

Maree Amos | Responses to Question Answers from Daracon and DPE

This submission is in two parts. 1. Response to the DPE letter to the IPC of 19 December 2022 and 2. Response to the applicant's reply to the IPC's questions (Umwelt December 2022).

1. DPE Response

Ref: Letter from DPE to IPC dated 19 December 2022 - Response to questions regarding the Martins Creek Quarry Project (SSD-6612)

In response to comments by DPE preceding direct question answers

- Revised interim peak haulage rates, referred to on page 1, were only in place for 8 months. Dungog Shire Council (DSC) has never accepted that these rates are in any way acceptable in the long term and, to imply that it does, is deliberately misleading. This interim arrangement would have allowed Daracon to wind back its operations and complete supply of contracts without major disruption before returning to the present lease conditions.
- Fewer complaints during this time interval are totally expected given that the community understood that it was interim and under legal actions. I note that Daracon does not anywhere mention how much was extracted during this time, only the allowed maximum.
- In summary, the proposed changes to the project only involve a 10% reduction in total road haulage.

Question Responses from DPE

Question 1

Applications for development of hard rock quarries may indicate demand. They also show the many places from which this resource may be obtained and that Martins Creek is not a unique location but the community impact is.

"Anecdotally the department is also aware that several of the existing quarries in the region are unable to keep up with current demand." This is absolutely no surprise in the wettest year on record for many parts of the region. All of us who conduct any business in the area know that supply of everything is reduced due to the weather, Covid and supply chain issues. Discussion of 2022 only, a totally atypical year, is misleading.

Question 2

"Daracon has adequately demonstrated that rail transportation of quarry products is severely constrained" and among other reasons given is "lack of suitable unloading facilities". It is not a free method of transport and would require, as it has for a number of other quarries, that Daracon develop their own loading/unloading facilities. No consideration has still been given to the sites named and described at the public meeting and in a number of submissions.

Question 3

The DPE has blindly accepted the Daracon lawyer's analysis. Surely this is not appropriate. I also question why the Bulahdelah Coal case, detailed by Peter Rees at the IPC's November 2022 Public Meeting, and others in submissions, has not also been considered in this question.

Questions 4 and 5

The DPE states that "a key principle underlying the concept (of ecologically sustainable development) is intergenerational equity". Then "the department understands that the community's perception of impacts of the project have been shaped in part by 'lived experience' of impacts of the existing quarry and accepts that the Project would continue to impact the amenity and character of these areas". In spite of this, "The department has found that the future impacts of the Project would be acceptable". The lived experiences show that it would not be acceptable to the community.

The repetitive use of the term "proposed mitigation measures" throughout this process has still not indicated one measure that will make the impacts of the trucks, including noise, exhausts, vibration, pedestrian safety, on hundreds of families along or near the haulage route, anything less than horrible and intolerable. There is no intergenerational equity in family properties losing enormous value and liveability. Submissions that explained that children, family members and friends don't visit due to these impacts are very sad. The video that shows the "lived experience" of the community cannot be ignored.

The department also claims, "The monitoring, evaluation and review components of the recommended conditions allow for adaptive management practices to be implemented as necessary to mitigate unforeseen impacts". Firstly, all these components *allow for*, but *do not mandate* any variation in management behaviour, no matter what is found. Secondly, most of the unmitigated impacts are foreseeable.

The current effects (for 3 years since 2019) while the applicant's behaviour has complied with lease conditions has resulted in a thriving and pleasant society that should not be forced back into decline.

Question 6

The DPE response has made no mention of the businesses that have had to be sold or closed or properties sold at a loss. Not one hospitality business has been identified that would not have better succeeded if the quarry operators had abided by their lease conditions in the past.

Questions 7 and 8

The requirement for Daracon's proposed road upgrades to be completed, in accordance with Ausroad guidelines, prior to full scale operation, is still defective and inconsistent with most other developments. It allows an interim haulage increase, ignoring the reasons for road upgrades, especially safety. In fact, the roadwork disruptions themselves add to the safety issues.

