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Response to questions regarding the Martins Creek Quarry Project (SSD-6612)

Dear Mr Barry

I refer to your request seeking information from the Department of Planning and Environment (the Department) and the Applicant (Buttai Gravel Pty Ltd (Daracon)) on matters identified by the Commission Panel to assist their ongoing deliberations regarding the Martins Creek Quarry Project (SSD-6612).

To inform our response, the Department sought and received additional information from Daracon (see **Attachment A**). The additional information provided by Daracon should be read in conjunction with our responses to your questions, as set out below.

Please also note that following the public hearing, Daracon has proposed several changes to the development to further minimise road haulage impacts on the community.

The Department understands that further reductions in road haulage numbers have become more viable for Daracon since the Department finalised its assessment report, largely due to increased supply constraints and associated changes in the construction material market. In particular, Daracon has noted that construction industry customers are now willing to accept quarry materials more flexibly in terms of scale and frequency (e.g. accepting smaller quantities over a longer period).

Daracon's proposed changes to road haulage are summarised in Table 1 and described in further detail in **Attachment A**.

The Department is aware that the revised peak daily and hourly road haulage rates (80 laden trucks per day and 12 laden trucks per hour respectively) are less than the peak road haulage rates previously agreed to by Dungog Shire Council (DSC) under the recent interim arrangements that were in place between February and September 2019 (90 laden trucks per day and 20 laden trucks per hour). The Department also understands that fewer community complaints were experienced under the previous interim arrangements when compared to historical operations at higher rates of road haulage.

Table 1: Changes to proposed road haulage rates

Project Component	Amended Project (as exhibited May – July 2021)	Proposed Change (December 2022)	Comparison (Amended Project vs. Proposed Change)
Annual road haulage limit	500,000 tonnes per annum (tpa)	450,000 tpa	10% reduction
Daily road haulage limit	Peak daily laden trucks of 140 per day (280 movements) for up to 50 days per year, otherwise 100 laden trucks per day (200 movements)	80 laden trucks per day (160 movements)	43% reduction in peak, otherwise a 20% reduction
Hourly road haulage limit	20 laden trucks per hour (40 movements), Monday to Friday between 7:00 am and 3:00 pm 15 laden trucks per hour (30 movements), Monday to Friday between 3:00 pm and 6:00 pm	12 laden trucks per hour (24 movements), Monday to Friday between 7:00 am and 3:00 pm 9 laden trucks per hour (18 movements), Monday to Friday between 3:00 pm and 6:00 pm	40% reduction

Question 1: Table 3-2 of the Department’s Assessment Report identifies six other approved hard rock quarries within the Hunter Region that could provide significant volumes of quarry material to the regional market and which also have more direct access to the State Road network. Given the impacts of increased truck movements associated with the proposed Martins Creek Quarry project along the local road network why is this project essential to meet regional market demand?

While it is difficult to quantify the amount of hard rock material required to service the regional market over the next few years, it is clear that the recent influx of State Significant Development (SSD) applications for hard rock quarries in the region (see Table 2) points to a strong regional demand for this material.

However, the Department considers that it would be inappropriate to pre-judge the extent to which any of these applications could contribute to improving material supply until they have been subject to a comprehensive merit-based assessment in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Accordingly, these applications cannot be relied upon to address any regional shortfall in hard rock material in the short to medium term.

Anecdotally, the Department is also aware that several of the existing hard rock quarries in the region are unable to keep up with current demand. Further evidence of this material shortage is provided in Daracon’s response. Please refer to pages 9 to 14 in **Attachment A**.

