



New South Wales Government
Independent Planning Commission

Brandy Hill Quarry Expansion Project SSD 5899

Statement of Reasons for Decision

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State of New South Wales through the Independent Planning Commission 2019

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EXECUTIVE SUMMARY

Hanson Construction Materials Pty Ltd (Hanson) is seeking approval to expand and intensify operations at its Brandy Hill Quarry which involves:

- extending the extraction area by approx. 55 hectares (ha), from 19.5 ha to 74.5 ha;
- increasing production from 700,000 tonnes to 1.5 million tonnes per annum;
- extending product transport and operating hours into the evening and night periods;
- constructing and operating a concrete batching and recycling facility; and
- importing solid concrete waste for reprocessing and beneficial reuse.

The Project is classified as State significant development (SSD) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it is development for the purposes of extractive industry that extracts more than 500,000 tonnes of material per annum from a total resource of more than 5 million tonnes. The Project is also declared to be a 'controlled action' under the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act) due to its potential impacts on listed threatened species.

The Independent Planning Commission of NSW (the Commission) is the consent authority for the Project in accordance with *State Environmental Planning Policy (State and Regional Development) 2011*, because there were more than 50 unique public submissions by way of objections.

One of the major concerns to local people is the potential 24/7 operation of the Brandy Hill Quarry and subsequent significant increases in truck movements on the local road network.

The potential impacts on amenity and lifestyle are likely to be experienced most acutely by those living near the Quarry, as well as along Brandy Hill Drive. The potential benefits of the expansion reach beyond the local community and include a range of economic and social benefits that extend across the Hunter Region and beyond.

For near neighbours the potential impacts associated with a significant increase in activity at the Quarry are: sleep deprivation, impacts on road safety, sleep deprivation and impacts on lifestyle through limiting connectivity via walking and cycling along the local roads, and excessive noise, dust and vibration intrusions on a semi-rural existence.

The Commission has taken into consideration all relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act, together with the Department's Assessment Report and additional information provided by the Department, the Applicant and Council in response to specific questions raised by the Commission.

The Commission agrees with the Department's assessment and does not support the proposed hours of operation for processing and transport due to adverse impacts on local amenity through the evening and night time periods, noting the extensive rural residential development that has been established around the quarry since it was originally approved in 1983.

In addition to the restrictions recommended by the Department, the Commission finds that:

- (i) the increase in heavy vehicle traffic associated with the Quarry expansion poses a safety risk on Brandy Hill Drive. In order to mitigate this impact, the Commission imposes a condition that requires certain road infrastructure works, namely six bus bays and a shared pathway, to be constructed along Brandy Hill Drive prior to any increase in production from the Quarry.

- (ii) truck movements in the early morning (i.e. prior to 6.00am) would unreasonably impact the well-being of local residents living along the haulage routes. On this basis, the Commission imposes a condition to further restrict trucks from entering the site prior to 6.00am and that the Applicant be required to implement management measures to prevent trucks travelling on the haulage routes before this time.

The Commission has also included a condition which requires lands in the ownership of the Applicant but outside the Approved Disturbance Area (described as "Buffer Lands") to be used to fulfil the function of a buffer. This will screen the Project from the surrounding residential areas, separate noise generating activities from residential receptors and assisting in maintaining vegetation and biodiversity values.

The Commission is satisfied that while the project will result in social impacts, these impacts have been mitigated through the imposition of conditions and are reasonable when balanced against the benefits of the Project.

DEFINED TERMS

ABBREVIATION	DEFINITION
Applicant	Hanson Construction Materials Pty Ltd
Application	SSD 5899 Brandy Hill Quarry Expansion
Approved Disturbance Area	The area identified as such on the Development Layout in Figures 2, 3 and 4, encompassing the Limit of Extraction area, Processing and Stockpiling Area, the Amenity Bund, Acoustic Barrier and Internal Road
ARP	Assessment Report Paragraph(s)
Buffer Lands	The Site excluding the Approved Disturbance Area.
Commission	Independent Planning Commission of NSW
Council	Port Stephens Council
DCP	Development Control Plan
Department	Department of Planning, Industry and Environment
Department's AR	Department's Assessment Report
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act 1997</i>
ESD	Ecologically Sustainable Development
Existing Approval	1983 Consent issued by Port Stephens Council (DA No. 1983/1920)
LEP	Local Environmental Plan
LGA	Local Government Area
Material	The material set out in section 4.34
Minister	Minister for Planning and Public Spaces
Project	Brandy Hill Quarry Expansion Project
Regulations	Environmental Planning and Assessment Regulations 2000
RtS	Response to Submissions
SEPP	State Environmental Planning Policy
Site	Brandy Hill Quarry, 979 Clarence Town Road, Seaham NSW (Lot 3 DP1006516; Lots 1 & 2 DP 823760; Lots 19 – 21 DP 752487; Lot 1 DP 737844; Lot 36 DP 752487; Lot 236 DP 752487; Lot 1 DP 47313; Lot 101 DP 712886; Lot 12 DP 264033; Lot 25 DP 1101305; Lots 1 & 2 DP 264033; Lot 100 DP 712886; Lots 56 – 59 DP752487; Lot 2 DP 737844; Lots 1 – 3 DP 1006516)
SSD	State Significant Development
STOP Reg	Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

1 INTRODUCTION

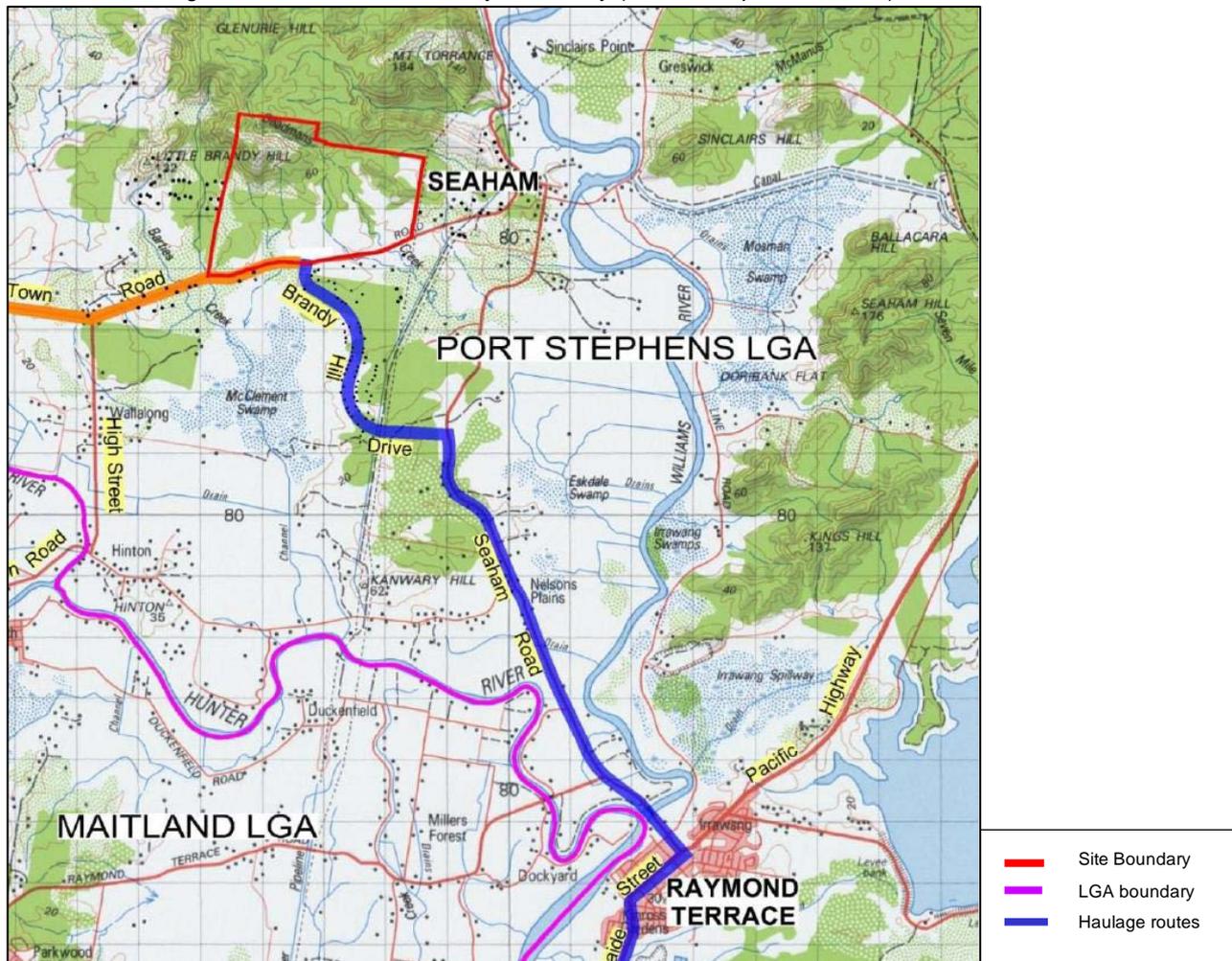
1. On 18 May, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning, Industry and Environment (**Department**) a State significant development application (**SSD**) from Hanson Construction Materials Pty Ltd (**Applicant**) to expand and intensify operations at the Brandy Hill Quarry (**Application**).
2. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). This is because:
 - the Application constitutes State significant development under section 4.36 of the EP&A Act as the Application meets the criteria in clause 7 of Schedule 1 of the SEPP SRD – development for the purposes of extractive industry that extracts more than 500,000 tonnes of material per annum from a total resource of more than 5 million tonnes; and
 - the Department received more than 50 submissions from the public objecting to the application.
3. Mr Peter Duncan AM, acting Chair of the Commission, nominated himself (Chair), Steve O'Connor and Annelise Tuor to constitute the Commission determining the Application.

2 THE APPLICATION

4. The Department's AR dated 15 May 2020 states that the quarry is located approximately 15 kilometres (**km**) northeast of Maitland and 30 km north of Newcastle in the Port Stephens LGA (see Figure 1).
5. The Department's AR states that the quarry is operating under a development consent issued by Council in 1983. The resource extraction approved under the existing development consent, based on the approved disturbance area and extraction depth, is likely to be completed by November 2020.
6. The Department's AR summarises the current operations of Brandy Hill Quarry (the **Site**) at ARP1.2.2 – 1.2.4.
7. The Department's AR states that the Application involves:
 - Extending the approved extraction area from around 19ha to 74ha (55 ha increase) and the approved extraction depth from 30 m AHD to -78 m AHD (108 m increase) to access additional hard rock resource;
 - Increasing production from 700,000 tonnes to 1.5 million tonnes per annum;
 - Carrying out quarrying operations on site for a further 30 years;
 - Extending the Quarry's operating hours, including secondary and tertiary screening, product loading and dispatch to 24 hours per day;
 - Constructing and operating a concrete batching and recycling facility;
 - Receiving up to 20,000 tonnes of concrete waste and producing up to 15,000 cubic metres (m³) of pre-mixed concrete per annum;
 - Relocating the site office, processing facilities and stockpile areas as quarrying operations progress; and
 - Progressively rehabilitating the site.

