

From: [REDACTED]
Sent: Sunday, 8 January 2023 8:58 PM
To: IPCN Submissions Mailbox
Subject: Martins Creek Quarry (SSD-6612) Submission on Additional Material

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Dear NSW Independent Planning Commission

We reference the MARTINS CREEK QUARRY PROJECT Independent Planning Commission – Additional Information FINAL December 2022 Prepared by Umwelt (Australia) Pty Limited on behalf of Daracon Group.

Table 2.1 on page 6 lists proposed reductions that have been made by Daracon to get their project approved.

* Proposed Reduction to Road Haulage Rates to **450,000 tpa**.

*Daily road haulage limit **Reduced to 80 laden trucks per day** (160 movements) Monday to Friday.

*Hourly road haulage limits proposed -**Proposed reduction-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.** (We hope the word 'proposed' means a maximum and not to exceed this figure).

Even though the road haulage and tonnage has reduced from Daracon's last submission, these figures MUST be considered in their true context that is from the 1991 levels which has been omitted from this report. **Their Figure 3.1 on page 22 includes data from 1993 only, thereby showing a more biased picture of gradual increases, rather than including 1991 to show a sharp increase in their quarry work overtime and even with their proposed reductions now. The reality of Daracon's proposal must be compared to the 1991 Development Approval restrictions which were imposed to protect the physical and social environments. These protections ARE still relevant today. This comparison shows that these protections have been eroded away and decreased immensely. The annual tonnage (tpa) in 1991 DA was 300,000. With the proposed reductions by Daracon in their recent 'Additional Information 2022' statement there is still 450,000 tpa. Still 150,000 tpa MORE even with their reduction.**

Peak day trucks in 1991 DA were 24. This figure was for a whole day. Peak hour trucks were only 2.4 in 1991 DA. The revised project proposal based on the 'Additional Information' wants 12 laden peak hour trucks= 24 trucks in total (12 laden + 12 empty) PER HOUR. Scale of the proposal is 24 trucks per peak hour (7.00-3.00 pm) Monday to Friday, means one truck every 2.5 minutes plus 9 laden trucks per hour (18 movements) in off peak 3.00-6.00 pm Monday to Friday i.e every 3.33 minutes. So even in off- peak time for 3 hours per day every 3.3 minutes you would hear a loud truck-constant noise and breathe in air pollution (empty and/or laden).

THERE APPEARS TO BE A DISCREPANCY IN THE FIGURES DARACON HAVE SUPPLIED IN THEIR TABLE 2.1. They say the daily haulage **limit** proposed is 80 laden trucks per day (160 movements). But then they mention their road haulage hourly limit is 12 laden trucks in peak hour 7.00-3.00 pm. That period of time is 8 hours. 12 laden trucks x 8 hours = 96 laden trucks plus 9 laden trucks per hour from 3.00-6.00 pm (3 hours) =27 laden trucks. Grand total for the day including peak and off-peak times= 123 laden trucks daily NOT 80 laden trucks! (That is based on our understanding and numerical calculations of the information that has been provided).

On page 16 it says that "The Revised Project has been carefully designed in order to provide for increased rail transportation." This is to mitigate the negative effects of road haulage for the community. However, this is extremely