Table 2: Current Hunter Valley hard rock quarry SSD applications with the Department

Proposal	Location	Production rate / Project life	Type	Status
Hillview Hard Rock Quarry	Stroud	750,000 tpa over 20 years	Greenfield	Applicant preparing Environmental Impact Statement (EIS)
Deep Creek Quarry	Limeburners Creek (south of Stroud)	500,000 tpa over 30 years	Greenfield	Applicant preparing Response to Submissions
Stone Ridge Quarry	Balickera (north of Raymond Terrace)	1.5 Mtpa over 30 years	Greenfield	Applicant preparing EIS
Eagleton Quarry	Eagleton (north of Raymond Terrace)	600,000 tpa over 30 years	Greenfield	Applicant preparing Amended Development Application (Amended DA)
Karuah South Quarry	Karuah	600,000 tpa over 25 years	Greenfield	Applicant preparing Amended DA
Focono Quarry	30km north-west of Singleton	1 Mtpa over 30 years	Greenfield	Applicant preparing EIS
Willow Tree Quarry	Willow Tree	750,000 tpa over 25 years	Brownfield	Applicant preparing EIS

Question 2: If the Commission grants consent to the Application, and considering the proposed works to be undertaken to the rail siding, are there reasons why it should not impose a condition requiring a greater portion of product (recommended condition A15) to be transported by rail? If so, what are these reasons?

The Department considers Daracon has adequately demonstrated that rail transportation of quarry products is severely constrained and that an appropriate mix of road and rail transportation has been proposed to maintain the viability of the operation, service the markets the quarry would supply and minimise impacts to the community from road haulage.

To evaluate the viability of rail transportation options, Daracon commissioned a rail logistics options study (Plateway, 2021). The study assessed the availability of access to the rail network for the quarry, the market demand for quarry products transported via rail, and the feasibility of rail transport for servicing local and non-local rail and construction markets. In summary, it found that the use of rail transport within the quarry's primary market area (i.e. the Hunter Region) is limited by:

- lack of suitable rail unloading facilities at product destinations;
- the large number of product destinations and types;
- short haulage distances; and
- several competing quarries using the road system as a more commercially viable and flexible supply to service the same markets.

The Department accepts Daracon's position that it is not feasible for it to undertake quarry operations relying solely on rail transport and that an appropriate mix of road and rail transportation has been incorporated into the project design. With consideration of the recent road haulage reductions proposed by Daracon, the Project now seeks approval to transport up to 450,000 tpa of quarry products via road out of a total production rate of 1.1 Mtpa, with the balance to be transported via rail subject to market demands and network availability. The Department considers that this represents a commitment by Daracon to maximise the use of rail transport wherever feasible within the identified network and market constraints. For these reasons, the Department considers that the Commission should not impose a condition requiring a greater portion of product to be transported by rail.

Daracon's response to this question is set out on pages 14 to 16 in **Attachment A**.

Question 3: The Commission notes the judgment of CEAL Limited v Minister for Planning & Ors [2007] NSWLEC 3021, in which the Court refused consent to a proposed sand and hard rock quarry at Ardmore Park. The Commission appreciates that all development applications should be treated on their merits. However, the Commission notes the reasoning adopted by the Court in that judgment with reference to the number of truck movements, the haulage route and people living along the haulage route. What is the Applicant's view as to whether the Commission should or should not adopt the reasoning adopted by the Court in that judgment – and why?

The Department understands that this question has been directed to Daracon. Please see pages 17 to 19 in **Attachment A**.

Question 4: Submissions presented to the Commission note that given the predicted frequency of truck movements and the characteristics of the towns and residential development along the proposed haul route, the development could result in long-term adverse impacts on the amenity and character of these communities. Noting the 25-year life of the proposal, how have intergenerational factors been measured and what are the probable outcomes of these impacts over the life of the project?

Ecologically sustainable development requires the effective integration of social, economic and environmental considerations in decision-making processes. A key principle underpinning this concept is intergenerational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.