8. The Department's AR states that following the exhibition of the Application and consultation with government agencies and the community, the Applicant amended a number of aspects of the Application.

Figure 1: Location of the Brandy Hill Quarry (Source: Department's AR)



9. The Department's AR states that the key amendments include:

- Increasing the disturbance area by approximately 5 ha to account for the proposed amenity bund;
- refining the proposed hours for processing and product transport, including:
 - reduced hours for construction,
 - blasting,
 - load and haul activities and operation of the primary crusher;
 - product dispatch only to occur during the night period on up to 20 nights per year; and
 - hourly dispatch limits during the early morning, evening and night periods;
- enclosure of all fixed processing equipment and partial enclosure of the mobile crusher;
- early commencement of concrete recycling activities (i.e. at Stage 1 rather than Stage 4); and
- removing an additional weighbridge.

10. The Department's AR summarises the Application, as amended, (**the Project**) at ARP 2.1.1 – 2.1.6 and Table 1. The development layout plans and stages are shown in Figures 2, 3 and 4.

Figure 2: Proposed Extraction Stages 1 & 2

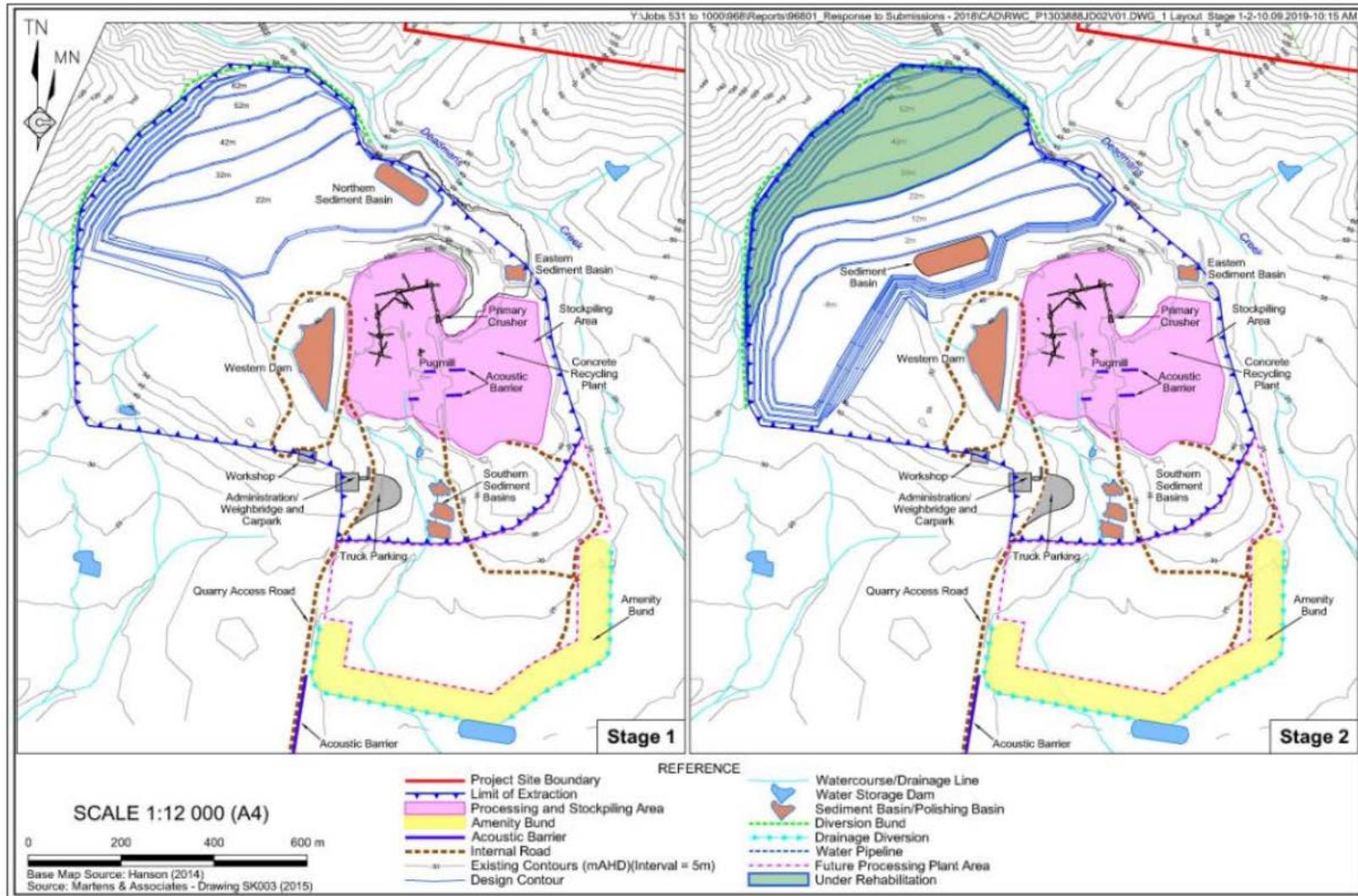


Figure 3: Proposed Extraction Stages 3 & 4

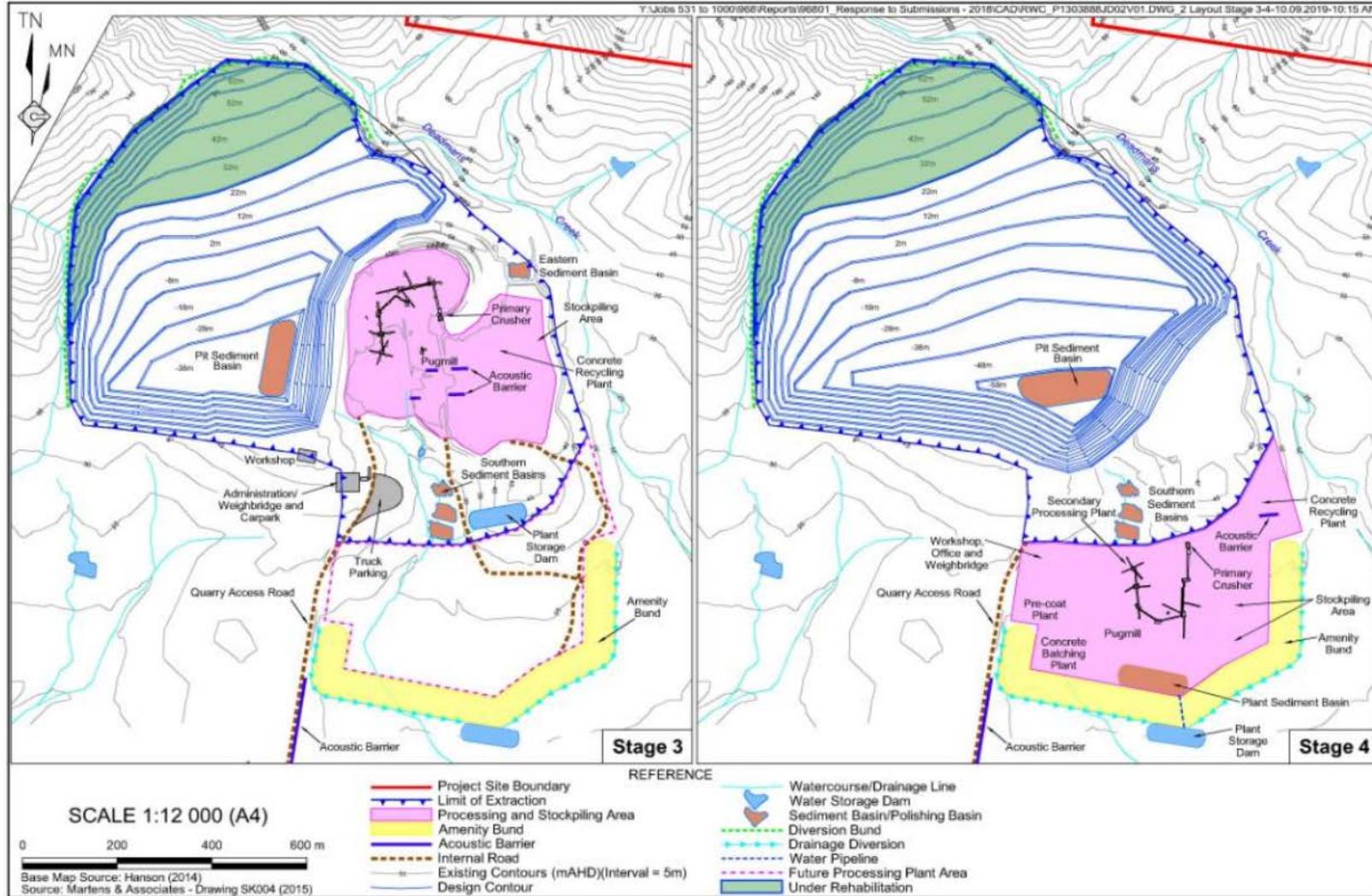
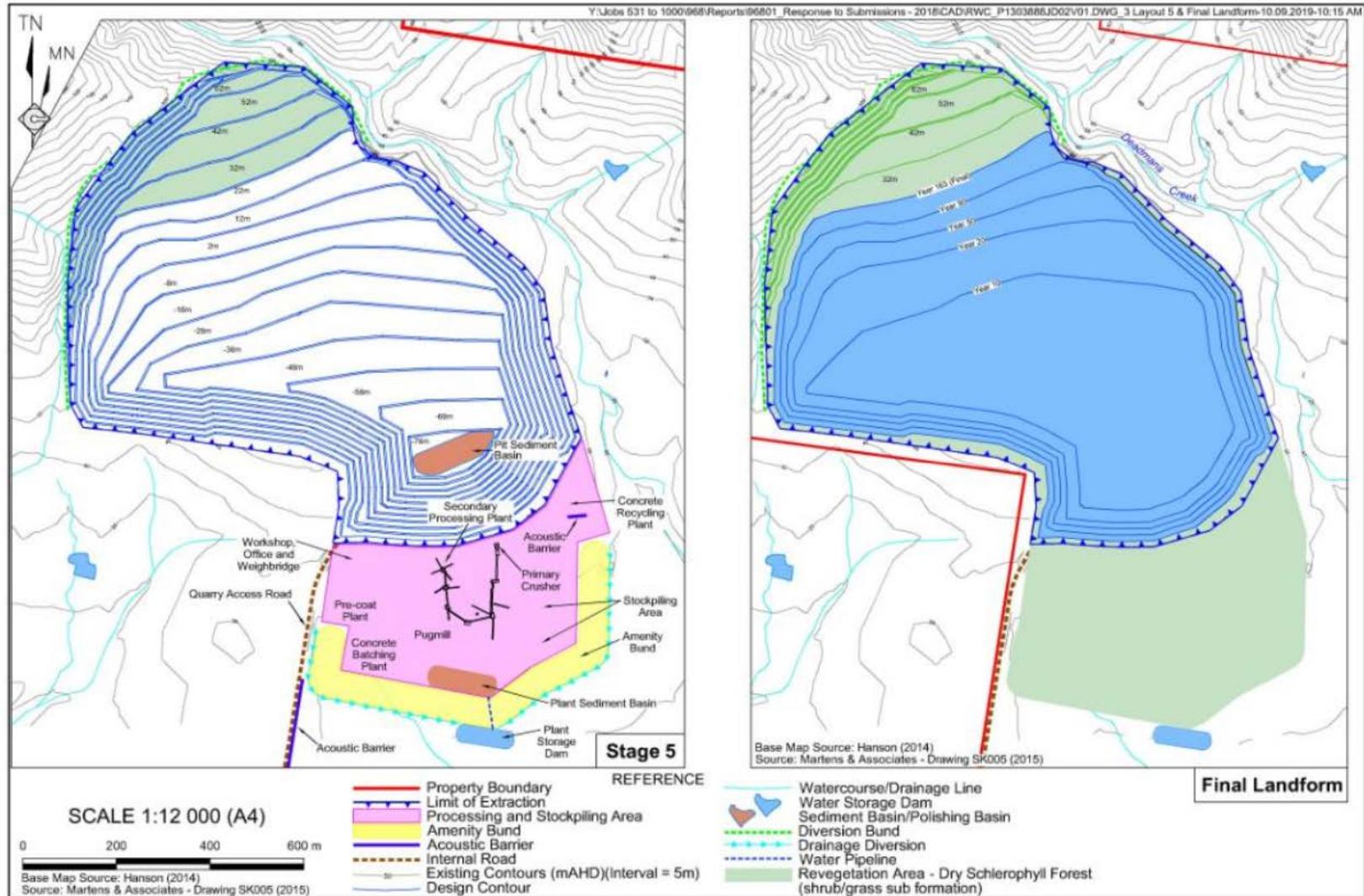