vague. As quoted, “Without an approval in place, Daracon has been unable to confirm the quantum of future rail markets. Daracon have committed to continuing to **explore** opportunities to increase rail transportation from the quarry. As such, Daracon will aim to maximise rail transportation and proportionally reduce road transportation, if **possible**, in the future.” Daracon appears reluctant due to the economics of rail delivery and have used vague, non-committal terms such as ‘explore’ and ‘possible.’ Daracon argues that “There is also a cost benefit to local and regional markets having road- based delivery rather than double handling for rail- based delivery.” There is no guarantee and commitment that Daracon will use rail transportation to minimise the negative impacts of road haulage for the community. Daracon appear to want primarily road haulage not rail. Minimal concessions from Daracon are noted in this ‘additional information’, with the community still suffering from traffic congestion, high levels of noise and air pollution continually Monday to Friday 7.00-6.00 pm. The village atmosphere will deteriorate, and local businesses along with local tourism will suffer. The community will have to live with continually these ongoing negative social, emotional, business, physical and health (air and noise pollution) impacts. Unfortunately on Page 22 - IPC Additional Information Request-Final, Daracon’s defence was making a comparison with a different project proposal saying that “Road noise levels would be entirely new and disruptive to the ‘quiet ambience’ and overall character of the existing Bungonia village whereas the Martins Creek Quarry is well- established and the Project will not result in unacceptable noise impact along the haul route.” So, because the Paterson community are used to the noise level, in Daracon’s opinion the noise level would be acceptable for the next 25 years! On Page 23 “Air quality emissions are predicted to remain well below the nominated NSW Environment Protection Authority criteria and are therefore ‘unlikely’ to lead to any adverse air quality impacts.” What has been missed is the compounding effects of poor air quality emissions building up over time in the area from the relentless trucks for 25 years that would most likely effect people’s breathing or exacerbate people’s asthma conditions. So, using the word ‘unlikely’ is very difficult to determine at this point in time- this would need to be backed up by an informed medical practitioner.

Daracon further attempts to justify that the Martins Creek Quarry MUST be approved as on page 9, according to the “Department’s Assessment Report these quarries (another 6 in the local area) are not able to supply to the demand of the market, and in some instances are unable to operate at full production rates.” This is not a good enough reason to justify another filthy quarry in the immediate area where 6 other quarries already exist!

The mitigation measures on page 26 proposed by Daracon to ensure the ‘social amenity of residents along the haul route, in particular Paterson village’ raises concerns of reliable implementation- a few examples are- how will Daracon ensure compliance (will there be more speed cameras?), manage traffic impacts from contractors (will contractors have limits imposed -ie only using roads in off-peak hours?), minimise the transmission of dust (will trucks be continually serviced or modernised to reduce dust levels?), minimise conflict and safety issues with school bus times (no truck operations during pickup and dispatch of students along road routes?). There is no detail, just a long list of measures that may or may not be implemented depending on the cost or the difficulty. And does the state government check Daracon to ensure that these mitigation measures will be implemented properly and are being sustained whilst Daracon operates the quarry for the next 25 years? Compliance by this company is a concern.

McCullough Robertson Lawyers even consider the previous approval of other quarry applications to justify that the Daracon proposal is right. Previous approvals for other quarries do not make the Martins Creek Quarry the right decision now. Again, the time period these other applications were approved must be considered differently to what is happening in 2023.

The Paterson community are especially concerned about their quality of life as they have seen first- hand how previous proposals have not only damaged environmental values but the lives of people in these communities. Social values have eroded away. Just because other quarry proposals were passed years ago is no sound argument to base a decision to expand another quarry- especially when there is more climate change, more natural disasters, more biodiversity loss and more erosion and damage of our natural environment occurring now. This is a very poor tactic to use-often ‘unhelpful and irrelevant’ to compare Court decisions made years ago to a proposal being put forward now.

Decisions must be made not on the basis that a similar quarry was approved years ago but on the basis that is this quarry going to negatively impact the community life and ambience of the village NOW and is it going to negatively impact the wildlife and undermine environmental values. What is relevant now MUST be considered especially factoring

in the longevity of this quarry of 25 years. That is koalas are **now** endangered (up-listed less than a year ago) whereas only ten years ago their status was vulnerable. We have had catastrophic bushfires (2019-2020) that wiped out at least 10,000 koalas in NSW alone. In totality more than 61,000 koalas and 143 million other native mammals were in the path of these fires on the east coast. They estimate 2.46 billion reptiles were also in the path. We have conveniently forgotten the incredible huge loss that nature sustained due to these fires- the worst in living memory-and this was only 2 years ago. Nature was in a better position when previous quarry approvals were given. The situation in 2023 is much different for nature, and the Martins Creek Quarry project must be assessed under these different current environmental conditions, which according to the State of Environment Report released 6 months ago is in a dire condition with the urgency as Minister Plibersek remarked to 'protect what is left and restore what has been lost'.

