2013)
b. NSW Long Term Transport Master Plan (NSW Government, December 2012)
c. A Plan for Growing Sydney (NSW Government, December 2014)

d. Sydney Canberra Corridor Regional Strategy (2006- 2031) (NSW Government, 2008)
e. The Draft South East and Tablelands Regional Plan (NSW Government, May 2016)
f. the Sydney Construction Materials Supply Chain Investigation (PwC, May 2016) ('**TfNSW Report**')
g. Road and Rail Freight Infrastructure Pricing
h. Gunlake Quarry Project Annual Review 2016

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2. CONTENTION 1.4

PUBLIC INTEREST

2.1. The Application fails to demonstrate that it is in the public interest that the quarry product should be transported by road for the next thirty years.

2.2. The evidence outlined below is based on an assumption that the applicant is seeking a thirty year consent, assuming 2 million tonnes per annum of saleable product to be produced with an increase in average daily truck movements from 164 to 440 with a daily maximum movement of 590. It is assumed that this includes, and that the applicant is seeking no changes to the average daily and daily maximum movements on the secondary transport route.

3. SUMMARY

3.1. The quarry has an expected life of approximately 100 years as reported by Gunlake in its Annual Review 2016, (or 90 years (see Table E.1 Project Description of the Environmental Impact Statement prepared by EMM Consulting dated April 2016)), and therefore, a sustainable long-term transport solution is warranted. Gunlake are proposing continuation of the road transportation that relies largely on a 'truck and dog' configuration.

3.2. The NSW Government is supportive of higher productivity vehicles in order to more efficiently and economically transport freight.[1] The NSW Freight and Ports Strategy 2013 concluded "more productive movement of freight can be achieved with fewer vehicle movements, through the use of vehicles carrying greater loads".[2] Moreover, there is significant evidence to illustrate that the Government is committed to and currently upgrading both the road and rail networks to enable the more efficient movement of freight.[3] (see paragraph 4.5 – 4.8 below).

3.3. Transport for NSW recommended that Gunlake Quarry participate in a review of transport options for their quarry, with key government agencies. Participation in a review of medium to longer-term transport options should be included as a condition of the project approval, recognising that in the short term there will be little change to the type of truck configuration.

3.4. In my opinion, an approval for 21 years, provides Gunlake with a strong incentive to seek a more efficient and economical transport solution rather than maintain the status quo in vehicle configuration. (see paragraph 4.17, 4.25 and 4.26).

3.5. The recommendation by Transport for New South Wales to cap the average number of daily vehicle movements to 320 is, in my opinion, acceptable and a workable compromise. However, to agree to a maximum of 590 movements to and from the site, is not acceptable, not in the public interest, and furthermore, not necessary if the TfNSW option to use more higher productivity vehicle, including Performance Based Standard (PBS) vehicles with Higher Mass Limits is adopted – requiring less vehicles to carry out a given freight task.

---

[1] See NSW Freight and Ports Strategy, Transport for NSW, November 2013.
[2] Ibid page 68.
[3] See NSW Long Term Transport Master Plan, Transport for NSW 2012.

4. RESPONSE

The Policy behind a need for a long-term sustainable transport solution

4.1. The importance of Marulan as a source of quarry products for the Sydney market is expected to continue to grow.

4.2. The TfNSW Report of the Sydney Construction Material Supply Chain estimated that future supply of quarry products to the Sydney market will be spread over five key areas of which Marulan would be the largest source with an estimated 10 million tonnes per annum. The next most important source is the lower Hunter with an estimated 6 million tonnes per annum.[4]

4.3. Gunlake has an estimated resource of 180 million tonnes. Gunlake's Annual Review for 2016[5] estimates the Marulan quarry has a life of a 100 years whereas other material indicates a mine life of 90 years.[6] Therefore, Gunlake can be referred to as a long life mine, with ample amount of material to supply the Sydney market into the next century.

4.4. Gunlake has provided a transport strategy that relies upon a road solution with an assumed average payload per laden truck trip of 32.5 tonnes, achieved largely with "truck and dog" combinations with some B-Double Trucks and smaller trucks transporting the quarry products to the Sydney market. This approach will effectively rely on a roads solution that is maintainable for a period of 30 years to 2047. At the same time, the NSW Government is encouraging more freight to be transported by rail or by high productivity vehicles on an improving road network.[7]

4.5. Over the next 20 years the road and rail transport network will undergo significant improvements in response to the Government's aim to reduce congestion and cater for growth, particularly in Western Sydney.[8] Also, it is my understanding that as the freight trucking fleet is renewed on average every 10 years, more efficient and safer vehicles can be progressively introduced into the fleet, enabling higher productivity and requiring less vehicles to undertake a given freight task.

4.6. The NSW Long Term Transport Master Plan (2012) states that:

> *"We will move more people and more goods as our population grows to nine million over the next 20 years.....The Freight task in NSW will also increase. To make sure our industry stays competitive and communities receive the goods they need,* ***we need to increase the amount of goods carried by rail and improve freight efficiency on vital road connections".***[9]

4.7. The NSW Freight and Ports Strategy (July 2013) concludes, *"by 2031, the freight task in NSW is projected to nearly double to 794 million tonnes."*[10] *Moreover, the Freight and Ports Strategy notes that "a more productive movement of freight can be achieved, with fewer vehicle movements through the use of vehicles carrying greater loads.*[11]

4.8. The Government has demonstrated its commitment to provide the necessary infrastructure for rail to be a viable alternative to roads for the movement of freight, with the opening of the

---

[4] Sydney Construction Materials Supply Chain Investigation, Transport for NSW, May 2016 – prepared by Price Waterhouse Coopers.
[5] Gunlake Quarry Pty Ltd, Annual Review September 2016.
[6] Table E.1 Project Description of the Environmental Impact Statement prepared by EMM Consulting dated April 2016).
[7] NSW Freight and Ports Strategy, Transport for NSW, November 2013.
[8] NSW Long Term Transport Master Plan, Transport for NSW, 2012.
[9] NSW Long Term Transport Master Plan, Summary, page 4.
[10] NSW Freight and Ports Strategy, Transport for NSW, November 2013, page 19.
[11] Ibid page 68.

Southern Sydney Rail Freight line in January 2013 and its continual budgetary support for completion of the Northern Sydney Freight line.

4.9. The TfNSW Report which analysed the Sydney construction materials supply chain concluded: [12]

> *"Greater use of higher productivity vehicles (HPV's) could reduce the number of freight trips on the network, decreasing congestion and also the unit cost of transportation for materials. However, the use of higher productivity vehicles (HPV's) is currently constrained by:*
> *Higher mass limit (HML) restricted bridges on both State and local roads*
> *Roads with general access restrictions which cannot be accessed by larger vehicles*
> *Production sites/demand sites which are not configured for HPVs."* [13]

4.10. The TfNSW Report recommends the following solutions to address these challenges.

- Consider Upgrading Road Capacity in selected corridors
- Increase Mass Limits on State Managed Bridges
  Increase Mass Limits on Locally Managed Roads and Bridges (including physical upgrades).[14]

4.11. The NSW Government is implementing a number of these solutions to encourage increased adoption of higher productivity vehicles, including:

4.11.1. WestConnex, widening the M4 corridor, improvements to the Cowpastures road corridors in Western Sydney, as well as plans by Transurban to widen the M7 south of the M4 to the M5 Motorway.