Figure 4: Proposed Extraction Stages 5 & Final Landform



2.1 Need for the Proposal

11. The Department's AR notes that the quarry has nearly exhausted the resource within the current (approved) extraction area and that it is an important source of material, producing a range of aggregate products used in the construction industry.
12. The Applicant has indicated that material from the Quarry would support key infrastructure projects in the Newcastle, Port Stephens, Maitland and Hunter region as well as within the Central Coast and Greater Sydney areas. The Applicant further asserts that the strategic location of the resource and the fact that it is an expansion to an existing operation (rather than a greenfield site) would have positive outcomes for the cost of supply and development in these regions.

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

3.1 Key Steps in the Department's Consideration

13. The Department received the EIS for this Application on 28 February 2017.
14. Under section 4.6(e) of the EP&A Act, the Department (through the Planning Secretary) is responsible for the Commission's functions in respect of community participation. This includes responsibility for public exhibition (and if necessary, re-exhibition) of applications. The Department's AR sets out the Department's engagement and exhibition process at ARP 5.1.1 – 5.4.8.
15. The Department publicly exhibited the EIS from 10 March 2017 – 9 April 2017 and received 193 submissions. The submissions comprised:
 - 11 from public authorities, including Port Stephens Council (Council) and Maitland City Council;
 - 174 public and special interest group submissions objecting to or commenting on the Project; and
 - 8 public and special interest group submissions in support of the Project.
16. Appendix C to the Department's AR includes a link to full copies of the submissions and additional representations received.
17. The Applicant submitted an RtS in October 2018. The Department received 42 additional representations from members of the public, the majority of which opposed the dispatch of trucks throughout the night period and associated road and pedestrian safety impacts associated with the increase in truck movements.
18. The Department and NSW government agencies sought additional information from the Applicant as summarised at ARP 5.2.2.
19. On 27 September 2019, the Applicant provided an Amended RtS which was placed on the Department's website and included refinements to the Application, together with updated specialist information to address the issues raised by the Department, agencies and community.
20. The Department's AR summarises agency submissions at ARP 5.3.1 – 5.3.27 and the key issues raised by the community and special interest groups at ARP 5.4.1 – 5.4.8.

3.2 Key Issues in the Department's Assessment Report

21. Sections 6.1 - 6.8 of the Department's AR identifies the following as the key issues:
 - Traffic and Transport
 - Operational Noise
 - Air Quality
 - Blasting
 - Social Impacts
 - Water Resources
 - Biodiversity
 - Rehabilitation
22. The Department's AR summarises the justification for the Project at ARP 2.1.7 – 2.1.12. It also summarises the strategic context at ARP 3.1.1 – 3.1.7.
23. Paragraph 7.1.2 of the Department's AR states:

“The Project would facilitate the ongoing supply of important hard rock aggregates to the construction industry, provide ongoing additional employment opportunity for up to 31 FTE workers, provide local and regional economic stimulus and local infrastructure development for the Port Stephens LGA through the proposed VPA. However, the Project has the potential to adversely impact the surrounding environment without appropriate limitations and management measures in place. As such, the Department considers that the Project is approvable, subject to the recommended conditions of consent.”

4 THE COMMISSION'S CONSIDERATION

4.1 The Commission's Meetings

24. As part of its determination, the Commission met with various persons as set out in Table 1. All meeting and site inspection notes were made available on the Commission's website.

Table 1 – Commission's Meetings

Meeting	Date of Meeting	Transcript Available on
Department	29 May 2020	03 June 2020
Applicant	29 May 2020	03 June 2020
Port Stephens Council	29 May 2020	03 June 2020
Maitland City Council	29 May 2020	03 June 2020
Electronic Public Meeting	12 June 2020	17 June 2020

25. In line with applicable COVID-19 regulations, the Commission conducted the public meeting online, where registered speakers were provided the opportunity to present to the Panel via telephone or videoconference. The Public Meeting was live streamed via the Commission's website and on Twitter.

4.2 Site Inspection [and locality tour]

26. On 25 May 2020, the Commission conducted an inspection of the site, accompanied by the Applicant.
27. The Panel drove sections of both haulage routes for the Project: Clarence Town Road, as far as the bridge at Woodville; and Brandy Hill Drive via Seaham Road from Raymond Terrace. The Panel observed the quality of the road and surrounding land use.
28. A summary of the site inspection notes was made available on the Commission's website.

4.3 Public Comments

29. All persons were offered the opportunity to provide written comments to the Commission within seven (7) days after the public meeting.
30. The Commission received a total of 96 written comments on the Project. Of these, 40 were in support of the Application, 6 were comments and 50 objected to the Application.

4.4 Material considered by the Commission

31. In this determination, the Commission has carefully considered the following material (**material**):
 - the Environmental Impact Statement dated 28 February 2017;
 - all submissions made to the Department in respect of the proposed Application during public exhibition, 10 March 2017 – 9 April 2017;
 - the Applicant's RtS and associated documentation dated October 2018;
 - all further submissions made to the Department in respect of the RtS;
 - the Applicant's Amended RtS and associated documentation dated September 2019;
 - the Department's AR, dated 15 May 2020;
 - the Department's draft Development Consent, dated 15 May 2020;
 - the terms of the draft VPA between the Applicant and Council;
 - the Applicant's response to Questions on Notice raised by the Commission, dated 27 May 2020;
 - the Applicant's presentation material, dated 29 May 2020;
 - the Applicant's responses to further Questions on Notice raised by the Commission, dated 3 June 2020;
 - the Department's response to Questions on Notice raised by the Commission, detailed in its meeting with the Commission on 29 May 2020;
 - the Department's response to further Questions on Notice raised by the Commission, dated 1 July 2020;
 - Council's response to Questions on Notice raised by the Commission, dated 10 June 2020;
 - Council's response to further Questions on Notice raised by the Commission, dated 24 June 2020;
 - Maitland City Council's response to Questions on Notice raised by the Commission, dated 9 June 2020;
 - all speaker comments made to the Commission at the public meeting held on 12 June 2020, as well as material presented at that meeting; and
 - Applicant's correspondence dated 18 June 2020;
 - Applicant's correspondence dated 6 July 2020;
 - all written comments received by the Commission up until 19 June 2020.

4.5 Mandatory Considerations

32. In determining this application, the Commission has taken into consideration the following relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act:
- the provisions of all:
 - environmental planning instruments (**EPIs**);
 - proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved);
 - development control plans;
 - planning agreements that have been entered into under s 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under s 7.4;
 - the Objects of the EP&A Act;
 - the Regulations to the extent that they prescribe matters for the purposes of s 4.15(1) of the EP&A Act;that apply to the land to which the Application relates;
 - the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for development;
 - submissions made in accordance with the EP&A Act and Regulations; and
 - the public interest.

4.6 Environmental Planning Instruments

33. The Commission has taken into consideration the following EPIs which apply to the site:
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industry) 2007;
 - State Environmental Planning Policy (Infrastructure) 2007;
 - State Environmental Planning Policy (State and Regional Development) 2011;
 - State Environmental Planning Policy No.33 – Hazardous and Offensive Development;
 - State Environmental Planning Policy No.44 – Koala Habitat Protection;
 - State Environmental Planning Policy No.55 – Remediation of Land; and
 - Port Stephens Local Environmental Plan 2013.
34. The Commission agrees with the Department's assessment of the Project against the applicable statutory requirements, as set out in Appendix G of the Department's AR and supplemented by information provided by the Department in correspondence dated 1 July 2020.

4.7 Additional Considerations

35. In determining this application, the Commission has also considered:
- NSW Industrial Noise Policy 2000;
 - Noise Policy for Industry, dated 27 October 2017;
 - Biobanking Assessment Methodology;
 - NSW OEH Interim Policy on assessing and offsetting biodiversity impacts;
 - Port Stephens Local Infrastructure Contribution Plan 2020;
 - Maitland City Wide Section 94 Contributions Plan 2016; and

- Voluntary Land Acquisition and Mitigation Policy, dated September 2018.

4.8 Planning Agreements

36. ARP 5.3.14 confirms that in March 2020, Council and Hanson advised the Department that general terms for a Voluntary Planning Agreement (**VPA**) had been agreed and that the terms of this agreement address some of the Project's key safety and social impacts, particularly for residents on Brandy Hill Drive. The draft VPA proposes:
- \$120,000 contribution towards the construction of six bus bays on Brandy Hill Drive and Seaham Road; and
 - \$1,500,000 contributions towards the construction of a shared pedestrian / cycle pathway on Brandy Hill Drive.
37. The Commission finds that the increased traffic volumes associated with the Project will have an impact on road safety in Brandy Hill Drive and that the provision of both the bus bays and shared pathway is required to be constructed prior to any increase in production output to ensure that the Project will not have an unacceptable impact on road safety. Further discussion in relation to this matter is provided at paragraphs 55 - 58.

4.9 Traffic and Transport

Public Comments

38. The majority of comments identify existing issues with current traffic volumes / heavy vehicles on the local road network and raise concerns about any increase in traffic volumes, heavy vehicles and the associated impacts on amenity and road safety. There is a particular concern regarding the ability of people, especially children, to comfortably and safely move along Brandy Hill Drive for walking, cycling and to access bus stops due to the lack of adequate road shoulders.
39. A number of comments from the public, including the Brandy Hill and Seaham Action Group, asserted that the existing roads, in particular Brandy Hill Drive and Clarence Town Road, are not designed to accommodate the size of vehicles associated with the quarry and do not comply with government regulations for L2 Heavy Vehicles.
40. Concerns are also raised in relation to intersections, particularly in relation to the intersection of the quarry entrance road with Clarence Town Road and Brandy Hill Drive. Sight distance was identified as an issue, but the absence of acceleration and deceleration lanes are also of concern.