McCullough Robertson Lawyers further note, "following case studies demonstrate where development consent has been granted for quarry projects that involve substantial truck haulage on local roads." Just because these prior past projects were given approval for their increased truck haulage years ago does not give Daracon a free approval pass now. If anything with the many quarries in the immediate area already, Daracon's project proposal has to be considered specifically related to the context and site NOW in this local area, NOT what was approved years ago under different determinations for different project companies. Making comparisons with other Quarry approval applications is not helpful. Daracon's approval should be based on the specific site and what Daracon can achieve to support the community and their concerns and minimise destruction of the environment.

The NSW Department of Planning and Environment - Response to questions regarding the Martins Creek Quarry Project (SSD-6612) notes on page 5 of their attached document that "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." It is extremely disappointing that the Department of Planning and Environment Response to questions regarding the Martins Creek Quarry Project (SSD-6612) did not address any of the following environmental concerns that have been raised by the community and in other submissions. Even though submissions must specifically relate to the new material only, the erosion of environmental values **MUST** be recognised and considered by the NSW government and Daracon. We note that 7 more Quarries have SSD applications lodged in the Hunter Region area, with the current 6 and Martins Creek Quarry a total of 14 will definitely compromise the environmental values of this region and affect wildlife further.

In MARTINS CREEK QUARRY PROJECT Independent Planning Commission – Additional Information FINAL December 2022 there is absolutely NO mention of environmental damage and loss of habitats and threatened species and this is appalling. Daracon do not even acknowledge truthfully the loss of environmental values because of their proposed development.

Their whole emphasis is on haulage rates and tonnage and hours of operation because this effects the community and rightly so, but the damage to the environment and wildlife **IS** also important to nature. Once nature is destroyed it cannot be evenly compensated. Daracon have ignored this aspect. The only mention is that Martins Creek Quarry haul route traverses through two Heritage Conservation Areas (HCAs). This must be further investigated properly to ascertain the negative impacts to these conservation areas if this project was approved. Daracon say the project is 'unlikely' to result in any adverse visual or physical impacts to the heritage significance of these Heritage Conservation Areas or individually listed heritage items. The use of the word 'unlikely' does not guarantee there will be no loss or negative impacts.

On page 4 NSW Independent Planning Commission Guidelines for Public Submissions states "Matters that the Commission must take into account where relevant include ... the **likely impacts** of that development, including **environmental impacts** on both the **natural** and built environments, and social and economic impacts in the locality... and any submissions made in accordance with the **Environmental Planning and Assessment Act 1979**". Environmental values that will be negatively affected by this proposed development cannot be overlooked. Therefore, if this proposal is approved, we strongly urge the Commission to impose "**Conditions of Consent** which are designed to minimise, mitigate, or avoid adverse impacts of a development. They seek to address a range of diverse matters, from placing limitations on noise or operating hours to requiring the applicant to consult with experts, such as for the **ongoing management of biodiversity**." (Page 5) **Ongoing consultation with knowledgeable scientists** (independent to the government) **must be mandatory to manage biodiversity loss as this project will last for two and a half decades.**

We are extremely concerned that this project will negatively impact protected matters under the EPBC Act. Environmental damage, loss of habitats and the further decline of threatened species will occur. Daracon's own Martins Creek Quarry Biodiversity Assessment Reports May 2021 propose vague and inadequate mitigation measures based on inaccurate understated data- for example the number of koalas sighted is recorded as much less as opposed to community and citizen scientist's data as to their sightings. Daracon's assessment of impacts by the expansion of this quarry do **not** adequately acknowledge the following matters which we hope you can consider as reasons to impose 'conditions of consent' to manage biodiversity loss (fauna and flora).