4.11.2. Increased Mass Limit of State Managed Bridges is underway with the RMS Safety Productivity Environment Construction Transport Scheme (SPECTS) program. In addition, the NSW Government has announced that it has committed over $846 million to fixing pinch points across Sydney's road network. As part of the Government's 2017-18 budget it announced that more than $1 Billion would be spent improving roads across Western Sydney.

4.12. The NSW Government has demonstrated that it is supportive of higher mass limits for heavy freight vehicles and the Performance Based Standard (PBS) scheme as an instrument to address the growing freight task. The Government has approved access to all state roads for PBS 1A and 1B vehicles and approved extensive State road access for PBS 2A vehicles.[15]

4.13. Goulburn Mulwaree Council have approved the local road route component of the haulage route from the Gunlake quarry to the Hume Highway for PBS 2A vehicles. The route is also approved for 26 metre B-Doubles up to HML.[16]

4.14. The NSW Government policy position is to support higher productivity vehicles, including higher mass limit vehicles under the performance based standard scheme, as a policy instrument to encourage less trucks to achieve a given freight task.[17]

4.15. In my role at RTA and as a member of the NSW Government Transport Advisory Board representatives of freight industry regularly made representations seeking to increase the mass of freight vehicles on the road network.

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[12] TfNSW Report, May 2016.
[13] Ibid page vi.
[14] Ibid page viii.
[15] See NSW Roads and Maritime Services, General PBS Information, rules and assessment criteria and PBS Access in NSW.
[16] Roads & Maritime, Performance Based Standards, see http://www.rms.nsw.gov.au/business-industry/heavy-vehicles/road-access/performance-based-standards-vehicles.html
[17] See NSW Freight and Ports Strategy November 2013, Action 1D Improve productivity of the freight network, page 68 and Appendix B Road Network, pages 177 – 184.

Transport for New South Wales is willing to work with Gunlake to identify opportunities for the use of rail over the mid to long term.

4.16. The Commission concluded in its Assessment summary fact-sheet that "other quarries in the Marulan region transport quarry products by rail into Sydney and that this provides a cheaper ongoing transport option, once initial supporting infrastructure is established"[18]

4.17. The Applicant argues that the cost of providing the supporting rail infrastructure from the quarry and to the quarry material destinations in Sydney presently makes this an unviable option.

4.18. The Commission concluded "the project will have unacceptable social impacts, and negative road safety outcomes and is not in the public interest".

4.19. Freight products must be transported in a safe manner to protect the public interest. Each heavy user of the road network should contribute to improving the transportation of its product. A 30 year project approval provides Gunlake with little incentive to improve how it transports its product, improve the impacts it has on the road network, and to develop a sustainable long term transport solution with government.

4.20. Correspondence from TfNSW to the Department of Planning and Environment states that:[19]

> *"From a strategic perspective, TfNSW recognise the benefit of using rail for the transportation of bulk material to Sydney from outlying key supply points in the long term, but also acknowledges a number of general complicating issues, namely:*
>
> - *Significant and complicated issues regarding suitable receival sites in Sydney, including a lack of immediately available land that is adjacent to the rail network with suitable sizing;*
> - *Current significant demand for aggregate in Sydney and the need for short-term supply solutions;*
> - *The inherent inflexibility of rail to meet the proponent's need to service a limited number of geographically diverse batching plants; and*
> - *The limited storage capacity at older batching plants that may be unable to accommodation large stockpiles from rail".*

4.21. TfNSW state that "*opportunities for use of rail by Gunlake may be able to be identified and developed over the mid to long term.* ***TfNSW would be willing to work with Gunlake and proposes ongoing consultation with the company in this regard****. However, it also appreciates that Gunlake's current application to expand its production would assist in satisfying the current high levels of demand for construction aggregates in Sydney. Satisfaction of these current and short-term demands is not amenable to the development and application of rail-based solutions".*

4.22. If a 30 year approval was granted permitting 440 average daily truck movements and a daily maximum of 590 vehicle movements, it would enable Gunlake to continue to transport its product using trucks which do not optimise efficiency and safety and would provide little incentive for Gunlake to focus strategically on developing a long term sustainable transport solution for the delivery of its product to the Sydney market.

4.23. Moreover, based on current government initiatives Sydney's road and rail freight transport network will improve significantly over the next 20 years with a strong government commitment to upgrade transport infrastructure. A 21 year approval (which Gunlake has under its existing project approval) would provide an incentive to Gunlake to consider the most sustainable transport solution for the long term. Gunlake would have little incentive to develop a long-term transport solution if a 30 year project approval was provided. Greater use of higher productivity vehicles, including PBS vehicles with HML or a rail solution would also result in less heavy

---

[18] NSW Planning Assessment Commission Determination: Gunlake Quarry Extension Project – D447/16, 5 April 2017.

[19] Letter to Mr Marcus Ray, Deputy Director, Department of Planning and Environment from Mr Frederic Horst, A/Executive Director, Freight Industry, TfNSW (undated).

vehicles on the road network to achieve the freight task, less congestion on roads and a safer outcome for the community. This outcome is in the public interest.

4.24. Given that the applicant currently has approval to operate until 2038 for current production and the changing freight environment (including legislation, technology and infrastructure changes), I consider that it is more appropriate to limit the terms of this approval to 21 years.

4.25. Further, with significant road and rail infrastructure being built and planned within the Sydney region over the next 20 years, it is my opinion that if the approval were to be granted for this Project a condition should be included which requires Gunlake to review the feasible transport options for the quarry product including the feasibility of the transportation of the quarry's product by rail given the Government's long term transport strategy to the upgrade of both the road and rail network, the increasing role out of higher productivity vehicles, including HML and PBS vehicles, as well as significant improvements to the composition of the freight fleet.

4.26. A condition of the project approval should include a requirement that Gunlake work with Transport for NSW and other appropriate government authorities to develop a sustainable long-term transport solution. In my opinion such a review should occur in 2025 when Gunlake reaches 1.5 million tonnes which can be delivered with the existing fleet mix or in 2028 when Gunlake predicts it will reach full production capacity. This review should include both rail and performance based road HML solutions. Such a review, together with a limitation on the term of the Project Approval to 21 years would be in the public interest because it would assist in encouraging a shift to the quarry product being transported by road using best practices which aim to improve both efficiencies and road safety and it would provide evidence in relation to the use of rail which would inform future applications and transport options.

Truck Movements numbers

4.27. The current project approval permits the following:

> Truck movements shall not exceed:
>
> (a) Stage 1 – 25 truck movements per day (averaged over each calendar month), with a maximum of 38 truck movements on any day; and
>
> (b) Stage 2 – 164 truck movements per day (averaged over each calendar month), up to a maximum of 320 movements on any day, including 25 truck movements per day (averaged over each calendar month) and a maximum of 38 truck movements on any day on Brayton Road between the bypass road and the intersection of Brayton Road/George Street/Interchange underpass.[20]

4.28. Gunlake is seeking to increase the average number of truck movements on the primary transport route from an average of 164 to 440 per day with a maximum of 590 per day, up from the current approved maximum of 230 per day. The increase in the proposed vehicle numbers was an issue of concern to the local community and in the Commission's determination of the matter. Concern was expressed regarding the impact on the safety of users of the primary road network from the Quarry gate to the Hume Highway and the impact on the road surface, causing deterioration of the pavement surface as a result of the increased truck numbers.