Council Comments

41. In its submission to the Department after its review of the RtS, dated 8 November 2018 (**Council's RtS Submission**), Council states:

“The predicted levels of traffic as a result of the proposed quarry expansion are likely to have a significant impact on areas of the community particularly on Brandy Hill Drive and on nominated transport routes. Of particular concern is traffic and pedestrian safety along these roads and the associated acoustic impacts resulting from the increase in truck movements.”

42. At Council's meeting with the Commission on 29 May 2020, Council representatives suggested that the proposed pathway along Brandy Hill Drive, which forms part of the VPA, should be completed prior to commencement of expanded operations as any increase in truck movements with no safe area for pedestrians to walk would further impact on pedestrian amenity and safety and be a poor planning outcome.
43. In correspondence to the Commission dated 24 June 2020, Council states that:
- “Even at the current quarry production rates and truck movements, the safety of pedestrians on Brandy Hill Drive has long been a concern of both the community and Council. It has always been Council's view that the increase in truck movements will increase pedestrian safety risk.*
- ... taking into account the significant impact on pedestrian safety, as identified in the DPIE assessment report, it is considered that there is sufficient nexus that the construction of the pathway and bus bays should be conditioned and required to be constructed by the applicant in a timely manner.”*
44. Council's correspondence to the Commission of 24 June 2020 also indicated that the intersection of the Quarry access road and the public road system features inadequate sight distance and that a possible mitigation measure would involve relocation of the quarry access road.
45. Council's RtS Submission also recommended a change to the primary haulage route in order to limit use of local roads as far as possible, namely that trucks enroute to the Pacific Highway should turn left onto Adelaide Street, Raymond Terrace, rather than right as proposed. Council considers this would provide for better traffic flow and avoid entering the Pacific Highway at a roundabout at Heatherbrae.

Applicant's Consideration

46. A Traffic Impact Analysis (TIA), dated 9 June 2016 was prepared by Intersect Traffic on behalf of the Applicant and submitted as part of the EIS. The TIA found:
- “Having carried out this traffic impact assessment for the proposal it is recommended that the proposed extension of Hanson's' Brandy Hill Quarry at 979 Clarence Town Road, Seaham can be supported as it will not have an adverse impact on the local road network within the vicinity of the site and complies with all requirements of Port Stephens Council and NSW Roads and Maritime Services (RMS).”*
47. An additional intersection analysis of intersections on the primary haulage route, was undertaken for the RtS on behalf of the Applicant by Intersect Traffic dated 22 May 2018, which found:
- “Overall it can still be concluded that the proposed Quarry Expansion will not adversely impact on the adjoining local and state road network ...”*

Department's Assessment

48. The Department's AR summarises the potential impacts on traffic and transport with road safety at ARP 6.1.4 – 6.1.10; and traffic at ARP 6.1.22 – 6.1.37, Tables 4 & 5.
49. Regarding road safety, the Department's AR summarises the mitigation measures proposed by the Applicant, including the works contemplated in the draft VPA, and concludes:

“The Department has recommended that these measures form part of a Traffic Management Plan, to be implemented prior to the commencement of the Project. Councils [sic] supports these road safety initiatives and subject to the implementation of the VPA and recommended conditions of consent, the Department considers the road safety impacts of the Project are acceptable.”

50. Regarding traffic, the Department’s AR concludes:

“The Department has recommended a condition for Hanson determine [sic] contributions to local road maintenance in accordance with these plans or as otherwise agreed by the relevant Council. It should be noted that that Port Stephens Council has agreed for Hanson to provide upfront contributions towards the construction of bus bays along Brandy Hill Drive, as outlined above.”

51. The Department’s AR concludes:

“Overall, the Department considers the Project’s potential traffic impacts to be acceptable, subject to the recommended conditions.”

52. In relation to sight distances at the Quarry access road and Clarence Town Road / Brandy Hill Drive, The Department’s AR acknowledges the concerns raised by Council and the community regarding potential safety implications associated with this intersection.
53. ARP 6.1.35 notes that since the TIA was prepared the posted speed limit on Clarence Town Road has been reduced to 80 km per hour. As a result, the sight distance requirement is now reduced to 185 m which is sufficient to facilitate vehicles entering the intersection safely.

Commission’s Findings

54. The Commission notes the Applicant’s commitment to change the primary haulage route such that trucks en route to the Pacific Highway will turn left onto Adelaide Street at Raymond Terrace in accordance with the recommendation of Council’s RtS Submission as set out in paragraph 134.
55. The Commission acknowledges the concerns raised by the public and Council in relation to road and pedestrian safety in Brandy Hill Drive.
56. The Commission considers that increased traffic volumes associated with the Project will have an impact on road safety on Brandy Hill Drive. Accordingly, the Commission imposes a condition that requires both the bus bays and a shared pathway to be completed prior to any increase in existing product transport volumes beyond the 700,000 tpa currently permitted under the Quarry’s EPL to ensure that the Project will not have an unacceptable impact on road safety.
57. The Commission notes that the draft VPA agreed between the Applicant and the Council requires a monetary contribution for the bus bays and shared pathway. The VPA is in addition to contributions required under s.7.11 of the EP&A Act. The Commission notes that the VPA is necessary, as it commits the Council to providing the bus bays and shared pathway but suggests that this might be deducted by Council from the s.7.11 Contributions.

58. The Panel acknowledges Council's advice dated 25 June 2020 that multiple property acquisitions are likely to be required on the Brandy Hill Drive road corridor in order to facilitate the construction of the shared pathway. The Commission further notes that Council would be responsible for this element of the process, as well as for the design and construction of the pathway. Notwithstanding the administrative complexities associated with the delivery of the shared pathway, the Commission is of the view that this is an essential piece of infrastructure to ensure the safety of pedestrians and other road users on Brandy Hill Drive as a result of the Project.
59. In relation to the public comments that local roads do not comply with applicable regulations to accommodate L2 vehicles, the Commission notes the advice of TfNSW to the Department dated 6 July 2020, which confirms that Council has approved Brandy Hill Drive, Seaham Road and Clarence Town Road as suitable for 25/26m B-doubles, which from a network perspective is considered equivalent to Performance Based Standards (**PBS**) Level 2 vehicles.
60. The Commission notes TfNSW's further advice to the Department dated 14 July 2020 that any heavy vehicle up to 50.5 tonnes and 20m can operate on any road in NSW as a general access heavy vehicle (i.e. does not need to be an approved route). However, such vehicles must comply with signposted restrictions on the road network. If a weight limit is imposed, vehicles cannot exceed the stated weight limit.
61. TfNSW has advised that there are guidelines that are used to assess and determine if a route is suitable for Restricted Access Vehicles (heavy vehicles over 50.5 tonnes and 20m). It is noted that if a road is not shown as approved on the corresponding heavy vehicle network map, operators can still apply for access permits through the National Heavy Vehicle Regulator and achieve access.
62. In light of the preceding advice from TfNSW, the Commission notes that the Applicant would be responsible for managing the loads on this route and has noted in its Amended RtS that transport configuration along the secondary haulage route is limited due to the presence of bridges and the 50 tonne load limit.
63. In relation to the intersection of the Quarry access road with Clarence Town Road / Brandy Hill Drive, the Commission notes the submissions, including Council's advice dated 6 July 2020, in relation to the sight distance from the Quarry access road to the crest of the hill (to the east) and that TfNSW (previously Roads and Maritime Services) undertook a review of the speed limits in this area in 2019. This resulted in the speed limit on this section of Clarence Town Road being reduced to 80km/hr and an associated reduction in the sight distance requirement. The Department's AR has assessed the current configuration as being sufficient to facilitate vehicles entering the intersection safely.
64. The Commission recommends that Council continue to monitor the operation of the intersection and speed limits on Clarence Town Road and that any recommendation to alter the speed limits be referred to the Local Traffic Committee.

4.10 Traffic Noise

Public Comments

65. A number of comments raised concern about increased road noise associated with additional truck movements during the day, and particularly at night and in the early hours of the morning.

66. Many of the comments mentioned that the existing road noise, particularly in the early morning, had impacts and that this would be exacerbated by extended truck movements. Sleep disturbance and its interrelationship with mental health and wellbeing was identified as a particular concern, as well as the adverse impacts on general amenity of the locality.

Applicant's Consideration

67. The Applicant's Updated Noise Impact Assessment (**NIA**), dated 26 September 2018 was prepared in accordance with the NSW Road Noise Policy and examined the predicted road noise impacts on the haulage route against the applicable Road Noise Predictions.

68. The NIA states:

"Overall, the predicted noise generated by Brandy Hill Quarry Operations and Quarry Traffic on Brandy Hill Drive would comply with the daytime and night-time noise criteria provided that the total number of truck movements on Brandy Hill Drive is kept within the acceptable limit of 603 truck movements during the daytime and 117 truck movements during the night-time periods respectively."

69. In response to strong community opposition to the proposal to transport product 24 hours per day, seven days per week, the Applicant has subsequently revised the hours of operation to:

- 5.00am to 10.00pm Monday to Sunday; and
- 10.00pm to 5.00am on up to 20 nights per year.

Department's Assessment

70. The Department's AR summarises the potential impacts associated with road noise at ARP 6.1.11 – 6.1.21 and Table 3.

71. ARP 6.1.17 states that:

"...the proposed dispatch rate (ie 30 laden trucks per hour or around 330 laden trucks a day) would provide Hanson with sufficient flexibility to achieve its annual production rate of 1.5 Mtpa, even if the Project was restricted to day-time operations only."

72. The Department's AR concludes:

"The Department considers that the recommended dispatch rates would provide Hanson with sufficient flexibility to meet the needs of the construction market whilst preserving the rural/residential amenity of the locality. However, to ensure road noise impacts do not intrude into night period (i.e. before 5:00 am), the Department has recommended a condition restricting trucks from entering the site prior to 5:00 am and for Hanson to implement management measures to prevent trucks travelling on the haulage route before this time."

Commission's Findings

73. The Commission notes that the Quarry is located in a rural residential area and that frequent heavy vehicle movements already impact on residential amenity and that this will increase with increased production. The Commission agrees that the increase in truck movements during the day is reasonable as it is necessary to facilitate the additional recovery of the resource for a further 30 years and the increase in production. However, truck movements during the evening, night and early morning periods would unreasonably impact on the amenity of the locality and the wellbeing of its residents.
74. The Commission also notes that only two dwellings on Brandy Hill Drive were the subject of noise monitoring – Monitor N02 which was located 125 metres from the road and Monitor N07, located 30 metres from the road. No noise monitoring was reported on other, more urbanised sections of the haulage routes where dwellings are typically located closer to the road and are therefore more likely to be impacted by road noise.
75. The Commission further notes the Department's assessment that the Applicant could achieve its annual production rate of 1.5Mtpa while being limited to day-time operations. Furthermore, the proposed condition (A12(iv)) permits additional truck movements between 6.00pm and 10.00pm on up to 20 evenings per year to provide some flexibility to supply night road construction projects. However, the Commission does not accept the Applicant's need for early morning haulage (before 6.00am) for timely delivery to the construction market is justified when balanced against the potential impact on residential amenity resulting from truck movements before 6.00am.
76. The Commission considers that 24-hour operation is not appropriate in this instance but notes that there are other options open to the Applicant to address the need for early morning deliveries. The Commission also notes the Department's AR indicates that extraction and processing hours for other quarries in NSW are generally limited to day-time hours.
77. In light of the above, the Commission agrees that the Department's conditions which restrict night time truck movements are reasonable but finds that it is appropriate to further restrict trucks from entering the site prior to 6.00am and that the Applicant be required to implement management measures to prevent trucks travelling on the haulage routes before this time. The relevant condition is amended accordingly.
78. The Commission otherwise agrees with the Department's assessment in relation to road noise and imposes the Department's recommended conditions of consent.

