

Daracon's Introduction.

The submission by Daracon of December 2022 contained many promising statements such as:

“In response to the public and government agency concerns, Daracon and Umwelt undertook extensive stakeholder engagement and a thorough review of the Original Project to redesign key operational parameters in order to reduce environmental and social impacts.

These measures were only taken through absolute necessity after the adverse Court judgement. Daracon has not established itself as a good corporate citizen since taking over the quarry. If the project is approved the community can rightly have little confidence in future performance without rigorous conditions of consent.

Road Contribution Plan

In its response to IPC Question 7, Daracon is committed to “seeking to establish road maintenance contributions with Dungog Shire Council and Maitland City Council to further mitigate any impacts on the road pavement, and therefore road safety, resulting from the transport of product associated with the Revised Project.”

The statement “seeking to establish” is of concern because it echoes the provisions of DPIE Draft Condition of Approval A23:

“The Applicant must make annual financial contributions to Council and Maitland City Council towards the maintenance of local roads used for haulage of quarry products. The contributions must be determined either in accordance with the relevant council local infrastructure contribution plan ... or by a suitably qualified and experienced person commissioned by the Applicant, in consultation with the relevant council, and endorsed by the Planning Secretary....”

This flies in the face of the duly adopted Dungog Shire Road Contribution Plan for Heavy Haulage Generated by Extractive Industries 2017, which was advertised for public comment before its adoption by the Council, and Daracon made no comment at the time. And it is cheaper per tonne than that of neighbouring Port Stephens with at least two major hard rock quarries.

So why should there be an option for a review by an independent consultant commissioned by the Applicant in consultation with the relevant council? This would involve unnecessary effort by Council's meagre staff resources in duplicating something that has already been settled.

If the project is approved, Daracon should be required to meet the conditions stipulated by the Dungog Shire Road Contribution Plan 2017.

Road Upgrades.

In its response of December 2022, DPIE acknowledges that “the road conditions do not strictly conform with the current Austroads guidelines”, but the use of the superfluous word “strictly” is questionable. The road conditions either meet Austroads guidelines or they do not.

All parties have accepted the need for the upgrades, and in its December 2022 response DPIE “considers that Daracon's proposed road upgrades etc. would improve road safety along the proposed haulage route”.

But both DPIE and Daracon consider that until these measures are affected, road safety from the Project can be appropriately managed because there have been no previous accidents associated with road haulage.

In its December 2022 submission, Daracon stated: “consistent with recommended Condition B40, Daracon’s preference is to design and construct the road upgrades within 18 months of project approval, When considering this matter, it is important to recognise that under the previous IEMP, Daracon was able to transport up to 450,000 tpa via road on the existing network.”

The absence of accidents cannot be accepted as a means of predicting future accidents when there is no means of recording near miss events which are equally relevant in the consideration of accident statistics. This aspect is more accurately reflected by the level of community concern.

These upgrades should have happened many years ago and until now it has not been possible to demand them from the operators of the quarry. And besides road safety risks and traffic disruptions, the community has tolerated the many other drawbacks associated with road haulage and quarry operations that can also now be conditioned.

So why should the community accept delayed introduction of these measures? And why would Daracon be reluctant to demonstrate its commitments to community safety and wellbeing?

Timing of Road Upgrades.

The Draft Conditions of Approval recommended by DPIE provide for a limit on road haulage of 250,000 tpa until such time as the road upgrades are completed.

In its December 2022 submission Daracon: “supports this limit (250,000 tpa) as it goes some way to addressing market need for product ... and also allows for the extraction and transport of quarry product to facilitate the proposed rail spur extension.... should the Revised Project be approved, Daracon accepts that road haulage may be limited to the currently approved limit of 150,000 tpa until the road upgrades are completed. “

However, these Draft Conditions of Approval contain contradictory terms; on the one hand the numerous road upgrades listed at B40 must be completed within 18 months, but on the other hand in B41, Daracon can default on this condition of approval by making a payment to Council for any road upgrades not yet completed at that time!

This is ridiculous, Daracon is a large construction company with greater resources than Dungog Council, and the Council’s submission clearly stated that they did not have the resources to carry out these road upgrades if Daracon defaulted after 18 months.

Besides effectively being unavailable, this option would further delay completion of the road upgrades. Every report from the Infrastructure & Assets Department in Dungog Council’s monthly business papers for the last two years has indicated the many factors affecting delivery of services, as follows:

“Council’s internal resourcing remains stretched due to the significant increase in Capital Works as identified in previous Council reports. Advertising for staff is continuing with significant vacancies still outstanding within the Infrastructure & Assets Department (both operational and technical staff) with these positions remaining difficult to fill.

As a result, Council continues to utilise increased day hire contractor resourcing and Council staff are working significant extra hours to enable these capital works to be undertaken in a timely, cost

effective timeframe.