4.29. The number of vehicle movements sought by the applicant reflects the likely use of low productivity vehicles, such a "truck and dog trailer combinations", 6 axle semi-trailer and 3 axle rigid trucks, rather than the more modern and productive PBS vehicles with HML for example.

4.30. Information supplied by the Applicant indicates that by 2025 1,500,000 tonnes per annum of quarry products will be sourced from the Gunlake Quarry.[21] As noted above, "truck and dog" combinations with a payload of 32.5 tonnes per vehicle have the capacity to transport up to 1.5

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[20] Condition 6 of the Project approval granted under s75J of the *Environmental Planning and Assessment Act* dated 24 September 2008 and amended April 2015.

[21] Information supplied by Corrs as part of the Commercial in Confidence letter of 14 February 2017.

million tonnes of quarry product per annum. The maximum processing rate of quarry product of 2 million tonnes per annum is forecast to occur in 2028,[22] if the proposed extension was approved in 2017.

4.31. TfNSW proposed a solution to support a heavy vehicle movement cap of an average of 320 vehicle movements per day, while also allowing an extension of the processing rate to 2 million tonnes per annum. TfNSW states that:

> *"Use of modern, high productivity, safer trucks such as PBS 2 vehicles, would enable the proponent to achieve the output sought without a commensurate increase in vehicle movements. To illustrate this, a truck and dog with a payload of 32.5 tonnes and 320 trucks per day produces an annual output of around 1.5 million tonnes based on 5.5 days per week. In comparison, use of PBS vehicles could enable the proponent to average a payload of 45 (tonnes) and achieve an output of around 2 million tonnes per annum, with the same average trucks per day".*[23]

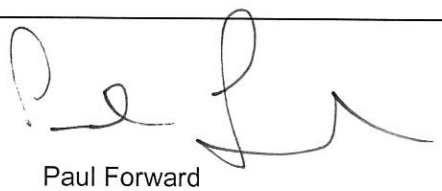
4.32. TfNSW concludes that:

> *"Through a greater use of PBS vehicles particularly on line haul routes to Sydney, the proponent will be able to significantly increase its average payload and achieve a safer road outcome".*
> *"TfNSW supports approving the 2 million tonnes with a cap of 320 trucks per haulage day on average,* ***which incentivises the proponent to adopt a more productive fleet of vehicles.****"*[24]

4.33. If the applicant moves to incorporate the use of higher productivity vehicles in its fleet, and that of its contractors, I consider that limiting the average daily truck movements to 320 is reasonable as this will enable Gunlake to move the amount of product for which approval is being sought. Otherwise I defer to the figures that Mr Wills, who I understand is analysing truck numbers, considers to be appropriate.

4.34. The applicant has sufficient time (over ten years) to move progressively towards the use of PBS and HPV vehicles by its contractors and within its own fleet to transport 2 million tonnes per annum. The TfNSW option has merit and should be supported.

4.35. In light of the fact that I consider average daily truck movements of 320 is reasonable I do not consider that 590 as a maximum number of vehicles is appropriate or necessary. Use of higher productivity vehicles will reduce the need to have a maximum set at 590. A maximum number may be appropriate but insufficient information permits a determination of the particular number at this point in time.

SIGNED 

Paul Forward

Date 26 June 2017

APPENDIX A: Curriculum Vitae

[22] Ibid.
[23] Letter to Mr Marcus Ray, Deputy Director, Department of Planning and Environment from Mr Frederic Horst, A/Executive Director, Freight Industry, TfNSW (undated).
[24] Ibid.

Appendix A

Document 4

Paul Forward: Curriculum vitae

Qualifications

- Master of Science – University of London, Bartlett School of Planning, University College London
- Master of Commerce (Economics) – University of New South Wales
- Bachelor of Commerce (Economics) – University of New South Wales
- Graduate and Member of the Australian Institute of Company Directors

Current roles

- Planning Assessment Commission Member (from 2012)
- Member of the Advisory Board, Institute of Transport and Logistics Studies, University of Sydney (from 2003)
- Adviser/consultant to government on the deliver of large scale infrastructure projects
- Executive Advisor to E3 Advisory
- Member Sydney Harbour Federation Trust Community Advisory Committee

Previous Industry Associations/ Boards

- Chairperson Biosciences Research Centre Joint Venture Board (AgriBio) (2009 – 2014)
- Member NSW Government's Transport Advisory Board (2012 to 2016)
- Member of the Serco Advisory Board (2011 – 2013)
- Non-Executive Director of Delta Electricity Board (2006 – 2010)
- Member Delta Board Audit and Finance Committee Delta Electricity (2006 – 2010)
- Member Delta Board Environment, Occupational Health and Safety Committee (2006 – 2010)
- Inaugural Chairman, Transport Certification Australia (2004-2005)
- Member Advisory Board, Railing Port Botany's Containers (2004-2005)
- Chairperson of Austroads (2003 – 2005) and Deputy Chairperson (2000 – 2003)
- Member Olympic Roads and Transport Authority Board for the preparation and delivery of the Sydney 2000 Olympics (1999 – 2000)
- Sydney Water representative Metropolitan Waste Disposal Board (1987-89 and 1991-94)

Professional Experience

Paul has over 40 years of senior level experience in both private and public sectors, including the Tertiary Sector with specific experience in transport, water industries and land use planning. He is a qualified economist and town planner, with postgraduate qualifications in both disciplines.

He has been a **Member of the Planning Assessment Commission** since 2012, during which time he has reviewed or determined over 40 projects, including mines, wind farms, inter-modal terminals, and a number of urban development/renewal projects. He chaired the reviews/determinations for most occasions.

In recent years, government has called upon him to be a **member of expert review panels on infrastructure**, to advise:

- Infrastructure Australia on the National Infrastructure Audit and Northern Australia Infrastructure Audit (2014-15)
- Westconnex Delivery Authority on the development and scoping of Westconnex, including a critique of the transport modelling and its implications for the design of Westconnex (2013-15)
- IPART on its Review of the delivery of infrastructure by NSW Government agencies (2013)

He was engaged by NSW Ports to advise and conduct workshops with major stakeholders on the development of a multi-modal transport strategy for Port Botany. (2014)

From 2009 to 2014 he was **Chair of the Bio Science Research Centre Joint Venture Board (AgriBio)** – a joint venture between La Trobe University and the Victorian Department of Primary Industries. Using the PPP procurement model he delivered a state of the art agriculture research centre at La Trobe University Melbourne, from concept to operations. He oversaw an extensive contractor dispute with Plenary and Grocon that was resolved at no cost to Government and developed a long-term strategic plan for AgrioBio with major stakeholders. A major role of the independent chair was to facilitate a healthy working relationship between the needs of the different joint venture partners.

