

**Response to Additional Information Provided by the DPE Daracon/Umwelt December 22**

30 January 2023

Dear Commissioners,

The Paterson Progress Association (PPA) is deeply disappointed in the content of the 'Additional Information' document supplied by the applicant and their environmental and social consultant. The revised proposal does nothing to mitigate the impact of the proposed Martins Creek Quarry expansion. The PPA has not altered its position from its 2022 submission.

Like previous proposals this proposed project amendment is short on detail, misleading and littered with inaccuracies and mistruths.

Clarification is needed In Section 2.2, Page 3, which states:

***'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.'***

The above information differs from Amended Project (2021).

Is Daracon seeking to increase the rail haulage limit of 650,000 tpa to 1.1 Mtpa? If the proposal was granted as per the 'Additional Information' document, production would increase to 1,450,000 tpa. Not the 1.1 mtpa as in the Amended Project (2021).

In Section 2.3, **Page 6**, the number of peak days per calendar year has not been stated.

**Page 8.** When reading through the Testimony from Frederick James Brody Ashton it becomes apparent that the applicant has cherry-picked information and excluded context.

2016/00149935 - DUNGOG SHIRE COUNCIL v HUNTER INDUSTRIAL RENTAL EQUIPMENT PTY LIMITED,

***Q.' So when you purchased the house let me suggest to you that you must have accepted that noise from trucks and other vehicles would be a part of your daily life?***

***A. I did in the context that I accepted and fairly well understood the scale of the operations at the time of the purchase. In saying that, I mean I visited the property during weekdays and observed the frequency of vehicle movements, of quarry haulage through the village and I also spoke to Terry Cavanagh from the council, I think he was the environmental manager at the time and enquired as to the permitted scale of the***

**operation and what the - Mr Cavanagh's understanding of the scale of the operation.  
(pp337)**

**Q. Could you tell his Honour please what you understood that scale to be?**

**A. My understanding at the time from the conversation with Terry Cavanagh was in the order of magnitude of 450,000 tonne per annum, was to do with the existing use rights was what Terry had told me'.**

The PPA understands that Mr Aston is referring to the total processed product at Martins Creek Quarry. Which is, 450,000 tpa processed and 300,000 tpa transported from the quarry site. (70% by rail and 30% by road). As per the 1991 consent conditions.

The uninformed reader may interpret Mr Ashton's testimony to mean he accepted 450,000 tpa by road. Not true. An attempt at deception by the applicant?

Equally, the testimony of Kristy Maree Buttsworth was taken out of context. Had the applicant endeavoured to read further the following refutes what the applicant is claiming.

2016/00149935 - DUNGOG SHIRE COUNCIL v HUNTER INDUSTRIAL RENTAL EQUIPMENT PTY LIMITED,

**His Honour:**

**'332. The tenor of the evidence that the Court received during the hearing can be gained from the following paragraphs from the Applicant Council's submissions. The point to be made, in the Court's assessment, is that the lay witnesses were fair in their description of the impact: they accepted that a degree of truck noise was expected by them and they also did not deny the volumes of truck traffic varied. Paragraphs 102-105 from the Applicant Council's supplementary closing submissions conveyed those points.'**

**"102 It was suggested to Ms Buttsworth that when she moved to Paterson she was aware of and accepted that she would experience impacts from the operations of the Martins Creek Quarry. In re-examination she denied that the level of impact currently being experienced was acceptable to her. The following question and answer was given (T 354.26-354.35):**

**'Q. When I asked you a question earlier on you told the Court, in effect, although you accepted that noise from trucks and vehicles would be part of your daily life, you didn't accept that the level of noise from the number of truck movements that you're experiencing, as described in your affidavit, would be part of your daily life?**

**A. That's correct.**

**Q. Do you accept that that level of noise from truck movements should be part of your daily life?**

**A. No, I do not.'**

The PPA rejects the claim that Martins Creek Quarry has a particularly high quality rock type and is a superior rock product to other quarries in the Hunter Valley. The whole area was formed some 180 million years ago in the Jurassic-age from the same volcanic igneous rock.

Consistently over the last seven years the applicant has overstated the uniqueness and need for Martins Creek Quarry product and understated the community impact of the proposed quarry expansion.

According to the websites of all the quarries listed in the applicant's 'Additional Information' document the same or very similar product is available for the construction of roads and in the building industry. Once again, Martins Creek Quarry product is not 'special'.