4.11 Operational Noise

Public Comments

79. The primary concerns expressed by the community are associated with an industrial noise source in a sensitive rural residential noise environment, particularly during the evening and night period and the resultant impact on the amenity of the area.

Applicant's Consideration

80. The Applicant's NIA assesses the potential operational noise impacts of the Project. The NIA predicted some noise exceedances at residences along Clarence Town Road in the range of 1 – 2 decibels (dB) which it considered a negligible impact. The NIA states:

“Regardless, Hanson has committed to a range of noise mitigation and management measures including a quarterly noise monitoring program that would confirm that noise levels are at or below predicted levels. The assessment of operational noise during the night time period indicates that night time operations would not result in sleep disturbance. Construction noise is predicted to comply at surrounding receiver locations. However, noise management control should be implemented to ensure construction noise is kept to a minimum.”

81. The NIA concludes:

“All feasible and reasonable noise control measures have been considered, including consideration of further noise control for any receiver likely to be affected by excessive noise. In addition to this, a regular noise monitoring program (including quarterly surveys at nominated residential sites, traffic noise surveys and an annual survey of quarry plant and equipment) is recommended to ensure noise amenity and compliance is monitored, checked and reported as an ongoing measure.”

82. In response to concerns raised by the public regarding operational sleep disturbance, the Applicant states:

“It should be noted that assessment of night time operational noise assumes peak production with equipment at exposed locations and operations occurring during adverse climate conditions. Therefore, the noise predictions are conservative in nature and not likely to reflect average operations.

It should also be noted that Hanson would investigate noise levels perceived at neighbouring properties through the complaints management processes. Hanson would modify evening and night time operations to ensure that they remain compliant, where the investigation determines there has been an exceedance.”

83. As confirmed in its presentation to the Commission on 29 May 2020, the Applicant’s Amended RtS seeks 24 hour operation for secondary and tertiary plant.

Department’s Assessment

84. The Department’s AR summarises potential operational noise impacts associated with the proposed development with project specific noise levels at ARP 6.2.5 & Table 6, processing activities at ARP 6.2.13 – 6.2.23 and low frequency noise at ARP 6.2.24 – 6.2.26.

85. Regarding processing activities, the Department’s AR notes that the Applicant proposes to implement a range of mitigation measures including:

- enclose all fixed processing equipment from Stage 1, including partial enclosure of mobile crushers (i.e. additional enclosures to the above modelling scenarios);
- strategically locate stockpiles and ancillary equipment to limit potential noise impacts;
- implement a comprehensive noise monitoring program, including frequent attended monitoring at representative receivers; and
- modify operations during unfavourable weather conditions.

86. The Department has recommended that these measures form part of a Noise Management Plan, to be prepared and implemented prior to the commencement of construction.

87. In relation to operational noise, the Department’s AR concludes:

“On this basis, operational noise generated during this hour would be similar to existing noise generated by the quarry, and the Department considers it reasonable to allow quarrying operations to continue to commence at 6:00 am, so long as the recommended noise limits are achieved.

The Department does not consider processing activities should commence any earlier than 6:00 am and has recommended that the most stringent noise levels under the INP apply between 5:00 am and 6:00 am to allow for product loading and dispatch activities only.”

88. Regarding low frequency noise, the Department’s AR concludes:

“On this basis, the Department considers that the Project would not cause excessive levels of tonality or low frequency noise at nearby private receiver. Nonetheless, the Department has recommended conditions to ensure Hanson undertakes periodic contemporary assessment of low frequency noise as part of its noise monitoring program.”

89. The Department’s AR concludes:

“Overall, the Department considers that noise associated with the Project could be managed through the stringent conditions of consent, including:

- restricted hours of operation, product loading and dispatch: and*
- stringent noise operating conditions, including a condition requiring Hanson to modify operations in noise-enhancing weather conditions; and*
- a Noise Management Plan, including regular attended noise monitoring.”*

“The EPA did not raise any concerns over the proposed noise predictions and advised that it supported the Department’s approach to regulating noise from the quarry. The Department considers that the recommended conditions strike a fair balance between protecting the amenity of the local community and meeting operational demands. Subject to these conditions, the Department considers the noise impacts of the Project are acceptable.”

Commission’s Findings

90. In response to the community’s concerns about noise generated by existing operations and the likely additional impacts associated with the proposed expansion of the Quarry operations, the Commission amends Condition B5 to specify the mitigation measures the Applicant has indicated it will implement, as described in paragraph 85.

91. Having regard to the Commission’s position about further limiting truck movements to the quarry until after 6.00am, the Commission otherwise agrees with the Department’s assessment in relation to operational noise and imposes the Department’s recommended conditions of consent.

4.12 Air Quality

Public Comments

92. A number of local residents in close proximity to the Quarry have indicated that they experience dust levels much higher than properties with greater physical separation from the facility. Of particular concern is the impact on the quality of their drinking water, as well as the impacts on water quality within dams and swimming pools.

93. The impact of increased dust on the performance of solar panels and the implications for power generation, particularly for those residential properties that are “off the grid” was also raised by residents in Giles Road.
94. A number of comments from residents located further away from the quarry suggested that at times, large volumes of dust can be seen rising above the tree line.

Applicant's Consideration

95. An Air Quality Impact Assessment (**AQIA**), dated 27 September 2018 was undertaken by VIPAC on behalf of the Applicant. This AQIA serves as an update to the initial air quality impact assessment which accompanied the EIS. The AQIA concludes:

“The results of the modelling have shown that during all Stages, the TSP [total suspended particles], dust deposition and RSC predictions comply with the relevant criteria. For most sensitive receptors the maximum daily and annual [particulate matter] PM10 and PM2.5 concentrations are driven by the background concentrations obtained from Beresfield monitoring station.”

96. The AQIA states:

“Recommendations for the installation of continuous particulate matter monitoring equipment as detailed in the NSW Approved Methods or as otherwise agreed by the DPE and weather station have been made.”

97. Relating to greenhouse gases, the AQIA states:

“The estimated maximum annual operational phase emissions represent less than 0.005% of Australia's latest greenhouse gas inventory estimates.”

Department's Assessment

98. The Department's AR summarises the potential air quality impacts of the Application at ARP 6.3.6 – 6.3.24, Table 8, Figure 10 and air quality modelling assumptions at ARP 6.3.3 – 6.3.5.
99. The Department's AR also assessed tank water quality as a potential air quality impact in response to concern raised by a number of residents of Giles Road at ARP 6.3.15 – 6.3.18.
100. The Department's AR acknowledges air quality impacts as a key area of public concern and on that basis:

“... the Department has recommended robust and contemporary air quality management conditions, including a requirement to minimise air quality impacts during adverse weather conditions, regular air quality monitoring, and the implementation of an Air Quality Management Plan.”

101. Subject to these conditions, the Department's AR considers that *“the air quality aspects of the Project are acceptable.”*

Commission's Findings

102. The Commission finds that given the concerns raised by local residents in proximity to the Quarry and their reliance on tank water for their potable water supply, an additional condition is required which provides the opportunity for property owners within 1 km of the extraction area to request the Quarry operator to install a first flush diverter (if they do not currently exist) on their water tanks. In this regard, it is noted that the Applicant advised the Department (ARP 6.3.16) that this type of device could be funded for applicable residents under its "Community Enhancement Fund".
103. The Commission otherwise agrees with the Department's assessment in relation to air quality criteria and imposes the Department's recommended conditions of consent.

4.13 Blasting

Public Comments

104. A number of comments raised concern about a significant increase in blasting as a result of the Project.
105. Some residents expressed concern about increased blasting and the impacts on their properties (cracking etc).
106. Residents indicated that blasting currently occurs once or twice a week, but not necessarily on a regular schedule. The intensity of the blasts also varies.

Applicant's Consideration

107. A Blast Impact Assessment (**BIA**), dated 7 September 2018 was performed by VIPAC on behalf of the Applicant. This BIA serves as an update to the initial blast impact analysis which accompanied the EIS. The BIA concludes:

"Blast impacts from the proposed quarry extension can readily be controlled within acceptable values using existing blast practices...Analysis of historical data shows that compliance with the environmental conditions has been achieved. Consideration of future blast impacts shows that the acceptable levels can be achieved using typical blast designs and good blasting practice."

108. The BIA recommended that all blasting be monitored and that:

"A Blast Management Plan (BMP) should be implemented to ensure compliance with the EPA EPL Conditions. The BMP should state that blasting operations should align with the ANZEC Guidelines and should not occur outside the hours of 9am to 5pm (Monday to Saturday)."

109. In response to public concern and submissions made during exhibition regarding cracks in private property, the Applicant states in its RtS:

"As a result, and without professional examination and assessment of these properties, it is not expected that these cracks have been caused by blasting at the Quarry. However, Hanson would be comfortable to initiate an investigation of structural impacts at specific properties if residents remain concerned."

Department's Assessment

110. The Department's AR summarises the existing blasting environment at ARP 6.4.2 – 6.4.4 and the predicted impacts of the proposed blasting at ARP 6.4.5 – 6.4.12, Figure 11 and Table 9.
111. In addition to the Applicant's proposed mitigation measures, the Department's AR states it has proposed strict operating and management conditions including:
- “...the preparation of a Blast Management Plan including measures to avoid blasting during unfavourable climatic conditions (i.e. temperature inversions or prevailing winds). The Department has also recommended a condition allowing landowners to request an independent review of impacts at their property, should they consider the Project to be exceeding the relevant blasting, noise, or air quality criteria.”*
112. The Department's AR concludes: *“Overall, the Department considers the blasting impacts of the Project to be acceptable, subject to the recommended conditions.”*

Commission's Findings

113. The Commission acknowledges the concerns raised by the public regarding the impacts of blasting on nearby residences. The Commission finds that as the Department's recommended conditions of consent limit blasts of over 0.5 mm/s to once a week and provide for property inspections and investigations if any damage from blasting is suspected, the potential impact of blasting can be appropriately mitigated.
114. The Commission agrees with the Department's assessment, as set out in paragraphs 110-112 above. The Commission agrees with the Department's conclusion and imposes the Department's recommended conditions of consent.