The Department's assessment considered the likely environmental, social and economic impacts of the Project during and beyond its 25-year life, including the extent to which those impacts may influence the health, diversity and productivity of the environment for future generations. The assessment also considered the impacts of the Project during its construction, operation and closure phases. The merits of the Project have also been evaluated in accordance with section 4.15 (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The fears, values and aspirations of the community were important considerations during the assessment process, particularly during the assessment of the social impacts of the Project. The Department understands that the community's perception of the future impacts of the Project on the amenity and character of towns and residential development along the proposed haulage route has been shaped in-part by the 'lived experience' of impacts from the existing quarry. The Department acknowledges this 'lived experience' and accepts that the Project would continue to impact the amenity and character of these areas. However, when assessed and evaluated in the context of relevant State and Commonwealth policies, standards and guidelines, the Department has found that the future impacts of the Project would be acceptable, subject to the Applicant's proposed mitigation measures and the Department's recommended conditions of consent.

The Department recognises that the existing quarry has operated in one form or another for over 100 years and that the activities undertaken during that time have caused varying degrees of impact to the environment and the community. Historically, the quarry has operated without certainty of its environmental, social and economic management obligations, or its social licence to operate. The Department considers that a contemporary SSD consent for the quarry would provide an opportunity to address this uncertainty by clearly defining the development's operating parameters and enabling holistic, contemporary environmental performance standards and management practices to be applied during the construction, operation and closure phases of the Project. The monitoring, evaluation and review components of the recommended conditions of consent also allow for adaptive management practices to be implemented as necessary to mitigate unforeseen impacts. In the absence of such a contemporary consent, the intergenerational impacts associated with the operation and closure of the existing quarry would remain uncertain.

The Department also recognises that the proposed quarry extension would contribute a broad range of affordable, high-quality construction materials to local and regional markets for the construction of housing and major regional infrastructure projects. It would also provide economic benefits to the region and to the State of NSW through the supply of materials critical to the construction industry. These economic benefits are also important intergenerational considerations that have been factored into the Department's assessment and recommendation to approve the Project.

Daracon's response to this question is set out on pages 19 to 24 in Attachment A.

Question 5: How do the recommended conditions ensure that those most directly impacted by road transport are targeted by the proposed mitigation measures, including but not limited to social impact mitigation measures? What measures are in place for continuous improvement of mitigation measures over the life of the project?

The Department considers that those most directly impacted by road transportation from the Project are the individuals living or working along or regularly using the proposed primary haulage route. This includes residents, businesses, motor vehicle operators, cyclists and pedestrians.

Importantly, the Department's recommended conditions require that the Project is undertaken in accordance with the description of the Project and the proposed mitigation measures committed to by the Applicant in the Amended DA and the supplementary information provided to the Department during its assessment of the proposal. This includes requiring that the road haulage activities, road upgrades and traffic, noise, air quality, social and other amenity impact mitigation measures are undertaken as described in this documentation. Where necessary, the Department's recommended conditions also establish specific and targeted operating parameters and management requirements to mitigate road transportation impacts for those most affected.

As an example, the recommended conditions define operating hours for the Project which have been established in response to community feedback and assessment findings. The conditions require that no road haulage is undertaken during the evening or night-time periods, or on weekends. They also require that no road heavy vehicles travel through Paterson prior to 6:45 am each morning. These hours have been specified to minimise traffic and amenity impacts along the primary haulage route and to avoid potential heavy vehicle interactions with cyclists and pedestrians on weekends, particularly within Paterson.

Similarly, Condition A17 requires that truck loading and road transportation activities must not take place during the Evening Shoulder period (6 pm to 7 pm) prior to the commissioning of the new access road. This condition has been recommended to minimise noise and other amenity impacts to residents within Martins Creek whilst the new access road is constructed. Following completion of the new access road, road transportation impacts within Martins Creek would be eliminated.

The recommended conditions also require that Daracon's proposed road upgrades are completed in accordance with Austroads guidelines¹ prior to full scale road haulage. The road upgrade requirements have been established to address existing road safety issues along the primary haulage route.