On **Page 14** the applicant refutes the definition of the road that traverses the town of Paterson as a 'local road'. TfNSW may define this road (MR101) as a main road but for all intents and purposes it is a local road through a Heritage Conservation Area (Paterson). Truck and dog configuration trucks should not be passing through Paterson whatever the classification.

The motivation for Dungog Shire Council's application to have MR101 classified as a state road is purely financial. Dungog Shire Council is the only council in NSW that is completely and wholly responsible for all the roads within the council boundary. A cost it finds extremely difficult to bear. By returning MR101 to state jurisdiction funds will become available for the maintenance of other council roads.

**Page 15.** Regarding rail and available access to the Northern Line railway. I would suggest current limited availability of freight access will be greatly reduced when the new Inland Rail line is completed.

**Page 18.** Apart from the incorrect naming of the two primary haul routes used by Brandy Hill Quarry. (Brandy Hill Drive **not** Brandy Hill Road and Clarence Town Road **not** Clarencetown Road). The applicant has labelled Brandy Hill Drive as a local Road. Brandy Hill Drive is not a local road, it is a quarry truck bypass road constructed in the early 1980's to bypass the town of Seaham. That is why the homes on Brandy Hill Drive are set-back from the road. To lessen the impact of passing quarry trucks. The 11km of local road haul route on Clarence Town Road from Brandy Hill Quarry is approximately one third of local road haul route from Martins Creek Quarry to state road or highway. Kinda kills the 'local road' argument.

**Page 19.** The applicant makes the point that the quarry has coexisted with neighbouring properties for 100 years. What they fail to mention is that for approximately 90 of those 100 years the quarry operated within its legal consent. What the applicant infers is that the community should be prepared to tolerate the proposed quarry expansion as they have tolerated the quarry for previous generations. No. When Daracon purchased the quarry lease they were well aware that they were purchasing a quarry that was confined by the 1991 consent. For the majority of their lease they have abused that consent. To expect the granting of an expansion was a *fait accompli* is truly contemptible.

I find it interesting that several times in the 'Additional Information' document Daracon acknowledges the amount of road haulage in 2014 was unacceptable. But they kept doing it.

**Page 22.** The TIA failed to address safety issues at the 'T' intersection of Church Street and King Street, Paterson. There is a blind right-hand turn from Church Street onto King Street. This intersection experiences a large amount of traffic as it is the access road to Paterson Public School. This road also services the sports ground, the Paterson RFS and residential roads.

Another intersection in Paterson that has been ignored by the TIA is the dog-leg blind intersection at Prince Street and Duke Street. This section of road is dangerous and narrow and cannot safely accommodate quarry truck and dog configuration trucks. It is particularly dangerous when exiting Prince Street, a left-hand turn, heading in a northerly direction along Duke Street. How does Daracon propose to stop quarry trucks crossing over the double white lines? It ain't possible. The road is too narrow. This intersection is also physically constrained by historic homes on opposite corners. That being 'The Rectory' and 'Sunnyside'. No 'refresh' of line marking will improve this intersection.

To claim that the Revised Project will not have a 'direct impact' on the intersection of New England Highway and Melbourne Street in East Maitland is fanciful. As stated in the NSW DPE SSSA October 2022 Assessment Report, this intersection is already at capacity. How could the addition of approximately 55,000 trucks per annum, when combined with Brandy Hill Quarry, not have a detrimental effect.

The cumulative effect of Brandy Hill Quarry and Martins Creek Quarry at the intersection of Tocal Road and Paterson Road at Bolwarra Heights has been ignored. At its peak a truck will traverse this section of road every 48 seconds. These truck numbers will result in safety issues for Tilly's Childcare, Bolwarra Public School and the expanding housing development of Hunterglenn.

**Pages 23 - 36.** Mostly, the content within these pages consists of hollow commitments, repetition and platitudes. Who is expected to enforce these conditions on drivers and Daracon management?

**Page 23. *'enhancement and ongoing relationships with the local community through development of effective communication channels and ongoing involvement'***

Due to knowingly and willingly past illegal operations the relationship between the applicant and the community is broken.

**Page 24. *'The existing 1991 consent is inadequate'*** As I have stated before, the applicant was aware, when purchasing the lease, of the 1991 consent conditions. As was revealed in the Land and Environment court in 2016. The applicant was advised by its own legal firm not to proceed with the lease purchase.