4.14 Social Impacts

Public Comments

115. The concerns raised by the public relate to impacts on the rural-residential character and associated way of life, health and well-being and general amenity. The primary cause of these concerns relates to impacts associated with traffic, noise, dust and vibration generated by the Quarry.
116. A number of residents residing on Brandy Hill Drive indicate that cycling and walking are already very difficult on Brandy Hill Drive, particularly for children.
117. Sample quotes made in presentations to the Public Meeting on 12 June 2020:

But as other people have said, the bus bays and the pathway must be built before there's any extension [to the] operation of the quarry because one without the other is just not addressing safety ... you've driven along that road, you've seen the two cuttings with very narrow lane and no shoulders, and the two causeways over culverts where there is, again, narrow shoulders. Would you ride, cycle, push a pram, take your kids no, you wouldn't. That's where the road and the footpaths must all be upgraded.

And:

All dictionary definitions [of amenity] refer to the pleasantness or attractiveness of a place, a positive element or elements that contribute to the overall character or

enjoyment of an area such as open land, trees, interrelationship between them, less tangible factors such as tranquillity. It has a psychological or social component. A pleasant environment equates with amenity and the amenity or character provides a sense of place and includes physical safety."

Council Comments

118. In its submission to the Department after its review of the EIS (**Council's EIS Response**), Council made recommendations on what an updated social impact analysis should assess, including dust and noise impacts and legislation as well as recommending changes to speed limits on Clarence Town Road and Brandy Hill Drive.
119. Councillor Paul Le Mottee, who presented to the Commission at the Public Meeting on 12 June 2020 indicated that he, and others at Council, believe that as the shared pathway has been identified as a safety issue, it needs to be addressed by a condition of consent that says that requires pedestrian safety infrastructure such as the bus stops and shared pathway, to be in place prior to increasing truck movements.

Applicant's Consideration

120. A Social Impact Assessment (**SIA**) dated September 2018 was undertaken by Key Insights Pty Ltd on behalf of the Applicant and forms part of the Amended RtS. This SIA represents an update to the initial social impact analysis which accompanied the EIS. The SIA identifies:

"Key social concerns identified by the Department of Planning and Environment's social impact reviewer, and substantiated through this updated social impact research, include:

- *loss of rural amenity and 'liveability' caused by expanded hours of operation and additional truck activity;*
- *loss of sense of place (a quiet, safe, rural environment) caused by expanded hours of operation and additional truck activity;*
- *general adverse effects on health and wellbeing (e.g. ability to sleep) caused by expanded hours of operation and additional truck activity; and*
- *property devaluation, especially for residents on and near Brandy Hill Drive, Seaham Road and part of Clarence Town Road."*

121. The SIA recommends four mitigation strategies:

- *"Formalise the Community Consultative Committee (CCC)"*
- *"Design a mechanism for oversight of the 'Statement of Commitments' and Voluntary Planning Agreement (VPA)."*
- *"Consider additional mitigations in the regular CCC Agenda"*
- *"Improve Quarry accountability through improved communications and engagement"*

122. The Applicant's RtS accepted the recommendations of the SIA, including additional mitigation measures such as the Applicant forming partnerships with local employment providers, limiting night-time product dispatch as much as practical and the implementation of a driver's code of conduct.

Department's Assessment

123. The Department's AR summarises its assessment of social impacts at ARP 6.5.1 – 6.5.9.
124. The Department's AR concludes:

"The Department considers that overall, the social impacts of the Project can be sufficiently managed to avoid any significant adverse impacts. However, the Department considers that Hanson should continue to engage with the community engagement [sic] throughout the duration of the Project in order to improve relationships and provide ongoing information about the quarry and its operations. On this basis, the Department has recommended:

- *that Hanson formerly [sic] establish and operate the CCC in accordance with the Department's Community Consultative Committee Guidelines for State Significant Projects; and*
- *prepare and implement a formal procedure for managing and responding to complaints, under an Environmental Management Strategy."*

Commission's Findings

125. The Commission broadly agrees with the Department's assessment in relation to community engagement but finds that Maitland City Council should also be represented on the Community Consultative Committee and has amended the relevant condition.
126. As discussed at paragraphs 37 and 56, the Commission considers that increased traffic volumes associated with the Project will have an impact on road safety along Brandy Hill Drive. Accordingly, the Commission imposes a condition that requires both the bus bays and shared pathway to be completed prior to any increase in existing product transport volumes beyond the 700,000 tpa currently permitted under the Quarry's EPL.
127. As discussed at paragraph 76, in order to reduce the potential impact of road noise during the night and in the early morning, the Commission has imposed the conditions recommended by the Department that restrict truck movements during the night. Additionally, the Commission finds that it is appropriate to further restrict trucks from entering the site prior to 6.00am and that the Applicant be required to implement management measures to prevent trucks travelling on the haulage route before this time.
128. The Commission has also included the requirement for "Buffer Lands" owned by the Applicant and contiguous with the approved disturbance area to be used for the purpose of a buffer (discussed in paragraph 184-186). This will help screen the Project from the surrounding residential area, separate noise generating activities from residential receptors, assist in maintaining vegetation and biodiversity values and maintain the rural character of the area.
129. The Commission is satisfied that while the project will result in social impacts, however, these impacts have been mitigated through the imposition of conditions and are reasonable when balanced against the benefits of the Project.

4.15 Water Resources

Public Comments

130. In response to the Department's public exhibition of the Application, several community members raised concern related to water quality impacts and impacts on groundwater.

131. Other comments were concerned that due to a lack of inflow, the void would become a stagnant and polluted water body which would be dangerous.

132. One of the presenters to the Public Meeting raised concern about the void, as follows:

“It’s leaving a void, as I understand, one kilometre by one kilometre to a depth of 78 metres, which will take 163 years to fill with water ... That is not an insignificant change to the landscape in this area and the potential impacts on waterways ...”

Council Comments

133. Council’s EIS Submission recommended that a condition of consent be included requiring the development boundary not to encroach within a clear 30m distance from the nearest top bank of Deadman’s Creek.

Applicant’s Consideration

134. Martens and Associates prepared a Water Impact Assessment (**WIA**), dated May 2016 on behalf of the Applicant. The Applicant’s EIS summarises the findings of the WIA.

135. Regarding surface water, the EIS states a surface water management plan has been prepared to mitigate the potential impacts of the project:

“Mitigation measures have been incorporated within the quarry’s design and include the following:

- *sediment basins and water capture, recycling and reuse systems; and*
- *management of water discharge systems to maintain existing downstream flow regimes”*

136. The EIS states:

“The Surface Water Impact Assessment includes a Surface Water Monitoring Plan which will be implemented for the life of the project unless otherwise agreed by the regulatory body. This will include:

- *Visual inspection of basins and the outlet; and*
- *Water quality testing in the event of discharge, particularly TSS, oil and grease, and pH.”*

137. Regarding groundwater impacts, the EIS proposes a number of mitigation measures to manage these potential impacts. The EIS concludes:

“The quarry will not significantly or detrimentally effect local hydrogeological systems. Impacts on nearby groundwater users and ecological systems will be acceptable, for the duration of the proposed project and following rehabilitation.”

Department’s Assessment

138. The Department’s AR assesses the potential impacts of the project on surface water at ARP 6.6.2 – 6.6.19, Table 10 and Table 11. The potential impacts on groundwater are assessed at ARP 6.6.20 – 6.6.39 and Table 12.

139. Regarding groundwater impacts, the Department’s AR states:

“The Department notes that the predicted groundwater impacts of the Project are largely unavoidable due to the location of the resource within the hard rock aquifer. However, the predicted impacts would be localised and limited to ‘less productive’ groundwater sources.”

140. Regarding surface water impacts, the Department’s AR states:

“The Department considers that the Project would not lead to significant surface water impacts, beyond those already experienced, subject to the implementation of the mitigation and management measures proposed.”

141. Overall, the Department’s AR concludes:

“Subject to the recommended conditions, the Department considers the risks of impact to surface water and groundwater resources is low and that the Project could be suitably managed through imposing performance measures and strict conditions of consent.”

Commission’s Findings

142. The Commission acknowledges the recommendation of Council’s EIS Submission as set out in paragraph 133 and finds that this has been incorporated into the Department’s recommended conditions of consent (condition A9).
143. The Commission agrees with the Department’s assessment of the potential impacts on both surface water and groundwater, as set out in paragraphs 138 - 141 above. The Commission agrees with the Department’s conclusion and imposes the Department’s recommended conditions of consent.

4.16 Biodiversity

Public Comments

144. Comments to the Commission expressed concern about the potential for the project to result in impacts to the biodiversity values of the site, in particular the impact on the local koala population through clearing of habitat and truck movements at night, dawn and dusk. The speakers felt that the Department’s assessment understated the risk to threatened species and depended heavily on offsets which did not adequately compensate for the impacts.
145. Other comments referred to the continuing, cumulative pressure the broader koala population was under from development and also the significant loss of habitat and animals in the 2019 / 20 Summer bushfires in NSW. Speakers referred to reviews of the current status of the Koala population and habitat and the uncertainty of the assumptions on which the assessment was based.

Council Comments

146. Council’s RtS Submission recommends that *“the rehabilitation plan include compensatory feed tree planting, fauna movement structures, speed limits of 40km/hr and road signage where appropriate to minimise the potential impact on the koala population.”*

Applicant's Consideration

147. A Targeted Koala Survey Report dated 17 March 2015 was included in the Applicant's EIS and indicated that:

"No breeding female Koalas were recorded during previous surveys. Under SEPP 44 the Project would therefore be defined as "potential" Koala habitat. The Port Stephens KPOM [Koala Plan of Management] maps the Project as supporting areas of "Preferred" and "Marginal" Koala habitat."

148. An updated Biodiversity Assessment Report (**BAR**) dated 5 November 2017 was prepared by Biosis on behalf of the Applicant. The BAR states:

"A Biodiversity Offset Strategy has been prepared and is presented in Section 8. Hanson propose to meet their credit requirements by purchasing and retiring credits under the NSW BioBanking scheme. Upon approval Hanson proposes to fulfil its credit obligations.

An assessment of the Project against the requirements of key biodiversity legislation concluded that the Project will result in a significant impact to the Koala. Since the project has been deemed a controlled action under the EPBC Act, the project will require approval from the Commonwealth Department of Environment and Energy."

149. In relation to impacts of the Project on the local Koala population, the Applicant's EIS states:

"Hanson has extensively mapped koala habitat on site to gain an accurate understating of the koalas' use of the site. This research concludes that the Project area supports 45.8 hectares of Koala habitat, all of which would be removed for the Project. The total area of the site owned by Hanson is 561 hectares, much of which supports Koala. To address the impact of the Project on koalas, the project has prepared a biodiversity offset strategy which includes the provision the purchase of offsets on the market."

150. The Applicant's EIS summarises its proposed Project specific mitigation measures:

- engaging an ecologist to undertake pre-clearance surveys prior to the removal of any vegetation;
- supervising vegetation clearing by a person suitably qualified in the capture, management and transport of any displaced fauna;
- implementing a protocol for removing and re-hanging hollow bearing trees;
- maintaining a 30 m buffer between the area of disturbance and Deadmans Creek; and
- implementing appropriate weed and pest management, and erosion and sediment control practices on site

151. The Applicant submitted additional information to the Commission following the Public Meeting (dated 18 June 2020), which provided an assessment of the Project against the requirements of State Environmental Planning Policy (Koala Habitat Protection) 2019 (Koala SEPP 2019), which commenced on 1 March 2020. This assessment, which is not a statutory requirement, concludes that the Project is consistent with the requirements of the Koala SEPP 2019. This SEPP replaces the previous State Environmental Planning Policy No. 44 (Koala Habitat Protection) which was in force at the time the Application was made and is the relevant Policy under which the Application is assessed.