In terms of social impact mitigation measures, the Department's recommended conditions require Daracon to prepare and implement a Social Impact Management Plan (SIMP) in consultation with Council, local affected communities (including Martins Creek and Paterson residents), and other interested parties, to the greatest extent practicable. The Department's recommended conditions would require the SIMP to include:

- targeted measures to avoid, minimise and mitigate the negative social impacts associated with the Project, including specific measures to minimise stress-related impacts;
- measures to enhance the Project's positive impacts, by detailing opportunities to support community services and facilities;
- a stakeholder engagement strategy, focused on the Paterson and Martins Creek communities, to evaluate and implement social management and mitigation measures over the life of the Project;

¹ the universally adopted guidelines to inform the design, construction, maintenance and operation of the road network in Australia

- a near neighbours impact management framework – incorporating a community benefit program, particularly focused on the Paterson and Martins Creek communities; and
- a program to regularly monitor, review and report on the effectiveness of the social impact management measures and implement adaptive management strategies as necessary to facilitate a process of continuous improvement throughout the life of the Project.

Additionally, the Department has recommended the establishment of a Community Consultative Committee in accordance with the Department’s Community Consultative Committee Guidelines: State Significant Projects (2019). The CCC would provide a forum for the community to provide feedback to Daracon regarding its operations and for Daracon to provide the community with regular updates regarding the quarry’s activities and impacts.

Again, the monitoring, evaluation and review requirements set out throughout the recommended conditions of consent (see Conditions D4, D4, D6, D7, D8, D9, D11, D12, D13) have been proposed to allow for adaptive management and continuous improvement practices to be implemented as necessary to mitigate unforeseen impacts and respond to evolving community and regulator expectations throughout the life of the Project.

Daracon’s response to this question is set out on pages 24 to 29 in **Attachment A**.

Question 6: Submissions to the Commission identified a risk that the ongoing haulage of quarry products by road could affect the commercial viability of businesses along the primary haulage route including in and around Paterson. What evidence is there that this will not occur?

The proposed maximum annual road haulage rate of 450,000 tpa is less than the historical average rate of annual road haulage undertaken for a period of approximately 18 years, dating back to 2002-03. The Department considers that local tourism and other businesses that have operated during this timeframe have been subject to impacts beyond those predicted to be experienced under the Project. Furthermore, in their submissions to the Commission, several local business owners indicated that their businesses had been established during periods when road haulage rates from the quarry were greater than those currently proposed.

Daracon has also responded to community concerns through Project design changes and mitigation measures, including limiting the speed, timing, duration, and rate of road haulage activities, and committing to undertaking several road upgrades along the primary haulage route. Daracon’s proposed mitigation measures and the Department’s recommended conditions also include provision for ongoing monitoring, evaluation and adaptive management to mitigate the social impacts of the development, including potential impacts to local businesses. With implementation of the proposed mitigation measures, the Department considers that the commercial viability of local businesses is unlikely to be compromised by the Project.

Daracon’s response to this question is set out on pages 29 to 31 in **Attachment A**.

Question 7: In reference to paragraph 94 of the Department’s Assessment Report, how was the conclusion reached that the impacts of the increased road haulage associated with the Application on road users, including cyclists, school bus passengers, and pedestrians, present an acceptable level of risk?

As part of the Traffic Impact Assessment, Daracon completed a road safety review in accordance with the guidelines for the preparation of road safety audits (Austroads, 2019). It also completed a review of accident data recorded by Transport for NSW (TfNSW) along the length of the proposed

primary haulage route between 2013 and 2019, noting that Daracon has operated the quarry since 2012.

The road safety review found that road network safety is generally satisfactory, with a few exceptions including:

- a lack of space between the intersection of Station Street and the railway crossing in Martins Creek and issues with the road alignment at this location;
- the single-lane operation of Gostwyck Bridge on Dungog Road;
- the lack of a sheltered right turn lane on Gresford Road for drivers turning right into Dungog Road;
- a tight road alignment on the 90 degree bend at King St and Duke St in the centre of Paterson; and
- a lack of pavement width on Tocal Road at Bolwarra Heights.