**His Honour:**

**863. The Company Respondents submitted that, in exercising its discretion, the Court should take into consideration that the Company Respondents acquired the Quarry from RailCorp with limited information and opportunity to scrutinize the history of the permitting, alleging that "RailCorp refused to disclose that information". The Court finds these submissions unpersuasive as the Company purchasers were obliged to carry out whatever due diligence was required in order to be satisfied to proceed with the acquisition of the Quarry. Being corporate commercial entities with resort to professional and legal advice, negotiating with a government corporation, the portrayal of the Company Respondents as naive innocents is not credible. The old adage of "buyer beware" is apposite. The Court does not accept that the Company Respondents were ignorant of the 1991 Consent, nor does it accept that the Company Respondents were not fully aware that they were acquiring a quarry primarily for the extraction of railway ballast, limited to specified land, with operating conditions tailored to such an enterprise. However, even if in fact they were so ignorant, they ought not to have been.**

**Page 24. 'Daracon has made significant efforts to minimise impacts associated with the Project. It is considered that the social impacts of the Project have been minimised where possible through project design and the proposed management and enhancement approaches'.**

**'It is considered'**. Who considered that the social impacts have been minimised? Daracon's paid consultants? The community that will be directly affected by the proposed quarry expansion for the next twenty five years do not consider that the social impacts have been minimised. The only possible acceptable minimisation of the social impacts of the proposed quarry expansion is to adhere to the 1991 consent. Whether this is financially viable for the applicant is not the community's responsibility.

**Page 25. The recommended conditions are considered best practice**

Once again, considered best practice by who or whom?

**Page 26.** Who is expected to oversee the extensive list of traffic management? Having experienced interactions with quarry trucks over the years I find it difficult to accept that many contract drivers will adhere to these conditions.

**'minimise the transmission of dust and tracking of material onto the surface of public roads from vehicles exiting the site'** - The history of broken car windows and excessive dust, particularly for Paterson businesses, shows this will be difficult to achieve.

**'trial and evaluate a self-imposed speed limit of 40 km/hour for trucks travelling through Paterson'** - Past lived experience does not bode well regarding contract driver behaviour.

**'adhere to posted speed limits or other required travelling speeds'** - Past lived experience does not bode well regarding contract driver behaviour.

**'adhere to designated transport routes and travel times'** I believe Daracon drivers would adhere to this 'clause' but contract drivers.....past lived experience proves unlikely. As David Mingay, executive director of Daracon, said in a public meeting, "we have no control over contract drivers".

**'implement safe and quiet driving practices'**. Once again, past lived experience.

**Page 31. 'While consultation with businesses for the SIA did not collect specific information with regards to current income levels and patronage'** - Why wasn't this information collected? Surely this information would have helped the IPC in reaching an informed decision. No point in conducting the business survey after the IPC assessment process is complete. The PPA considers the SIA incomplete and deficient without this critical information.

**Page 32. 'King and Duke Street intersection – upgrade the 90-degree bend in Paterson with a refresh of the diving (sic) line marking through the intersection to delineate and separate opposing traffic'**. The PPA finds it highly unlikely the repainting of lines on the road surface will improve safety at this corner. Painting lines will not reduce the size of a truck attempting to traverse a 90° bend on a road unsuitable for truck and dog configured trucks.

**Page 36. 'As previously discussed with the Department and the Commission, the rail spur extension requires the extraction of approximately 800,000 tonnes of quarry product to provide for its construction. Limiting the annual production from the quarry will delay the ability to extract this resource and as a result delay the rail spur extension. The rail spur extension is required to allow greater access to the rail market.'**

***That said, 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. This will likely result in the proposed rail spur extension being delayed by approximately 2-4 years (i.e. 6 to 8 years to commission new rail spur extension) and would limit access to rail markets until that time'***.

If approved, the PPA senses there will be a project modification application by Daracon to allow an increase in road haulage beyond the 450,000 tpa until completion of the rail spur. This should not happen. It feels a bit like Daracon is playing the victim here. It is the community that has been the victim for the last ten years and potentially another twenty five.

Throughout the "Additional Information" document there is the extensive use of vague conjecture adjectives. i.e. predicted x 11, possible x 8, intended x 6, expected x 5, potential x 18. In context, they mostly describe unknown knowns. What those living around the quarry, residents of Paterson and those residing on the haul route have is a lived experience, not possible or probable outcomes. A known known if you like. Which surely trumps the many airy-fairy platitudes expressed in the document.

Mark Walker - Honorary President  
Paterson Progress Association