- The combined cumulative impact of both Martins Creek and Brandy Hill Quarries must be considered in its entirety within this context. The haulage routes are used by both Martins Creek Quarry and Brandy Hill Quarry operations. Martins Creek Quarry is **only 23.5 Km away** from Brandy Hill Quarry which **has already impacted the wildlife** there. Safe wildlife corridors must be included for both Brandy Hill and Martins Creek Quarry, especially because koalas inhabit these areas. *'DESTRUCTION of 45 hectares of bush has had a significant impact on the national koala population,' said a report from the NSW Department of Planning.* The Brandy Hill Quarry expansion was noted to **"adversely affect habitat critical to the survival of the koala species"**, which coincides with an Australian Koala Foundation warning that habitat destruction has left koalas "functionally extinct." The Brandy Hill Quarry has affected the ability of our wildlife to survive because their habitat has been destroyed, and the Martins Creek Quarry expansion will do the same thing again. The koalas within these surrounding areas have been and are severely impacted and will be further impacted if the Martins Creek Quarry proposal is approved. They will have nowhere else to go! They will die.
- *Proposed expansion into new extraction areas whilst continuing existing operations and approvals will result in even more damage of the environment, further fragmentation of wildlife habitat and corridors and more loss of koala feed trees.* **The state government have made a promise to the people of NSW to double koala numbers by 2050! This is NOT achievable if mining and quarry developments in NSW are approved to log more koala habitat.**
- A fair portrayal of the 'true' impacts on the environment and wildlife relating to structures to be built or elements of the action (constant noise/drilling/road haulage) will have impacts on matters of national environmental significance (MNES) which has been underestimated. Research has shown that excessive noise pollution as what occurs in these quarries, particularly impacts koalas who experience stress which then effects their immune system, which can then lead to them being more prone to chlamydia and death.
- Impacts on critical habitats need to be examined further and without bias. Page 127 RAMSAR WETLANDS OF INTERNATIONAL IMPORTANCE The Guidelines for preparing Assessment Documentation relevant to the EPBC Act 1999 for the Martins Creek Quarry Expansion Project (EPBC 2016/7725: SSD6612) (AGDoE 2016a) have identified that the proposal has **potential to impact on the Hunter Estuary Wetlands RAMSAR site** and the level of potential impact should and must be further investigated. The project site is located only 20-30 km upstream of the Hunter Estuary Wetlands Ramsar site, and about 1 km from the Paterson River, a major tributary of the Hunter River which flows into the Ramsar site. This close proximity to the Paterson River with polluted run-off from the quarry could easily reach this Ramsar protected wetland. Minor tributaries to the Paterson River even run through the project site. **The location of this quarry so near these river systems is a very important consideration if we are to maintain the health of these wetlands and its wildlife.** The assessment of impacts on the wetlands could include a substantial change to the volume, timing, duration or frequency of ground and surface water flows to and within the wetland, affecting the habitat or lifecycles of native species, including invertebrate fauna and fish species. The quarry's expansion could cause measurable change in water quality of the wetlands (salinity level, pollutants, nutrients, or temperature) that may adversely impact on biodiversity, ecological integrity and social amenity or even human health. Daracon **MUST** have clear mitigation and management measures to retain these environmental values. **A truthful and transparent assessment of the relevant impacts of their action on Ramsar protected wetlands and threatened species and ecological communities is highly recommended.** The extent of the likely direct, indirect, and consequential impacts must also include short- term and long- term relevant impacts, on all the threatened species and ecological communities, especially as this quarry will operate for 25 years.
- **Data on the negative effects particularly to the flora and fauna species of these wetlands since 2016 must be tabled BEFORE an expansion of this mine quarry is even approved.** The Department of the Environment and