The Department acknowledges that at these locations, the road conditions do not strictly conform with the current Austroads guidelines. However, the Department also recognises that Daracon's operation of the existing Martins Creek Quarry, including at road haulage rates much higher than those proposed, has not caused any road accidents associated with road haulage of quarry products along this route. Accident data provided by TfNSW does not show any accidents relating to quarry trucks and Daracon has confirmed that there have been no recordable or significant accidents associated with the quarry dating back to 2012.

Furthermore, the Department considers that Daracon's proposed road upgrades, which have been developed in direct response to the road safety review findings and stakeholder feedback received during the engagement program for the Project, would improve road safety along the proposed haulage route.

Daracon's proposed road upgrades would provide the following improvements to road safety:

- the new access to the quarry off Dungog Road would remove all quarry-related trucks (except during emergencies) from the existing quarry access, including the level crossing off Station Street in Martins Creek;
- upgrades to the approach to Gostwyck Bridge, including curved approaches, new line marking and vehicle activated signage, would reduce the potential for vehicle collisions on the bridge;
- upgrading to the Gresford Road and Dungog Road intersection would provide a sheltered right turn lane on Gresford Road and extend the existing south-bound acceleration lane on Gresford Road, reducing the potential for rear-end type accidents; and
- modified footpath and line marking at the King Street and Duke Street intersection in Paterson to match the geometry of heavy vehicle turn paths and relocation of on-street parking would minimise the potential for vehicle and pedestrian accidents at this location.

Daracon's conceptual design of these proposed upgrades has been developed to the satisfaction of TfNSW. Daracon has also committed to undertaking detailed design in accordance with relevant Austroads guidelines and in consultation with TfNSW and Council, as required.

With regard to pedestrian safety, the rural nature of the locality means that the vast majority of pedestrian movements occur within the urban locations. The Department considers that the existing footpaths and pedestrian crossings, or those proposed by local councils in future works programs, within Paterson, Bolwarra Heights, and East Maitland, would allow for the safe movement of pedestrians in these urban centres.

To minimise safety risks to pedestrians, cyclists and school bus passengers, Daracon has also proposed to implement a Drivers' Code of Conduct, including provisions for heavy vehicles to reduce

speed to 40 km/hr when travelling through the village of Paterson and while passing stationary buses, and provide monetary contributions to Council for works to improve pedestrian amenity as determined by Council. Daracon has also committed to not undertaking road haulage on weekends to minimise potential interactions with pedestrians and cyclists.

The Department considers that, with the implementation of Daracon proposed road upgrades and other reasonable and feasible mitigation measures, and the Department's recommended conditions of consent, risks to road safety from the Project can be appropriately managed.

Daracon's response to this question is set out on pages 31 to 35 in **Attachment A**.

Question 8: If the Commission grants consent to the Application, are there reasons why it should not impose a condition requiring the proposed road upgrades and transport mitigation measures to be in place prior to the commencement of any increase in road haulage of quarry product?

Please see pages 36 to 37 in the attached response provided by Daracon.

Question 9: When servicing local projects, trucks will utilise other local roads outside the primary haul route. How are local projects defined? What portion of total proposed product hauled by road would this comprise, and how will this be monitored and reported?

Please see pages 37 to 38 in the attached response provided by Daracon.

Thank you for the opportunity to provide this additional information to support the Commission Panel's deliberations regarding the Project.

If you wish to discuss the matter further, please contact Jessie Evans on [REDACTED] or [REDACTED]

Yours sincerely



Jessie Evans
Director
Energy and Resource Assessments

Attachments:

Attachment A – Daracon's response to the Commission's request for additional information (Umwelt, December 2022)