A **Principal of Evans & Peck** from 2006 to 2013, Paul has extensive experience in advising numerous clients in developing strategies for the planning, procurement and delivery of complex infrastructure projects. While at Evans & Peck, he provided advice to clients, including:

- Sydney Airport, on the development of the 2009 Airport Master Plan as Project Director
- Commonwealth Department of Infrastructure and Transport: A Strategic Audit of the Department for the Secretary: an independent review of the high speed rail study; and a review of the National Transport Commission
- NSW Department of Transport as Chairman of the Reference Panel to develop the Long Term Transport Master Plan for Sydney and NSW
- Federal Minister for the Environment (Minister Turnbull) on bids for funding under the National Water initiative
- Department of Transport for the procurement and delivery of a long term contract for the out sourcing of maintenance of the country rail network in NSW
- Victorian Department of Transport as a member of the Expert Review Group to review the initial business case for the East West Link Motorway
- Victorian Treasury and Finance as a member of the Gateway Review team for the upgrade of the Monash Freeway in Melbourne
- Minister for Resources, Energy and Tourism (Minister Ferguson), on the long term strategy for jet fuel supply to Sydney Airport
- Roads and Maritime Services, and Infrastructure NSW on the development of the Westconnex Motorway, including presentations to the INSW Board

- Roads and Maritime Services, as a member of the Steering Committee for the outsourcing of the North West and South West Sydney road maintenance contracts
- Transport New Zealand, undertook a performance review for the Board.

He served for over six years as **Chief Executive of the Roads and Traffic Authority of New South Wales** from 1999 to 2005. During that period, the agency went through a comprehensive reform program and delivered almost $20Billion worth of major infrastructure projects, including completion of the Sydney Orbital Motorway network.

Paul has extensive experience in Public Private Partnerships as a method for delivering infrastructure. Previous to his role as CEO, he was **Director of the RTA's Road Network Infrastructure Division** (1996 – 99), where he managed the RTA's capital and maintenance programs. He was Project Director for the Eastern Distributor Motorway in Sydney and also negotiated the Pacific Highway upgrade program with the Federal Government.

From 1992 to 1995 and from 1985 to 1989 Paul held various **senior positions at Sydney Water**, including Director Corporate Planning and during both periods was a member of the Executive management committee. He prepared the organisation's strategic marketing plan, presented to the Government Pricing Tribunal the 1993-94 pricing submission and was the manager responsible for the delivery of three Water Treatment plants as PPP's.

From 1989 to 1992 he was an **Associate Director Strategy and Marketing** with the international management consulting firm **Coopers and Lybrand**, where he undertook various assignments to assist public and private sector organisations prepare strategic business and marketing plans, including Placer Pacific (a multinational gold mining company) and Patrick Stevedores.

From 1980 to 1985 he held various senior policy positions in the NSW Public Service, including in the Public Service Board and the Department of Industrial Development and Decentralisation.

He has extensive experience working through the machinery of government to deliver complex large-scale infrastructure projects, specifically in the transport, water and bioscience agriculture research industries.

His work with the Planning Assessment Commission has provided an understanding of the key issues in mining and residential urban renewal projects. His work as member of the Delta Electricity Board provided an understanding of coal as an input to generate electricity.

Paul started his career as an **academic (with tenure) at the University of NSW, School of Economics** lecturing and tutoring over a ten year period (1971 – 1980), in Economics, specialising in public policy, urban and regional economics and microeconomics. He also lectured in the School of Town Planning, UNSW. In 1978 he was on study leave from UNSW at the Bartlett School of Planning, University College London.

He is often asked to speak at industry conferences on infrastructure and transport and has produced various papers on the delivery of infrastructure.

APPENDIX B: Letter of instruction from Lindsay Taylor Lawyers

Appendix B

Document 4

lindsaytaylorlawyers
planning • environment • local government

Dr Lindsay Taylor - Senior Partner
Megan Hawley - Partner
Accredited Specialist
(Local Government & Planning)
Stuart Simington - Partner
Accredited Specialist
(Local Government & Planning)
Sue Puckeridge - Partner
Carlo Zoppo - Partner

Confidential

26 May 2017

Our ref: DOP17003
Your ref:

Paul Forward
E3 Advisory
Level 24, 45 Clarence Street
Sydney NSW 2000

Email

Dear Sir,

DA SSD 7090, 715 Brayton Road, Marulan, Minister for Planning ats Gunlake Quarries Pty Limited, LEC Proceedings No. 108663 of 2017

1 I act for the Minister for Planning ('**Minister**') in the above proceedings.

2 The Applicant, Gunlake Quarries Pty Limited ('**Applicant**') has appealed against the Planning Assessment Commission's ('**PAC**') refusal for development application DA SSD 7090 ('**Project**').

3 The Project relates to state significant development at 715 Brayton Road, Marulan.

4 The Project proposes to expand and intensify the Gunlake Quarry under Part 4 of the EP&A Act.

5 The existing Gunlake Quarry is a hard rock quarry located on Brayton Road, approximately 7 kilometres northwest of Marulan, within the Goulburn Mulwaree Council local government area.

6 Gunlake Quarry currently operates under project approval 07-0074 issued by the Minister for Planning in September 2008. The project approval has been modified on three occasions:

6.1 modification 1 – Stage 2 southbound access,

6.2 modification 2 – Quarry expansion, and

6.3 modification 3 – Truck movements.

7 The Project seeks approval to maintain all current approved operations at the quarry, as well has the following additional activities:

7.1 operations to continue for 30 years from the date of approval of the extension project,

7.2 2 Mtpa of saleable products to be produced,

7.3 an increase in truck movements to an average of 440 movements per day and a maximum of 590 movements per day,

7.4 extension of the quarry pit,

7.5 an additional overburden emplacement to accommodate the increase in production,

7.6 24 hour per day primary crushing, and,

7.7 blasting twice weekly.

(as set out in the Environmental Impact Statement that can be found via the hyperlink at **Tab 10** of the attached schedule).

8 The Applicant commenced Class 1 proceedings 2017/00108663 on 10 April 2017.

9 The following timetable has been set down in the proceedings:

9.1 **14 June 2017**, section 34 conciliation conference commencing on-site at 715 Brayton Road, Marulan at 10 am,

9.2 **3 July – 6 July 2017**, hearing commencing on-site at 715 Brayton Road, Marulan and returning to the Court.

10 I enclose the Minister's Statement of Facts and Contentions ('**SOFAC**') in the proceedings at **Tab 1g** together with the SOFAC in reply at **Tab 1f**.

Nature of the Project

11 The development application for the Project was lodged with the Department of Planning and Environment ('**Department**') on 1 April 2016. A copy of the state significant development application can be found via the hyperlink at **Tab 7** of the attached schedule.

12 The Department exhibited the project from 4 April to 20 May 2016 and received 57 submissions in response, including 48 objections. The submissions received from Goulburn Mulwaree Council and RMS can be found via hyperlink at **Tab 11 and 12**. Public submissions can be found via hyperlink at **Tab 13**.

13 As over 25 submissions were received, on 14 December 2016 the Department referred the project to the PAC for determination.

Assessment of the Application

14 The Secretary's Environmental Assessment Requirements for the project ('**SEARS**') required an assessment of feasibility of rail and various other matters related to road traffic and impacts on the capacity, condition, safety and efficiency of the road network. This can be found via hyperlink at **Tab 9**.

15 The Department completed an Assessment Report and identified key issues with the project. This can be found via hyperlink at **Tab 5**.

16 The Department was ultimately satisfied that the benefits of the project outweighed its residual costs and considered the project in the public interest and approvable (Assessment Report at Tab 5), subject to conditions of consent. The conditions of consent can be found via hyperlink at **Tab 6**.