Energy's Environment Reporting Tool (ERT) identified that 26 threatened species and communities may occur within 5 km of this proposal. In the Biodiversity Assessment Report in Aug 2016, Recovery Plans had been *prepared* for the following species within potential habitat present **within** the subject site. Since then, many species have also had their threatened status up listed as their numbers dwindle. This includes the Green and Golden Bell Frog (endangered); Regent Honeyeater (critically endangered); Swift Parrot (critically endangered); Barking Owl (Vulnerable); Powerful Owl (Vulnerable), Masked Owl (Threatened), and Sooty Owl (Threatened); Koala (Endangered); Yellow-bellied Glider (Vulnerable); Grey-headed Flying-Fox (Threatened); Spotted-tailed Quoll (Vulnerable) and Large-eared Pied Bat (Vulnerable). Daracon still assessed these species as 'able to withstand loss,' by the Quarry expansion, despite their concerned threatened listings. The reality is that **habitat fragmentation is permanent and likely will have a negative impact on all species**. Loss of genetic diversity and altered pollination syndromes will adversely affect seed, with a high and a permanent impact intensity. Insects particularly bees are the master pollinators that enable flora to flourish. If we destroy the habitat where these pollinators function, the capacity of ecosystems to flourish and survive will be damaged and this will have enormous ramifications for all wildlife to survive.

- **Current 2023 data on these species must be provided prior before Quarry expansion approval is given as proof that Daracon can deliver what they promise to protect species.** As these species have been up listed in their threatened status, Daracon have a moral and ethical responsibility to ensure that the health, diversity, and productivity of the environment is maintained and that these species do NOT deteriorate more. This has not even been acknowledged in their Final December 2022 Report.
- Approximately 6.3 hectares of the Spotted Gum (Narrow-leaved Ironbark shrub) is present in this area. The proposal will reduce the extent of the Spotted Gum by approximately 3.7 hectares. More than half of this flora will be destroyed. This cannot be properly and fairly offset by Daracon. Biodiversity offset must be 'like for like' and are rarely achievable. Biodiversity offsets must be put into practice and not just intended in proposals. Offsets must 'appropriately' compensate for the unavoidable loss of ecological values. *Often companies do this to get expansions or projects passed in the first instance with no priority to compensate the biodiversity losses that occur over a long time especially relating to this development.*
- The community have photographic evidence that **all** fauna species have been located and sighted on land immediately adjoining the site. Many submissions on the NSW government website show photos of endangered species especially birds and our iconic koala living in close proximity to the quarry. The Martins Creek Quarry Biodiversity Assessment Report understated the number of species located, and the impact likely to occur with the removal of this habitat. The consultant was contracted by Daracon to deliver a favourable report that would assist the quarry to be expanded. **Transparent, independent reporting** on the accurate population of wildlife in nearby habitats now is needed.
- Even in the slight reduction of daily road haulage rates and hourly limits, expansion of the quarry to extract and process tonnes per annum of hard rock material over 25 years; and transporting up to **450,000 tpa** of quarry product via public roads, and via rail will have ongoing negative effects on the environment and its wildlife.

The loss of ecological values is ONLY avoidable if Daracon do not prioritise their economic values over the environmental values. Sweeping statements like the 'revised project is unlikely to result in any adverse visual/physical impacts' is vague and meaningless. Going on the past track record of Daracon we have minimal confidence in their commitment to protect environmental, conservation or heritage values.

- The fate of the koala MUST NOT be ignored in this expansion proposal. It is **endangered** under Federal Laws of the EPBC Act. It is now on an accelerated trajectory towards extinction. This Quarry expansion proposal is yet another example of the negative impact on this species. In eastern Australia (NSW, Queensland, Victoria) we might have as low as 43,000 koalas left. Destruction of koala habitat and their feed trees, blasting and extreme noise levels triggers disease in these animals. Many have already been displaced, moved on and died. **We strongly oppose any future expansion of this Quarry because of the continual loss of wildlife.** Daracon's suggestion that their koala fencing is successful is questionable and needs to be proved and investigated further. **Daracon has a responsibility and obligation to protect koalas as they operate in their habitat. We encourage the Independent Planning Commission to propose that Daracon provide a Koala Recovery Centre to rescue and rehabilitate koalas adversely affected by their quarry work at their cost.**