There are no requirements for road upgrades in the other areas along the route that have been identified by Daracon as not meeting Ausroad guidelines such as lack of pavement width at Bolwarra Heights, shown in a number of photos attached to submissions and the Gostwyck Bridge. What is the point of such guidelines if they can just be ignored. The DPE seems happy that they do "not strictly conform".

2. Applicant's Response

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

In Response to Comments and Announcements by Daracon, Preceding Question Responses

Mr Kelly states "truck numbers ran from the quarry in 2014 were unacceptable and we do not plan to run these total tonnes now or in the future". (p3) There is no commitment never to run these amounts again, just not planning to at the moment. No offer of compensation or repayment from the millions of dollars made from this "unacceptable" (their word) and illegal ongoing behaviour has ever been made, just spent to try to make the illegal behaviour legal (*regularise* is their word).

"Over the past few months, the supply constraints in the construction material market have continued to increase". (p5) The same comments apply to most goods due to ongoing wet weather and Covid.

The proposed reduction in road haulage rates is simply a 10% reduction in tonnage that will be going through the community.

Daracon continues to claim "the road haulage limits now proposed are within the range that have been considered acceptable by the residents of the haul route under previous operations" (p8).

This is totally false and is the entire premise on which the haulage limits application is based. At no time during the 18-year illegal operations, from 2002 to 2020, that Daracon chose to compare to, was the community or Dungog Council accepting of the tonnage transported by road. This is in spite of Daracon's selected quotations of only three witnesses during the court case and failure to mention those who did not agree.

As mentioned in submissions to the IPC, community action meetings have been held since at least 2007 and in spite of potential costs and complications of a court case involving one government entity (Dungog Council) vs another government entity (Railcorp), Dungog Council eventually proceeded to the Land and Environment Court against Railcorp at the end of 2008. This was adjourned, at the request of Railcorp, to enable the sale of the quarry lease. This clearly indicates that the proposed road tonnage has never been acceptable and did not only become an issue when council was finally obliged to move against the new lessee, Daracon, in 2015.

Question Responses from Daracon

Question 1

As mentioned, Daracon's response indicating a lack of regional supply in 2022 is not unexpected. This does not make the consequences of the approval of this location justifiable. The MR 101 is still not a State road having been rejected by the State government. Thus, there is still only the regional road network, through a township and residential areas.

The DPE seems to have accepted Daracon's analysis of material supply without investigation. For example, Table 3.1 (p9) lists 6 quarries in the region providing similar material. The table includes

Seaham Quarry with the comment “Majority is servicing Sydney market”. This conflicts with information on the Seaham Quarry website, which indicates that it mainly supplies Newcastle, Port Stephens and the Hunter Valley.

It seems that there may be other quarries in the region, such as Hebden Quarry near Singleton, which is one of Newcastle’s biggest suppliers but is not included in the discussion in section 3.1 “Strategic Justification”.

Question 2

The community recognises the value of an element of road haulage. A number of possible viable rail unloading facilities for most regional supply have been identified by respondents, which could be constructed and satisfy the 6 criteria listed by Daracon.

Daracon states “The production limit of up to 1.1 Mtpa is sought for rail haulage.” This statement (p3) and “The now proposed road haulage limit of 450,000 tpa will remain the upper limit and Daracon seeks approval to transport up to 1.1 Mtpa by rail in anticipation of potential future market and rail logistics to increase the volume transported by rail over time” (p16) taken together do not make it clear whether the total mass extracted is intended to remain at 1.1 Mtpa or 1.1 Mtpa to go by rail and 450,000 tpa by road. Under the recommended Development Consent Conditions there is no limit placed on the amount, out of the total 1.1Mtpa, that may be transported by rail only the proportion transported by road, so a new limit is not needed. Is this therefore an application for 1.54 Mtpa to be extracted?

Question 3

The DPE, disappointingly, makes no response to question 3 and defers to the applicant’s answer and legal opinion.

Daracon lists key aspects to differentiate the CEAL project.