17 The Department made this recommendation to PAC.

18 On 5 April 2017 PAC refused consent to the project. The Determination can be found via hyperlink at **Tab 2**.

PAC Refusal

19 The PAC's Determination Report can be found via hyperlink at **Tab 3 and 4**. PAC determined the following:

19.1 the Applicant has not given sufficient consideration to the provision of an appropriate upgrade to the local road network to account for the significant increase in heavy vehicle traffic movements in accordance with the Austroads standards,

19.2 the Applicant has provided insufficient information to justify that the use of the local road network for haulage without compliance with Austroads standards would not create a potential road safety issue,

19.3 the Applicant has provided insufficient information to allow an accurate and genuine consideration of road versus rail based haulage, and,

19.4 the project as proposed will have unacceptable social impacts, including negative road safety outcomes, and is not in the public interest.

Local Road Network

20 As set out at point 7, the Applicant seeks approval for an increase in average daily truck movements (heavy vehicle one-way trips, either entering or leave the site) to 440 and an increase the maximum number of daily truck movements to 590.

21 RMS provided a submission regarding the Project (**at Tab 12**) raising concerns with truck driver behaviors at the Hume Highway and Red Hills Road intersection. RMS considered the Applicant's initial proposal to be insufficient and required the proposed northbound acceleration lane to be constructed before any increase in truck movements occurred.

22 The Department required the Applicant to consider any alternative options for transporting quarry product, particularly options for rail transport to Sydney. This is set out in the Response to Submissions found via hyperlink at **Tab 17**, paragraph 7.2.

23 The Applicant provided additional information responding to submissions. This response included:

23.1 a Rail Transport Study prepared by HATCH, found via hyperlink at **Tab 17**, and

23.2 a Transport cost benefit analysis review prepared by Gillespie Economics, found via hyperlink at **Tab 17**.

24 I enclose an email from Phil Towler of EMM Consulting, who advised the Department on behalf of the Applicant of the combination trucks proposed to be used by the Project.

25 Following receipt of the Response to Submissions, the Department was satisfied that alternative transport options would be unviable. This is set out in the conclusion to the Department's Assessment Report found via hyperlink at **Tab 5**.

26 Following receipt of the Department's Report, PAC sought further information from the Department and the Applicant in relation to the method of transport of quarry material from the quarry in Marulan to the Sydney market. This letter can be found at **Tab** 1.

27 The Department referred this issue to Transport for New South Wales ('**TfNSW**'). An undated letter from TfNSW can be found at **Tab 1**.

28 On 29 March 2017 the Department wrote to PAC passing on TfNSW's recommendations. This letter can be found at **Tab 1**.

29 In its determination report dated 5 April 2017, found via hyperlink at **Tab 3**, PAC raised concerns regarding the use of road transport for moving quarry product from the project site to the applicant's Sydney based batching plants.

30 PAC considered alternative transportation methods such as rail transport and was not satisfied with the Applicant's scoping of local road upgrades, finding measures proposed by the Applicant to address road safety insufficient (As set out in the Determination Fact Sheet found via hyperlink at **Tab 4**).

Public interest

31 Contention 1.4 of the Statement of Facts and Contentions at **Tab 1g** states:

'*The Application fails to demonstrate that it is in the public interest that the quarry product should be transported by road for the next thirty years*'

32 The Applicant has requested particularisation of this Contention. This request was answered on 23 May 2017 and 25 May 2017, I enclose copies of these answers at **Tab 1h** and **Tab 1i.** I enclose copies of the strategy documents referred to in these answers at **Tab 21 – 23**.

Expert opinion

33 I request that you review the materials provided and confirm that you can support contention 1.4 of the Statement of Facts and Contentions as particularised.

34 If you are able to support the refusal of the Project on the basis of contention 1.4 you make be asked to:

34.1 prepare an individual statement of evidence;

34.2 prepare a joint statement of evidence;

34.3 attend meetings or conferences as requested by us and/or consider further evidence provided to us; and

34.4 attend to give evidence at any s34 conference/hearing.

Documents

35 A complete copy of documents relating to the Project can be found at the following websites:

35.1 Gunlake Quarry Extension Project, Major Project Assessment

35.2 Gunlake Quarry Extension Project, NSW Planning Assessment Commission

Please review these sites, however I have identified relevant material in the attached Schedule of Documents.

36 I also refer you to Schedule 7 of the UCPR, which contains the Expert Witness Code of Conduct. I **attach** a copy of this Schedule. Please read it and acknowledge that you agree to be bound by it.

37 Due to the presence of commercial in confidence material in the documents listed in the Schedule of Documents at Tab 1(b)(iv) and (vi), the applicant requires a confidentiality deed poll to be signed prior to access being provided. I consider that you will require this material. Please confirm your willingness to sign a confidentiality deed poll undertaking to keep such information confidential and only use it for purposes of giving advice in these proceedings.

Fee proposal

38 Please note that I am required to obtain approval for your fee proposal before you commence work on the matter and that your retainer will be between you and our client. Any liability for your fees will rest with our client.

39 Should you have any further questions please don't hesitate to contact me.

40 I look forward to hearing from you and await your prompt reply.

Yours Sincerely,

Sue Puckeridge
Partner
D: [redacted]
M: [redacted]
E: [redacted]

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Schedule of Documents

Tab	Document	Document date
1	a) Class 1 Application	
	b) Requests for further information and responses	
	i. Email from PAC to Gunlake	7 Feb 2017
	ii. Email from Edward O'Neil to PAC	14 Feb 2017
	iii. Letter from Gunlake to PAC regarding crusher	14 Feb 2017
	iv. Letter from Gunlake to PAC – to be provided	14 Feb 2017
	v. Letter from PAC to Gunlake	27 Feb 2017
	vi. Letter from Gunlake to PAC – to be provided	28 Feb 2017
	c) Department correspondence	
	i. Letter from PAC to DPE	1 March 2017
	ii. Letter from DPE to TfNSW	7 March 2017
	iii. Letter from TfNSW to DPE	undated
	iv. Letter from DPE to PAC	29 March 2017
	d) Letter from Holcim to DPE	30 June 2016
	e) Email from applicant to DPE regarding truck usage	27 March 2017
	f) Statement of Facts and Contentions	15 May 2017
	g) Statement of Facts and Contentions in Reply	22 May 2017
	h) First response to request for further and better particulars	23 May 2017
	i) Second response to request for further and better particulars	25 May 2017
	Determination	
2	State Significant Development Application Refusal	5 April 2017
3	Planning Assessment Commission (PAC) Determination Report-Gunlake Quarry Extension Project (SSD 7090)	5 April 2017
4	PAC Determination Summary Fact Sheet	5 April 2017
	Recommendations to the Planning Assessment Commission	
5	State Significant Development Assessment - Assessment Report prepared by the DPE	Dec 2016

Tab	Document	Document date
6	DPE Recommended Conditions of Consent (comprising Appendix H to DPE Assessment Report)	Undated
	Documents in support of the Application	
7	State Significant Development Application for Gunlake Quarry Extension Project	1 April 2016
8	Gunlake Quarry Extension Project- Request for Director-General's Requirements prepared by EMM Consulting	23 June 2015
9	Gunlake Quarry Extension Project - Secretary's Environmental Assessment Requirements (SEARs)	13 Oct 2015
10	Statement of Environmental Effects (Report J14119RP1) prepared by EMM Consulting, attaching the following: • Appendix A: Study team • Appendix B: Copy of Environmental Assessment Requirements • Appendix C: Gunlake Quarry Environmental Management Strategy, prepared by Gunlake Quarries Pty Limited (Gunlake) • Appendix D: Transport Options Review, prepared by EMM Consulting (version 4) • Appendix E: Community Consultation Materials, titled "The Gunlake Extension Project Factsheet No. 1" • Appendix N: Economic Assessment prepared by Gillespie Economics	April 2016
	Agency Submissions	
11	Submission by Goulburn Mulwaree Council	17 May 2016
12	Submission from Roads & Maritime Services (RMS) (Reference: STH09/01940/12)	17 May 2016
	Public Feedback	
13	Public Submissions Submission from Holcim (Australia) Pty Ltd	Various 18 May 2016
	Community Meeting	
14	Summary of issues raised at the Community Meeting at Marulan, Thursday 30 June 2016	30 June 2016