- **Under the EPBC Act there are Protected Matters relating to threatened species** (Koala- endangered, Regent Honeyeater- critically endangered) and ecological communities that must be considered more carefully by the Proponent. ***There is substantial new information available about the adverse impacts the action of approving this Quarry expansion proposal will have on koalas and other wildlife and the impact on the Hunter Estuary Wetlands RAMSAR site.*** *This current new information relates to the EPBC Act which is being reformed and is due to be released by the Federal Environment Minister this year. The State of Environment Report was released in July 2022 and represents an environmental crisis much worse than we imagined.* Assessments and approvals have taken place with minimal attention by state governments to protect nature. The Martins Creek Quarry Expansion Project will result in a loss under the EPBC Act of threatened species habitats and corridors. On 21 July 2016 under the EPBC Act it was determined that the Martins Creek Quarry Expansion Project WILL impact on matters of national environmental significance (MNES) protected under this Act – Wetlands of international importance (Ramsar Wetlands) (sections 16 & 17B); and – Listed threatened species and communities (sections 18 & 18A). So, if this was acknowledged back in 2016 regarding the damage to internationally listed Ramsar Wetlands and identified threatened species, why is this project not being accepted as causing significant environmental damage and biodiversity loss even more 6 years on. This project must be assessed in today's environmental conditions.

This information is real, it is not trivial or inconsequential. Fragmentation of wildlife habitat *and localised extinctions have already occurred due to the current quarry operation.* Daracon has already negatively impacted many species of flora and fauna.

For all the above reasons we still firmly **oppose** the Martins Creek Quarry Expansion proposal, even though there have been some reductions in haulage rates and tonnage. The negative impacts caused by this project to degrade the environmental values of this area have been either understated or completely ignored in some instances and the deterioration of social values for the community over 25 years will be real.

Finally, on Page 28 IPC Additional Information Request-Final it states that the Department has “stringent requirements for management, monitoring and reporting of performance of the development against compliance requirements.” Page 28 also states that Daracon has “a program to investigate and implement ways to improve the environmental performance of the development over time...and a process that will provide for a rigorous program of evaluation and continuous improvement of mitigation measures over the life of the Project.” We hope that this is the case and Daracon does live up to their words and the Department regulates Daracon regularly and systematically to ensure that they are compliant, as compliancy and proper regulation was clearly a problem in the past. Effective oversight by the Department is crucial including ongoing inspections. More detail as to Daracon's implementation strategies and their rigorous evaluation program would have been helpful to establish trust by the community. The DPIE must ensure Daracon is compliant throughout the entire 25 years operation of this quarry.

With Daracon's unwillingness to abide by past licence agreements and their dealings with the Land & Environment Court, systematically delaying court cases, slow at progressing the EIS and court action by local council regarding breaches of land use rights, these past issues do still raise concerns regarding the company's ethics and code of conduct in doing what they are supposed to do to protect habitats and species and compensate appropriately and fairly through the Biodiversity Offsets policy what has been lost in the environment regarding flora and fauna. Daracon were extracting materials unlawfully and illegally for over 20 years which affected the health of the environment and the community.

Whilst we are aware that the Commission cannot consider the reputation of the applicant and any past planning regulation breaches, it is extremely difficult for the community to ignore the past behaviour of Daracon. As shown by their actions they have never been invested in protecting the environment and the wildlife that co-inhabit this same area. The environmental values and how these will be protected and mitigated to achieve minimal negative impact on the wildlife, and a Ramsar listed wetlands must be acknowledged more fully. With changes to national environmental

laws under the EPBC Act forthcoming this year approval of this proposed quarry expansion must also be considered as additional substantial new information as well, and in a new context.

Thank you for your time and considering our submission.

Yours sincerely

Janice Haviland Marie Humphries Martin Derby Katie Wynter Ruby Hardie Lucia Smith