In addition, Council is also experiencing significant delays in sourcing necessary materials and supplies to deliver the program, given current demand caused by state-wide infrastructure funding programs currently being provided by the NSW and Federal Governments. These include the provision of stormwater structures, road base, sealing aggregates and stabilisation additives. Further, recent tenders for full construction works have shown significant increases in the market for Capital Road Construction. These increases are well outside of current project budgets.”

In order to provide an incentive for Daracon to complete the roadworks specified in the Draft Conditions of Approval B39-B41, the present limit of 150,000 tpa should be conditioned upon the development until completion of the road upgrades including construction of the new quarry access road intersection off Dungog Road in particular.

Rail/Road Haulage Contradictions

Daracon’s additional information of December 2022, under Proposed Project Amendments at 2.2 states as follows:

“Daracon is proposing to continue to utilise rail haulage to supply rail network maintenance, and to supply the Sydney Metropolitan market when the extension to the on-site rail spur is constructed and planned access to a rail unloading facility in Western Sydney is secured. For this reason, the production limit of up to 1.1 Mtpa is sought for rail haulage.”

This contradicts the December 2022 response from DPIE:

“The Department accepts Daracon’s position that it is not feasible for it to undertake quarry operations relying solely on rail transport 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.”

Furthermore, the December 2022 response from DPIE stated: “the balance of 650,000 tpa is to be transported via rail “subject to market demands and network availability””.

Does this mean that adverse market demands and network availability would permit this being transported by road instead of rail?

While DPIE considers that this represents a commitment to maximise the use of rail transport “wherever feasible”, if the project is to be approved, conditions of approval should stipulate that this quantum (650,000 tonnes) can only be utilized if it is transported by rail haulage.

In the draft conditions of approval from DPIE regarding Transport Operations, condition A10 states:

“The Applicant must not transport more than 1.1 million tonnes of quarry products in total from the site in any calendar year, including a maximum of 500,000 tonnes by road.”

Besides the total quantum of production, specific totals for rail and road transport should be stated individually.

If the project is to be approved, conditions of approval need to specifically state maxima for total production (1.1 million tpa), road (450K tpa) and rail haulage (650K tpa).

Rail Siding

In the December 2022 submission Daracon indicated that 800,000 tonnes of product would be required in order to construct the extended rail siding. It is in the community interest that the rail spur be extended ASAP. If the project is to be approved, conditions of approval should facilitate that accordingly.

Relevance of Case Studies

Daracon December 2022: "The above case studies in relation to Brandy Hill Quarry and Teralba Quarry demonstrate that it is not uncommon for quarry developments to be located in close proximity to rural villages and communities and consequently it is inevitable that these quarry developments will need to haul product on the local road network through these villages and rural residential areas. " and "The Brandy Hill Road route passes through rural residential precincts of Brandy Hill and Nelsons Plains and the small village of Woodville, which would be more akin to Bungonia than Paterson Village."

The above statement concerning Brandy Hill Quarry is erroneous because that quarry is nowhere near a village and the rural residential development along Brandy Hill Drive was approved as part of the original DA which required the operator to build Brandy Hill Drive to avoid the village of Seaham by at least 5KM. This example bears no comparison with the village of Martins Creek, and Paterson in particular with little opportunity for a bypass route to be constructed.

The impact upon the villages of Martins Creek and Paterson is extreme.

Historical Factors

The history of this quarry is mentioned in the December 2022 comments by DPIE and Daracon to justify many aspects of the proposed project.

The graph at Figure 3.1 of the Daracon submission "Historical Road Tonnages" demonstrates how a rail ballast quarry in a railway village has morphed into a cash cow for Daracon. This process can best be likened to the process of "boiling a frog" whereby if you raise the temperature of the pot gradually the frog will not jump out.

SRA/Railcorp was as belligerent as Daracon turned out to be, and while there are several references to agreement on the part of Dungog Council (when I was a councillor), we were not in a position to argue nor could we afford to take legal action at that time. In about 2001 Railcorp offered \$40,000 annually on a take it or leave it basis to compensate for road damage, which was accepted despite it being clearly inadequate. By 2010 it was obvious that the Council would have to take legal action to force Railcorp to adhere to the original conditions of approval or submit a new application. They sold the quarry....

Daracon took over in 2012 and Figure 3.1 indicates their track record that brought on million dollar litigation, which could have been avoided through reasonable cooperation. This was a major risk for a small rural council to undertake, but it was justified by the level of community concern.

The essential point here is that the local community has been treated very poorly by indifferent quarry operators and in particular been subjected to unlawful increases in road haulage which are now being used to justify the proposed tonnages hauled by road.

If the quarry did not already exist there would be little or no chance of it being approved today due to its proximity to the village of Martins Creek and its major road haulage route through Paterson. None of the quarries used as examples to justify Daracon's stance in the December 2022 submission have anything like the impact on the local community.

The approvals process should place great emphasis on this accordingly. Every road upgrade, the new quarry access road intersection off Dungog Road, the extended rail siding and other mitigating factors should be implemented prior to any increase in production or haulage by road.

Why should the community have to suffer the burden of making the project viable for the developer?