Tab	Document	Document date
15	PowerPoint Presentation titled: Gunlake Quarry Extension Project Community Meeting, prepared by OPE	30 June 2016
	Response to Submissions	
16	Letter from DPE to Gunlake Quarries Pty Limited (Gunlake) requesting responses to submissions	25 May 2016
17	Gunlake Response to Submissions prepared by EMM Consulting (Report J14119RP1, version 1); attaching the following: • Appendix E: Rail Transport Study prepared by HATCH (revision 3) • Appendix F: Road Options Assessment prepared by EMM Consulting (version • Appendix H: Transport cost benefit analysis review, enclosing: Review of Cost Benefit Analysis of Gunlake Quarry Rail Transport Study Prepared by Hatch	23 Sept 2016 12 Sept 2016 22 Sept 2016 9 Sept 2016
	Agency Comments on Response to Submissions	
18	Letter from RMS to the DPE providing comments on the Response to Submissions (Reference: STH09/01940/13)	11 Oct 2016
	Additional Information	
19	Letter from PAC to Goulburn Mulwaree Council	27 February 2017
20	Letter from Goulburn Mulwaree Council to PAC	14 March 2017
	Policy Documents	
21	NSW Long Term Transport Master Plan	December 2012
22	NSW Freight and Ports Strategy	November 2013
23	Sydney Construction Materials Supple Chain Investigation	May 2016

Document 5

From:	David McNamara
To:	Sue Puckeridge
Cc:	David Koppers; Alana Jelfs
Subject:	RE: Minister for Planning ats Gunlake Quarries Pty Limited, 715 Brayton Road, Marulan LTL:[DOP17003]
Date:	Tuesday, 30 May 2017 1:11:30 PM
Attachments:	image001.png image002.png

Thanks Sue, confirming Paul's fees are consistent with the Commission rates and therefore acceptable.

Regards
David

David McNamara | Director Secretariat
NSW Planning Assessment Commission
Level 3, 201 Elizabeth Street Sydney NSW 2000
e: [redacted] | p: [redacted] | f: 9383 2133 | www.pac.nsw.gov.au

Please consider the environment before printing this e-mail.

From: Sue Puckeridge [mailto:sue.puckeridge@lindsaytaylorlawyers.com.au]
Sent: Tuesday, 30 May 2017 12:50 PM
To: David McNamara [redacted]
Cc: David Koppers [redacted]; Alana Jelfs [redacted]
Subject: FW: Minister for Planning ats Gunlake Quarries Pty Limited, 715 Brayton Road, Marulan LTL:[DOP17003]

Dear David,

Please see the email below from Paul Forward.

Please confirm that his fees are acceptable.

Regards,

Sue

Sue Puckeridge
Partner
Lindsay Taylor Lawyers

D [redacted]
M
F
E

W www.lindsaytaylorlawyers.com.au

Level 9, Suite 3, 420 George Street | Sydney NSW 2000 | Australia

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From: Paul Forward [redacted]
Sent: Monday, 29 May 2017 4:35 PM
To: Sue Puckeridge [redacted]
Cc: Katie Mortimer [redacted];
[redacted] McNamara [redacted]
Subject: Re: Minister for Planning ats Gunlake Quarries Pty Limited, 715 Brayton Road, Marulan LTL:[DOP17003]

Sue, I refer to your email of the 26 May regarding the above matter.

I write to advise you that i am prepared to sign a confidentiality agreement and note the commercial sensitive nature of the material that has been provided.

With regard to my fees, I will charge the standard PAC fee of $285 per hour or $2,000 per day.

I look forward to assisting you on this matter.

Regards

Paul Forward

> On 26 May 2017, at 6:05 pm, Sue Puckeridge [redacted] wrote:
>
> Dear Paul,
>
> 1. I **attach** a letter of instruction, Schedule of Documents and attachments in the above matter.
>
> 2. Please do not hesitate to contact me on 8235 9702 or Katie Mortimer on 8235 9716 with any questions regarding these attachments.
>
> Regards,
>
> Sue
>
> **Sue Puckeridge**
> **Partner**
> **Lindsay Taylor Lawyers**
>
> <imagea9dbd3.PNG>
>
> **D** [redacted]
> **M** [redacted]
> **F** [redacted]
> **E** [redacted]
> **W** www.lindsaytaylorlawyers.com.au

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<DOP_DOP17003_084.pdf><DOP_DOP17003_085.pdf><Attachments for brief to P Forward.zip>

Document 6

Title	Name	Daily Rate	Invoice No	Invoice Date	Job No	Project title	Fee	Expenses	GST	Total Claim	Hours	Total by Member
Member	Lynelle Briggs											
Member	Paul Forward			01-June-2017	1039772	Gunlake Quarry Extension Project						$19,822.50
				22-June-2017	1039772	Gunlake Quarry Extension Project						
				03-July-2017	1039772	Gunlake Quarry Extension Project						
Casual Member	Brian Gilligan											
Casual Member	Roger Fisher											
Consultant	Jason Lazarus											
Consultant	Martens & Associates Pty Ltd											
Consultant	Lindsay Taylor Lawyers											
Consultant	Heather Irish (C/- Lindsay Taylor Lawyers)											
Consultant	Centre for International Economics											
							Fee	Expenses	GST	Total Claim	Hours	

From:	Dr. Lindsay Taylor
To:	Lauren Sims
Cc:	David McNamara; Louise McAndrew; Sue Puckeridge; Katie Mortimer
Subject:	Minister for Planning ats Gunlake Quarries Pty Ltd
Date:	Thursday, 20 April 2017 3:54:09 PM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg imaged7b6a8.PNG

Dear Lauren,

Thank you for your email and its attachments. Thank you for offering LTL the brief in this matter.

We will liaise with David McNamara, as requested, in relation to the conduct of the appeal.

Please let me know if the Department wishes to put in place any reporting requirements in relation to our work on the appeal.

Regards,

Lindsay

Dr. Lindsay Taylor
Senior Partner
Lindsay Taylor Lawyers

D [redacted]
M [redacted]
F [redacted]
E [redacted]
W www.lindsaytaylorlawyers.com.au

Level 9, Suite 3, 420 George Street | Sydney NSW 2000 | Australia

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From: Lauren Sims [redacted]
Sent: Thursday, 20 April 2017 3:17 PM
To: Dr. Lindsay Taylor [redacted]
Cc: David McNamara [redacted]; Louise McAndrew [redacted]
Subject: Minister for Planning ats Gunlake Quarries Pty Ltd

Dear Lindsay

Thank you for your time on the phone this afternoon.

As discussed, we would like to instruct you to appear for the Minister for Planning in this appeal.