152. The Applicant also provided an assessment of the impacts of the Project in relation to the impacts of the 2019 / 2020 Summer bush fires on the five threatened species predicted or known to occur within the study area. The report notes that the scale of bush fires in the region was limited to a small percentage of the overall habitat available and concludes that:

“Given the ability of these areas to regenerate and that the fires did not result in habitat becoming fragmented, it is unlikely the impacts due to the removal of habitat for the Brandy Hill Quarry expansion project has been exacerbated by the loss of habitat due to fire, for these species.

Given the small scale of bush fire in the region the previous assessment is consistent with the remaining habitat available post-fire for the study area, LGA and subregion, and the outcome of the previous assessment remains consistent for the Grey-headed Flying Fox, Koala, Regent Honeyeater, Spot-tail Quoll and Swift Parrot.”

Department’s Assessment

153. The Department’s AR states that the Project has been declared a ‘controlled action’ under the EPBC Act due to the potential significant impacts on five listed fauna species, including the Koala. The potential impacts on these fauna species and Matters of National Environmental Significance (**MNES**) are assessed at ARP 6.7.10 – 6.7.30, Appendix F and Appendix H.

154. The Department’s AR states that:

Due to the absence of breeding females and the low-density population of Koalas within the Project area, the Department agrees that the updated BAR over-estimates impacts on Koala habitat. The Department notes that the Project could displace individual Koalas whose home-range occurs within the extraction area. However, this is not considered to lead to a significant impact due to the mobility of the species, the sparse populations in the locality and the availability of large areas of suitable habitat within other areas of the site and on surrounding land.

The Department recognises that the purchase of 1,342 Koala species credits fulfils the offset requirements of the NSW Interim Policy and EPBC Act, and would result in a net increase of Koala habitat secured in perpetuity.

Overall, the Department and BCD consider that the Project’s impacts on the Koala are acceptable, subject to the recommended management, mitigation and offset requirements.

155. The Department’s AR outlines the proposed biodiversity offset strategy at ARP 6.7.42 – 6.7.46 and Table 13.

156. The Department’s AR concludes:

“The Department has carefully considered these impacts on biodiversity values, and considers that they would be suitably managed, mitigated and/or offset under the recommended conditions of consent. The Department is confident that the required ecosystem and species credits can be obtained and that the retirement of these credits would sufficiently compensate for residual biodiversity impacts, in accordance with the BC Act. Overall, the Department considers the impacts of the Project on biodiversity, including MNES, are acceptable.”

157. In response to a request from the Commission for further information in relation to whether an assessment of the loss of native vegetation which provides habitat for a number of threatened species has been undertaken having regard to the broader NSW context and in recognition of the 2019 / 2020 Summer bush fires, the Department has advised that:

“...the current biodiversity calculator applied in the Biodiversity Assessment Methodology (BAM) has not been updated to account for changes associated with bushfire impacts associated with the Black Summer Bushfires. That is, all project’s currently under assessment by the Department continue to be assessed in accordance within the framework of the relevant biodiversity policy and do not require reassessment due to the recent bushfires.

However, a key change to the biodiversity assessment framework since the bushfires has been additional guidance for the assessment of bushfire affected land (ie to ensure habitat is being assessed, albeit in a burnt state). This change is not relevant to the project as the Project area and its surrounds were not affected by the bushfires and previous ecological surveys were completed in accordance with the relevant requirements.”

Commission’s Findings

158. The Commission notes the significant level of community concern regarding the impacts of the Project on local biodiversity values. The Commission recognises that this concern focussed on the impact to local koala populations and the ability of the proposed offset strategy to compensate for the assessed impacts.
159. The Commission also notes the community’s concern about the broader impacts of the “Black Summer” bush fires on both habitat and populations of native species, and in particular, the koala.
160. The Commission notes that the report arising from the Parliamentary Inquiry into Koala populations and habitats in New South Wales was published on 30 June 2020. This Inquiry was referenced at the Public Meeting as it addresses a range of issues and threats to the koala population in NSW including the 2019 / 2020 Summer bushfire season.
161. The Commission further notes the Department’s advice that the current biodiversity calculator applied in the Biodiversity Assessment Methodology (BAM) has not been updated to account for changes associated with bushfire impacts related to the Black Summer bushfires.
162. The Commission acknowledges the concerns of the community but recognises that the assessment of biodiversity impacts has been undertaken in accordance with the relevant methodologies and government policies as prescribed in the Secretary’s Environmental Assessment Requirements for the Project, issued in June 2015, and updated as required. Within this statutory framework the Commission accepts the Department’s conclusion that “the Project has been designed to avoid, mitigate and manage biodiversity impacts where practicable” and the impacts on biodiversity values “would be managed, mitigated and/or offset under the recommended conditions of consent”. In particular, that the offsets required for the Project have been calculated in accordance with the applicable statutory regime and the Commission agrees with the Department’s recommended condition that the Applicant must retire the biodiversity credits for offset associated with Offset Stages 1, 2 and 3 of the Project, prior to commencing vegetation clearing in each of those Stages.

163. Furthermore, the Commission notes that while 51.63 ha of koala habitat would be removed for the Project, the total area of the site owned by Hanson is in the order of 561 hectares, some of which is also koala habitat. In addition, the Applicant has confirmed in correspondence to the Commission dated 18 June 2020, that it has “commenced discussions with a neighbour to the north of Quarry, who holds all the offset requirements of the Project.” The Commission notes the benefit of using lands contiguous with the Hanson land holdings for offsets, given the increased likelihood of “like-for-like” offsets being achieved.
164. The Commission has included a condition which requires that a “buffer zone” that seeks to retain the vegetation for the life of the project to maintain the biodiversity values of the site as well as provide screening of the development and separation from surrounding land uses.
165. The Commission has also imposed a condition which restricts truck movements at night and before 6.00am to further reduce the threat to koala safety. A Biodiversity and Rehabilitation Management Plan is also required which includes measures to mitigate the impacts on koalas.
166. The Commission acknowledges that the Project will impact on threatened species, however based on the Department’s specialist assessment and the conditions imposed by the Commission, it considers that impacts to biodiversity can be appropriately managed and compensated in this instance.
167. By way of comment, the Commission is of the view that in light of the “Black Summer” bushfires and the Parliamentary Review, it may be appropriate to reevaluate the policy framework under which the impact on koalas is required to be assessed.

4.17 Rehabilitation

Public comments

168. Several community members raised concern related to various aspects of the proposed rehabilitation of the quarry as part of the Department’s engagement process. Issues included public safety, final void depth, final void use, rehabilitation objectives, fauna impacts, erosion and sediment impacts.

Council Comments

169. Council's RtS Submission states that the rehabilitation plan should minimise the destruction of tree hollows and where tree hollows cannot be salvaged, nest boxes at twice the ratio of hollows lost should be installed.

Applicant’s Consideration

170. The Applicant prepared a Rehabilitation and Closure (**RC**) report to accompany the EIS. The EIS summarises the conclusions of the RC:

“There are no proposed mitigation measures for the Project’s rehabilitation plan. Should the rehabilitation plan be adhered to, it is reasonable to expect that the Project’s closure and rehabilitation will satisfy rehabilitation objectives, in conjunction with the Strategic Framework for Mine Closure, Mine Rehabilitation- Leading Practice Sustainable Development Program for the Mining Industry, and DRE’s Mining Operations Plan.”

Department's Assessment

171. The Department's AR recommends a condition of consent requiring the Applicant to revegetate the rock benches as an interim rehabilitation measure. The Department's AR states:

"The Department accepts this approach as an appropriate short to medium-term solution to provide visual amenity, bench stabilisation, erosion and sedimentation control and habitat for flora and fauna. The Department notes that eventually the benches and vegetation below 30 m AHD would be inundated with water."

172. Additionally, the Department has recommended conditions requiring Hanson to lodge a rehabilitation bond with the Department to ensure accumulated and anticipated costs of rehabilitation are available until the rehabilitation completion criteria has been achieved to the satisfaction of the Secretary.

173. The Department's AR also states:

"The Department has recommended that Hanson prepare Biodiversity and Rehabilitation Management Plan that details specific rehabilitation performance and completion criteria, measures to meet these criteria and a program to monitor, review and report on the effectiveness of these measures."

174. The Department's AR concludes:

"Overall, the Department notes that even if the Project did not proceed a number of changes to the landscape would remain as a result of existing operations, including a final void. The Department recognises that the Project would increase the size and depth of the remaining void, however, subject to the recommended conditions, the Department considers that the Project area could be rehabilitated to achieve sustainable final landform and rehabilitation outcomes."