Contrary to claims

- The Martins Creek extension, including the area already illegally expanded into, is arguably a Greenfield site.
- Road noise levels will be disruptive to the “quiet ambience” and overall character of Paterson village and will result in unacceptable noise impact along the haul route, especially when considered against the noise level for the past 3 years, during which the quarry has been obliged to operate at the current legal levels.

Comparison with Brandy Hill Quarry haulage passing through villages and rural residential areas (p18) is misleading because Brandy Hill Drive (referred to as Brandy Hill Road by Umwelt) was constructed to by-pass the village of Seaham as part of the DA for the quarry.

Question 4

In answer to this question, Daracon still claims “the Railcorp road haulage was acceptable”. (p20) If this was so, why did Dungog Council take them to court after many community efforts including mayoral meetings with the Minister and Premier? This legal action was still underway (although temporarily suspended) when Daracon purchased the lease. The statement “The ‘lived experiences’ generally relate to the operations during 2014, which Daracon has acknowledged was unacceptable,” (p20) again is not true. The ‘lived experiences’ relate to the entire illegal period. They further state “Throughout the assessment process for the Project, the community indicated that the haulage rates

prior to Daracon securing the licence to the quarry had been acceptable” (p21). Nonsense, and if this is actually what Daracon believes, this indicates how flawed the community consultation process must have been. Numbers of submissions, to the IPC, detailed residents’ experiences of the deficient consultation processes.

The final point the applicant makes in response to this question is “...these levels were deemed acceptable by residents’ court testimony” (p21). Yes, for 3 people, but compare this to the opposing submissions to the DPE of over 600 people and over 900 to the IPC - and not forgetting the 80 who attended the public meeting back in August 2007.

Daracon’s response fails to specifically address intergenerational factors in the local context and refers to its SIA, which Dungog Council’s expert report has clearly demonstrated to be inadequate.

Daracon says its objectives of the Project include “minimising social amenity, traffic and transport, noise dust, and visual impacts”. It is going to fail to achieve this objective, as it has already done since 2012, with the inadequate proposed mitigation measures.

Question 5

Daracon says that it has “made substantial reductions to the proposed road transportation haulage to reduce social amenity impacts.” This involves only a 10% tonnage reduction and trucking rates that will instantly double the current truck movements on the route. Nothing new is described on pages 25 to 28. The proposed Project does not do enough not to ruin too many peoples’ lives and health.

Question 6

Of all 11 businesses listed as involved in SIA consultation, all of those still operating (at least 2 have closed) seem to oppose the granting of the extension of the lease conditions. Daracon refers to Robyn Burgmann’s submission in a misleading fashion. Robyn is painfully aware of the impact of the trucks on her business and its potential for greater success. Her presentation at the public meeting made her opposition very clear.

The Local Services Provision Framework business survey should be undertaken now, before any granting of a new lease, to obtain information relevant to the past 3 years. However, no matter what impacts are later determined, there will be no mandated adaptive management strategies.

Question 7

Nothing new is noted that was not included in the DA and DPE Development Consent Approval. Numerous submissions have detailed problems related to bus access, home and business access, vehicle damage from gravel trucks, near misses, people being forced off the unsuitable roads and at least one accident, though not caused by a collision, just being forced to reverse off Gostwyck Bridge. These will only minimally be improved by the proposed mitigation measures.

No improvement is proposed for the 3 other identified dangerous situations namely:

- Church St/ King Street (Gresford Road) intersection and bend
- Prince St/Duke Street blind intersection
- Non-Ausroad compliance of the road at Bolwarra Heights.

Question 8

Road upgrade construction increases safety issues and best practice requires completion before increased road use, in spite of the threat that the rail spur extension time will blow out to 8 years.

Question 9

Daracon states “It is not intended that quarry would service a substantial amount of local projects” (p37) and that only 5-10% of annual production would be delivered locally. Yet, it still deems it necessary to obtain permission to transport 41% by road.

Final Comment

There is no relationship between the “mitigation” measures proposed and the enormity of the impacts created by this project. The community should not be made to bear the costs to make this private project viable.