A copy of the application class one is **attached**. I will have the hardcopy of the attachments to the application class one delivered to you. The appeal is listed for directions on 15 May 2017.

The development application the subject of the appeal was determined by the NSW Planning Assessment Commission as delegate of the Minister. As the PAC made a different decision to that recommended by the Department, the PAC will provide instructions on behalf of the Minister in the appeal.

Please liaise directly with David McNamara in relation to the appeal, whose contact details are as follows:

David McNamara, Director Secretariat
NSW Planning Assessment Commission
Level 3, 201 Elizabeth Street Sydney NSW 2000
e: [redacted] | p: [redacted]

I also note that the PAC has been served with a subpoena, a copy of which is **attached**. The subpoena is returnable on 26 April 2017.

Regards

Lauren Sims
A/Principal Legal Officer
320 Pitt Street | GPO Box 39 | Sydney NSW 2001
T [redacted]

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From: David McNamara
To: David Koppers; Alana Jelfs
Subject: FW: Minister for Planning ats Gunlake Quarries Pty Ltd
Date: Thursday, 20 April 2017 3:19:47 PM
Attachments: 3313_001.pdf
Gunlake.pdf

FYI legal assistance for Gunlake to be provided from outside the Department.

From: Lauren Sims
Sent: Thursday, 20 April 2017 3:17 PM
To [redacted]
Cc: David McNamara [redacted]; Louise McAndrew
[redacted]
Subject: Minister for Planning ats Gunlake Quarries Pty Ltd

Dear Lindsay

Thank you for your time on the phone this afternoon.

As discussed, we would like to instruct you to appear for the Minister for Planning in this appeal. A copy of the application class one is **attached**. I will have the hardcopy of the attachments to the application class one delivered to you. The appeal is listed for directions on 15 May 2017.

The development application the subject of the appeal was determined by the NSW Planning Assessment Commission as delegate of the Minister. As the PAC made a different decision to that recommended by the Department, the PAC will provide instructions on behalf of the Minister in the appeal.

Please liaise directly with David McNamara in relation to the appeal, whose contact details are as follows:

David McNamara, Director Secretariat
NSW Planning Assessment Commission
Level 3, 201 Elizabeth Street Sydney NSW 2000
e: [redacted] | p: [redacted]

I also note that the PAC has been served with a subpoena, a copy of which is **attached**. The subpoena is returnable on 26 April 2017.

Regards

Lauren Sims
A/Principal Legal Officer
320 Pitt Street | GPO Box 39 | Sydney NSW 2001
T [redacted]

NSW GOVERNMENT Planning & Environment

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Document 9

Our reference
CLC/LL/BPAU7602-9095128

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Sydney
Melbourne
Brisbane
Perth

11 April 2017

By hand delivery
Minister for Planning
c/- Department of Planning and Environment
Level 22
320 Pitt Street
SYDNEY NSW 2000

En [redacted]

Partner
Christine Covington
Email: [redacted]

Attention: James Hebron, General Counsel

Dear Minister

Gunlake Quarries Pty Limited v The Minister for Planning Land and Environment Court Proceedings No. 2017/00108663

We act for Gunlake Quarries Pty Limited, the Applicant in relation to Land and Environment Court proceedings No. 2017/00108663 (**Proceedings**).

By way of service, we **attach** the Applicant's Class 1 Application filed in the Proceedings and sealed by the Court on 10 April 2017.

Please note the following:

(a) the Application has been listed for first directions at **9:30am** on **15 May 2017**; and

(b) there are two unfiled documents in respect of which the Applicant maintains a claim of commercial-in-confidence. We intend to file these documents with the Court at the first directions hearing and seek appropriate orders for confidential access.

If you have any queries, please contact Louise Lee on [redacted]

Yours faithfully
Corrs Chambers Westgarth

Christine Covington
Partner

attachments

Document 9

LAND AND ENVIRONMENT COURT OF NSW
FILED ON
10 APR 2017
INT

Form B (version 2)
LECR 3.2

APPLICATION CLASS 1

COURT DETAILS	
Court	Land and Environment Court of New South Wales
Class	1
Case number	2017/00108663
TITLE OF PROCEEDINGS	
Applicant	**Gunlake Quarries Pty Limited** (ACN 118 686 963)
Respondent	**The Minister for Planning**
FILING DETAILS	
Filed for	**Gunlake Quarries Pty Limited**, Applicant
Legal representative	Christine Covington, Corrs Chambers Westgarth
Legal representative reference	CC:LL:
Contact name and telephone	[redacted]
Contact email	[redacted]
HEARING DETAILS	
This application is listed at	A telephone directions hearing will take place at: Time: 09:30 am Date: 15 MAY 2017 Please telephone **(02) 8293 1163** just prior to your allocated time.

A copy of this document must be served

by 17 APR 2017

TYPE OF CLAIM

Planning law – appeal against deemed or actual refusal of development (section 97(1) Environmental Planning and Assessment Act 1979)

DETAILS OF APPLICATION

Date or other identification of the decision, or other matter appealed against, objected to, complained of or referred or remitted to the court	Refusal by the Planning Assessment Commission, as delegate of the Respondent, on 5 April 2017 of the Applicant's State significant development application no. SSD 7090 (Gunlake Quarry Extension Project) to expand and intensify the use of the Applicant's existing quarry at 715 Brayton Road, Marulan (contained in Lot 13/1123374).
Act or instrument under which the proceedings are brought	Section 97(1) of the *Environmental Planning and Assessment Act 1979*

ORDERS SOUGHT

1 That the appeal be upheld.

2 That the Court grant consent to the Applicant's State significant development application no. SSD 7090 (Gunlake Quarry Extension Project) to expand and intensify the use of the Applicant's existing quarry at 715 Brayton Road Marulan (contained in Lot 13/1123374).

3 Such further order or orders as the Court deems fit.

SIGNATURE

Signature of legal representative	
Capacity	Solicitor
Date of signature	10 April 2017

NOTICE TO RESPONDENT

If your solicitor, barrister, authorised agent or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the relief claimed in the application and for the applicant's costs of bringing these proceedings.

You must enter an appearance before you can appear before the court.

HOW TO RESPOND

Please read this application very carefully. If you have any trouble understanding it or require assistance on how to respond to the application you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the application from:

- The court registry.
- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.

Court forms are available on the LEC website at www.lawlink.nsw.gov.au/lec.