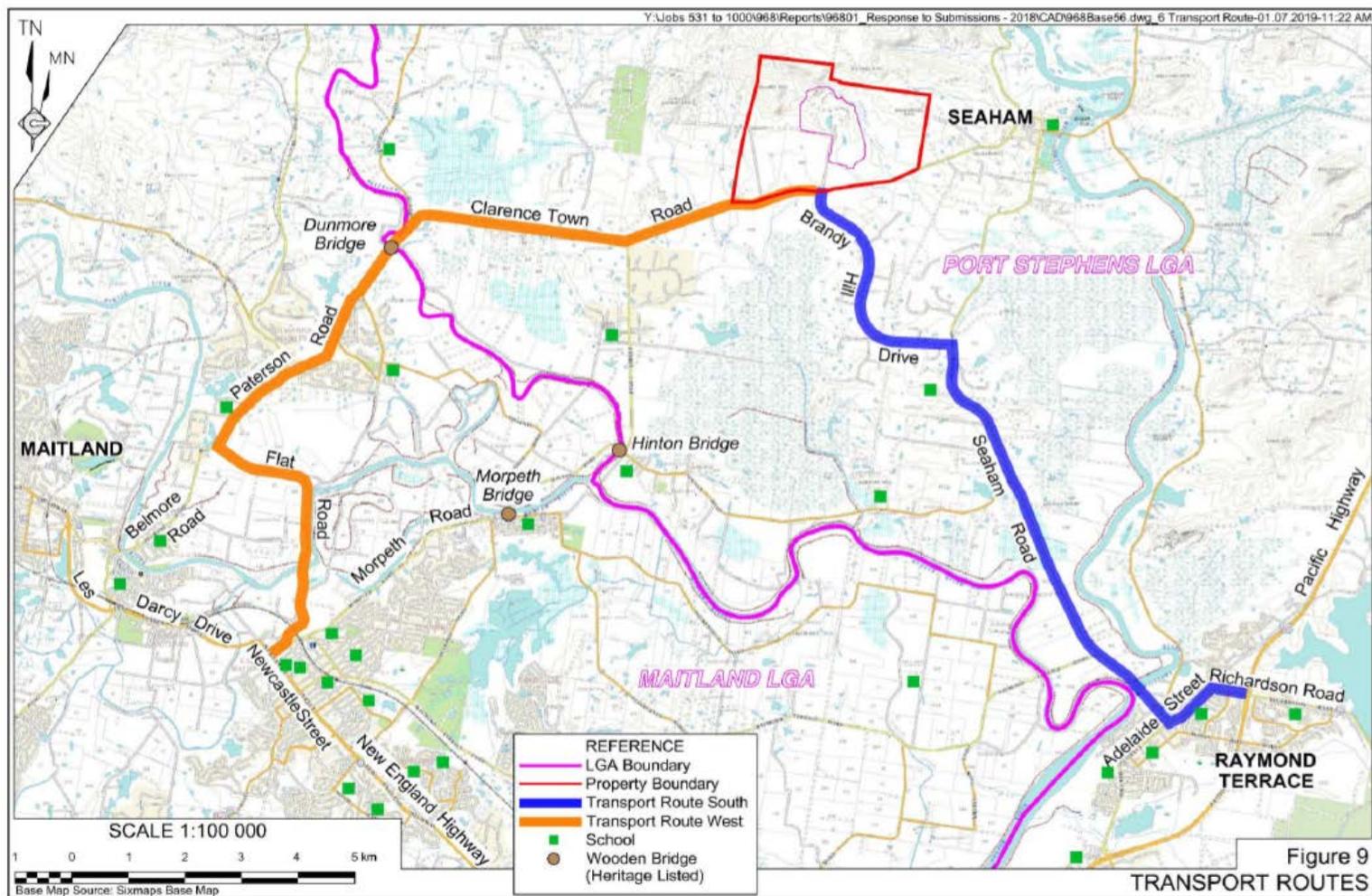
Commission's Findings

175. The Commission acknowledges the recommendation of Council's EIS Submission as set out in paragraph 133 and finds that appropriate measures in this regard have been incorporated into the Department's recommended conditions of consent (conditions B49 to B57).
176. The Commission agrees with the Department's assessment, as set out in paragraphs 171-174 above. The Commission concurs with the Department's conclusion and imposes the Department's recommended conditions of consent.

4.18 Road Maintenance Contributions

177. The Applicant's EIS identifies a primary (Transport Route South) and secondary (Transport Route West) haulage route as illustrated at Figure 5.

Figure 5: Primary and Secondary Haulage Routes (Source: Applicant's EIS)



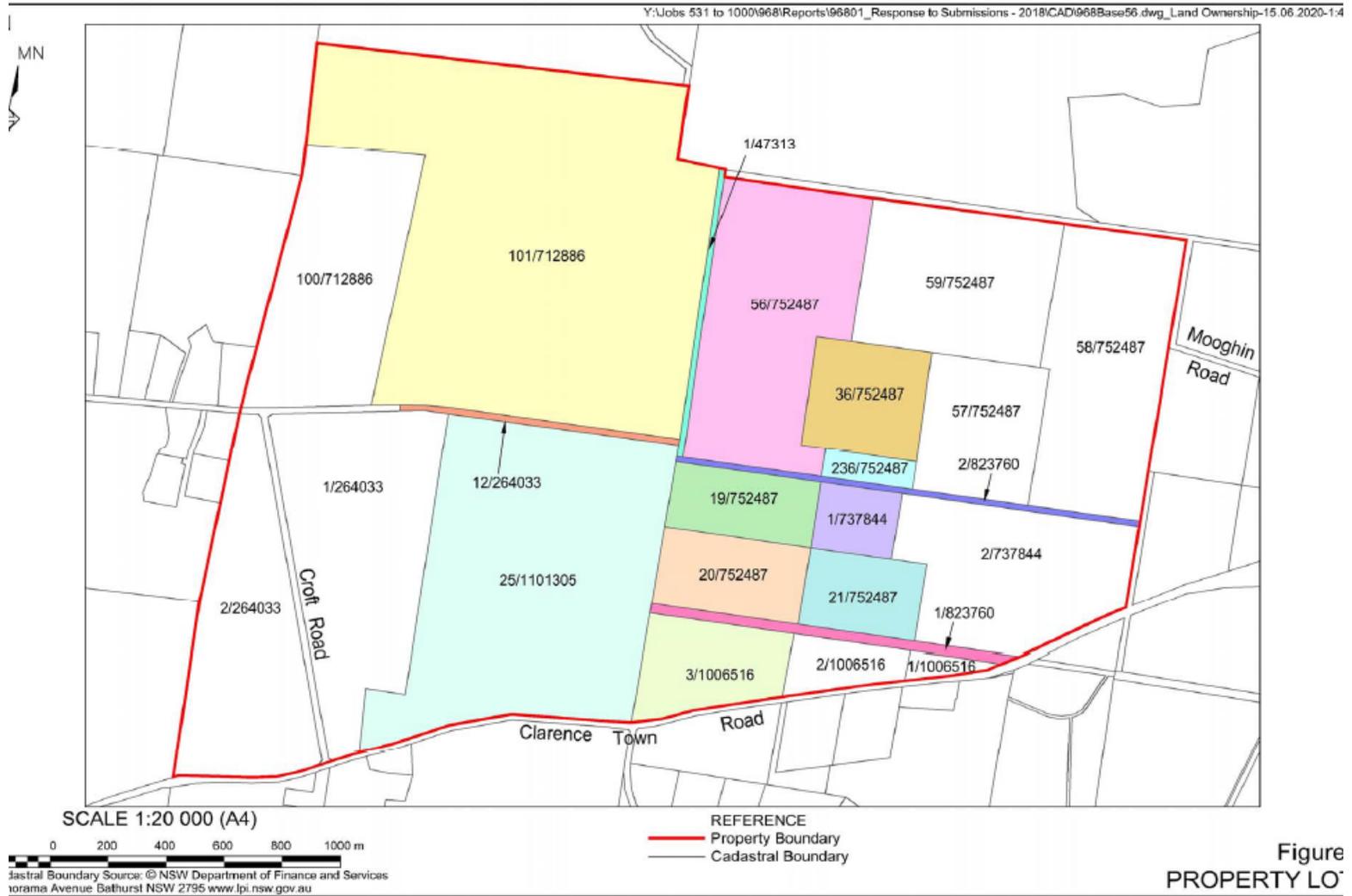
178. The Department's AR notes that the Project would result in additional heavy vehicle haulage on local roads in two local government areas and that Hanson has agreed to pay road maintenance contributions in accordance with the relevant Council contributions plan, which include the Maitland City Wide Section 94 Contributions Plan 2016 and the Port Stephens Local Infrastructure Contributions Plan 2020.
179. Both plans adopt a contribution based on material tonnage and haulage distance on local roads. However, having regard to correspondence from Port Stephens Council (dated 24 June 2020) and Maitland City Council (dated 9 June 2020) the Commission notes that there is a significant disparity between the contributions payable over the 30-year life of the quarry to Port Stephens Council compared to that payable to Maitland City Council.
180. In order to achieve a more equitable and reasonable distribution of road maintenance funding to both local government authorities based on the apportionment of Quarry traffic across both their respective LGAs, the Panel imposes a condition that requires a contribution of \$0.84 /tonne/km to be paid in respect of every tonne of quarry product transported from the Quarry over the 30 year life of the Project. This contribution rate is the rate which Council currently levies under the Port Stephens Infrastructure Contributions Plan 2020 and is subject to indexation in line with CPI. The Commission notes that the Port Stephens Infrastructure Contributions Plan is more recent than the Maitland City Wide Section 94 Contributions Plan 2016 and that both councils retain the discretion under the condition imposed to agree to accept a different level of road maintenance contribution if they believe it is well justified.

4.19 Other Issues

Maintaining a physical buffer

181. The Commission notes that the Applicant owns a number of lots that are contiguous with the proposed Approved Disturbance Area which form part of the Site.
182. The Commission notes that the EIS and RtS included all the lots owned by Hanson in its assessment although these were not formally included in the SSD application. On 6 July 2020, Hanson sought an amendment to the Application under clause 55 of the Regulations to include all the lots in its ownership. The Commission has considered this request for an amendment and agrees to that amendment for the purposes of clause 55 of the Regulation.
183. In accepting this amendment of the Application, the Commission notes that re-advertising or further notification of agencies is not required because all the lots now in Hanson's ownership have been depicted as forming part of the Site during the assessment of the Application.
184. The Commission considered that the additional lots create a "buffer" around the quarrying operations, thereby affording both physical and visual separation to sensitive residential land uses as well as providing biodiversity benefits through the retention of vegetation.
185. The Commission further considers that these lots should continue to serve the purpose of a buffer for the life of the Quarry and that where possible, existing vegetation should be retained and managed

Figure 6: Lands comprising the Site (Source: Hanson Construction Materials Pty Ltd)



186. The Commission imposes conditions A34 and A35 requiring that the “Buffer Lands” must not be used for any purpose associated with the development that would generate significant noise or compromise the visual screening or biodiversity values provided by existing vegetation on these lands and as much as is reasonably practicable, such vegetation is to be retained.

4.20 Objects of the EP&A Act and Public Interest

Public Comments

187. A number of public comments were received which assert that the proposed expansion of the Quarry is not in the public interest for the reasons put forward in Section 4 of this SoR.

Applicant's Consideration

188. Section 7.5 of the Applicant's Amended RtS provides a description of how the Project has addressed and satisfies the Objects of the EP&A Act.

Department's Assessment

189. The Department's AR has undertaken an assessment of the Application against the objects of the EP&A Act. These are set out in the Department's AR at Section 4.6 and Table 2.
190. Appendix G of the Department's AR provides an assessment of the Project against the principles of ecologically sustainable development (**ESD**).
191. The Department's AR states at ARP 7.1.11 *“Overall, the Department considers that the benefits of the Project outweigh its residual costs, that the Project is in the public interest and is approvable, subject to the strict conditions of consent.”*

Commission's Findings

192. The Commission has considered whether the Application is in the public interest, having regard to the Material before it and in consideration of the issues raised in public comments to the Commission.
193. The Commission generally agrees with the Department's assessment that the Application has considered the objects of the EP&A Act, including the principles of ESD and if approved, it would achieve an appropriate balance between relevant environmental, economic and social considerations.
194. The Commission agrees with the Department's Assessment at paragraphs 189 & 191 and is of the view that the Project is in accordance with the objects of the EP&A Act and is in the wider public interest.

5 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

195. The views of the community were expressed through public submissions and comments received (as part of the exhibition of the Application and as part of the Commission's determination process), as well as in oral presentations to the Commission at the electronic public meeting, as outlined in paragraphs 29-30 and throughout sections 4.9 - 4.20. The Commission carefully considered all of these views as part of making its decision. The manner in which these concerns were taken into account by the Commission is set out in **section 4**.
196. The Commission has carefully considered the Material before it as set out in section 4.4 and has weighed the broader community and economic benefit of accessing this valuable resource in the context of the impacts on the environment and local amenity of residents.
197. For the reasons set out in this Statement of Reasons dated 16 July 2020, the Commission has determined that the Application should be approved subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.



Peter Duncan AM (Chair)

Member of the Commission

Annelise Tuor

Member of the Commission

Stephen O'Connor

Member of the Commission