REGISTRY ADDRESS

Street address	Level 4, 225 Macquarie Street, Windeyer Chambers, SYDNEY NSW 2000
Postal address	GPO Box 3565, SYDNEY NSW 2001
Telephone	(02) 9113 8200

FURTHER DETAILS ABOUT APPLICANT

Applicant

Name	**Gunlake Quarries Pty Limited** (ACN 118 686 963)		
Address			
	715	Brayton	Road
	Marulan	NSW	2579

Legal representative for applicant

Name	Christine Covington			
Practising certificate number	10371			
Firm	Corrs Chambers Westgarth			
Contact solicitor	Louise Lee			
Address	Level 17		8 Chifley	
	8-12	Chifley		Square
	Sydney	NSW		2000
Telephone	[redacted]			
Fax	(02) 9210 6611			
Email	[redacted]			

DETAILS ABOUT RESPONDENT

Respondent

Name	**The Minister for Planning**		
Address	C/- NSW Department of Planning and Environment Level 22		
	320	Pitt	Street
	Sydney	NSW	2000

LIST OF DOCUMENTS IN SUPPORT OF THE APPLICATION			
Tab	**Description**		**Date**
VOLUME 1 OF 3			
1	State Significant Development Application for Gunlake Quarry Extension Project		1 April 2016
2	Gunlake Quarry Extension Project – Request for Director-General's Requirements prepared by EMM Consulting		23 June 2015
3	Gunlake Quarry Extension Project – Secretary's Environmental Assessment Requirements (**SEARs**)		13 October 2015
4	Letter from Department of Planning & Environment (**DPE**) attaching Commonwealth Environmental Assessment Requirements		2 November 2015
5	Statement of Environmental Effects (Report J14119RP1) prepared by EMM Consulting, attaching the following:		April 2016
	(a)	**Appendix A**: Study team	Undated
	(b)	**Appendix B**: Copy of Environmental Assessment Requirements	13 October 2015
	(c)	**Appendix C**: Gunlake Quarry Environmental Management Strategy, prepared by Gunlake Quarries Pty Limited (**Gunlake**)	August 2015
	(d)	**Appendix D**: Transport Options Review, prepared by EMM Consulting (version 4)	2 February 2016
	(e)	**Appendix E**: Community Consultation Materials, titled "The Gunlake Extension Project Factsheet No. 1"	Undated
	(f)	**Appendix F**: Soil and Rehabilitation Assessment report (version 2)	5 February 2016
	(g)	**Appendix G**: Surface Water Assessment prepared by Royal HaskoningDHV (Report 8A0501, version C)	February 2016

(h)	**Appendix H**: Groundwater Assessment prepared by EMM Consulting	24 March 2016
(i)	**Appendix I**: Biodiversity Assessment Report prepared by EMM Consulting (version 2)	29 March 2016

VOLUME 2 OF 3

(j)	**Appendix J**: Transport Assessment prepared by EMM Consulting (version 2)	10 February 2016
(k)	**Appendix K**: Noise and Vibration Assessment prepared by EMM Consulting	11 February 2016
(l)	**Appendix L**: Air Quality Impact and Greenhouse Gas Assessment prepared by Ramboll (Report AS121885, version 'final')	11 February 2016
(m)	**Appendix M**: Aboriginal Cultural Heritage Assessment (including results of an archaeological test excavation) prepared by EMM Consulting (version 2)	2 February 2016
(n)	**Appendix N**: Economic Assessment prepared by Gillespie Economics	February 2016

VOLUME 3 OF 3

Agency Submissions

6	Submission by Department of Primary Industries (**DPI**) (Reference: OUT16/20201)	20 May 2016
7	Submission by the Department of Industry, Division of Resources & Energy (**DRE**) (Reference: OUT16/16786)	21 April 2016
8	Submission by the Environment Protection Authority (**EPA**) (Reference: EF14/9902: DOC16/166442)	25 May 2016
9	Submission by Goulburn Mulwaree Council	17 May 2016
10	Submission from Heritage Council of New South Wales (Reference EF16/1479: DOC16/166748)	19 May 2016

11	Submission from the NSW Office of Environment and Heritage (**OEH**) (Reference: DOC 16/242158)	20 May 2016
12	Submission from Roads & Maritime Services (**RMS**) (Reference: STH09/01940/12)	17 May 2016
13	Submission from WaterNSW (Reference D2016/62046)	26 May 2016

Community Meeting

14	Summary of issues raised at the Community Meeting at Marulan, Thursday 30 June 2016	30 June 2016
15	PowerPoint Presentation titled: Gunlake Quarry Extension Project Community Meeting, prepared by DPE	30 June 2016

Response to Submissions

16	Letter from DPE to Gunlake Quarries Pty Limited (**Gunlake**) requesting responses to submissions	25 May 2016
17	Gunlake Response to Submissions prepared by EMM Consulting (Report J14119RP1, version 1); attaching the following:	23 September 2016
	(a) **Appendix A**: Community and organisation submissions summary	undated
	(b) **Appendix B**: DPE community meeting presentation	30 June 2016
	(c) **Appendix C**: Community meeting summary	30 June 2016
	(d) **Appendix D**: Community consultation factsheets prepared by Gunlake	undated
	(e) **Appendix E**: Rail Transport Study prepared by HATCH (revision 3)	12 September 2016
	(f) **Appendix F**: Road Options Assessment prepared by EMM Consulting (version 2)	22 September 2016
	(g) **Appendix G**: Road safety audit prepared by Lyle Marshall & Partners Pty Ltd and McLaren Traffic Engineering	August 2016

	(h) **Appendix H**: Transport cost benefit analysis review prepared by Gillespie Economics	9 September 2016
	(i) **Appendix I**: Supplementary biodiversity information	undated

Agency Comments on Response to Submissions

18	Letter from the DPI to the DPE providing comments on the Response to Submissions (Reference: OUT16/37225)	6 October 2016
19	Letter from the DRE to the DPE providing comments on the Response to Submissions (Reference: OUT16/36114)	28 September 2016
20	Letter from the EPA to the DPE providing comments on the Response to Submissions (Reference: DOC14/489989)	6 October 2016
21	Letter from the Heritage Council of NSW to the DPE providing comments on the Response to Submissions (Reference: DOC16/487499)	6 October 2016
22	Letter from the OEH to the DPE providing comments on the Response to Submissions (Reference: DOC16/486078-1)	7 October 2016
23	Letter from RMS to the DPE providing comments on the Response to Submissions (Reference: STH09/01940/13)	11 October 2016
24	Letter from WaterNSW to the DPE providing comments on the Response to Submissions (Reference: D2016/111659)	10 October 2016

Recommendation to the Planning Assessment Commission

25	State Significant Development Assessment – Assessment Report prepared by the DPE	December 2016
26	DPE Recommended Conditions of Consent (comprising Appendix H to DPE Assessment Report)	Undated

Determination

27	State Significant Development Application Refusal	5 April 2017
28	Planning Assessment Commission (**PAC**) Determination Report – Gunlake Quarry Extension Project (SSD 7090)	5 April 2017

29	PAC Determination Summary Fact Sheet	5 April 2017

Correspondence and Requests for Additional Information

30	Email from M Kirton (PAC) to E O'Neil (Gunlake) titled "Gunlake Quarry Extension Project – request for additional information"	7 February 2017
31	Letter from Gunlake to M Kirton (PAC) titled "Gunlake Quarry Extension Project: Item 4 Request for Information on Enclosure of Crusher"	14 February 2017
32	Letter from Gunlake to M Kirton (PAC) titled "Gunlake Quarry Extension Project: Request for Additional Information" * * *Please note that this document contains commercial in confidence material and on that basis, a copy has not been provided with this Class 1 Application. Arrangements are to be made for this document to be provided to the Respondent on a confidential basis following commencement of the proceedings.*	14 February 2017
33	Letter from the PAC to Gunlake titled "Subject: Gunlake Quarry Extension Project (SSD 7090)" requesting additional information	27 February 2017
34	Letter from E O'Neil (Gunlake) to PAC titled "Gunlake Quarry Extension Project: Request for Additional Information No. 2" * * *Please note that this document contains commercial in confidence material and on that basis, a copy has not been provided with this Class 1 Application. Arrangements are to be made for this document to be provided to the Respondent on a confidential basis following commencement of the proceedings.*	28 February 2017