



New South Wales Government
Independent Planning Commission

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Eagleton Quarry Project

SSD 7332

Statement of Reasons for Decision

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Executive Summary

Eagleton Rock Syndicate Pty Ltd (Applicant) has sought consent for the development of a new hard rock quarry to extract, process and transport up to 600,000 tonnes per annum of hard rock material over a 30-year period (Project). The site is located on Barleigh Ranch Way, Eagleton, approximately 12km north of Raymond Terrace, in the Port Stephens Local Government Area.

The Project would generate approximately 20 full time equivalent jobs during operations.

The NSW Independent Planning Commission (Commission) is the consent authority for the Project because more than 50 public objections were made to the Department of Planning, Housing and Infrastructure (Department).

Commissioners Adrian Pilton (Chair), Alison McCabe and Juliet Grant were appointed to constitute the Commission Panel to determine the Application. As part of its determination process, the Commission met with representatives of the Applicant, the Department and Port Stephens Council. The Commission also undertook a site inspection. The Commission conducted Community Stakeholder Meetings on 31 May 2024. The Commission also received written submissions on the Application.

Key issues which are the subject of findings in the Statement of Reasons for the Decision relate to noise, blasting, traffic, air quality and biodiversity.

After consideration of the material, including additional information received from the Applicant, the Department and Council, and having considered the views of the community, the Commission has determined that development consent should be granted to the Application, subject to conditions. The Commission finds that the Site is suitable for a hard rock quarry given its hard rock resources, topography, avoidance of major environmental constraints and access to the regional road network.

The Commission has imposed conditions which seek to prevent, minimise, mitigate and/or offset adverse impacts of the Project and to ensure appropriate ongoing monitoring and management of residual impacts. The Applicant will be required to prepare a number of comprehensive management plans and strategies and to report on mitigation and monitoring outcomes as well as to demonstrate compliance with performance criteria on an ongoing basis.

The Commission is committed to ensuring that this greenfield project successfully encourages community engagement through real time and attended monitoring and a forum for the discussion of the Project's performance in a community consultative committee.

The Commission finds that the Project is consistent with the existing strategic planning framework as well as the relevant statutory considerations.

The Commission is also satisfied that the Project is in accordance with the objects of the EP&A Act, all environmental, social, land use and safety impacts are acceptable subject to the conditions of consent imposed by the Commission, and accordingly the Project is in the public interest.

The Commission's reasons for approval of the Project are set out in this Statement of Reasons for Decision.

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Defined Terms

ABBREVIATION	DEFINITION
AG DCCEEW	Commonwealth Department of Climate Change, Energy, the Environment and Water
AIP	NSW Aquifer Interference Policy
Applicant	Eagleton Rock Syndicate Pty Ltd
Application	Eagleton Quarry Project (SSD 7332)
Approved Methods	Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (EPA, 2016)
AR para	Paragraph of the Department's Assessment Report
BC Act	Biodiversity Conservation Act 2016
BCD	Biodiversity Conservation Division
CCPF	NSW Climate Change Policy Framework
Commission	Independent Planning Commission of NSW
Council	Port Stephens Council
Department	Department of Planning, Housing and Infrastructure
Department's AR	Department's Assessment Report, dated April 2024
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
ICNG	Interim Construction Noise Guideline
LGA	Local Government Area
Mandatory Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Material	The material set out in section 3.1
Minister	NSW Planning for Planning and Public Spaces
MNES	Matter of National Environmental Significance
NPfi	NSW Noise Policy for Industry
Planning Systems SEPP	State Environmental Planning Policy (Planning Systems) 2021
PNTL	Project Noise Trigger Level
Project	Eagleton Quarry Project
PSLEP	Port Stephens Local Environmental Plan 2013
Regional Plan	Hunter Regional Plan 2041
Regulations	Environmental Planning and Assessment Regulation 2000
Resources SEPP	State Environmental Planning Policy (Resources and Energy) 2021
RNP	NSW Road Noise Policy
RtS	Response to Submissions
SIA Guideline	Social Impact Assessment Guideline for State Significant Projects
Site	The site as described in section 2.1
SSD	State Significant Development
tpa	Tonnes per annum
WM Act	Water Management Act 2000

1. Introduction

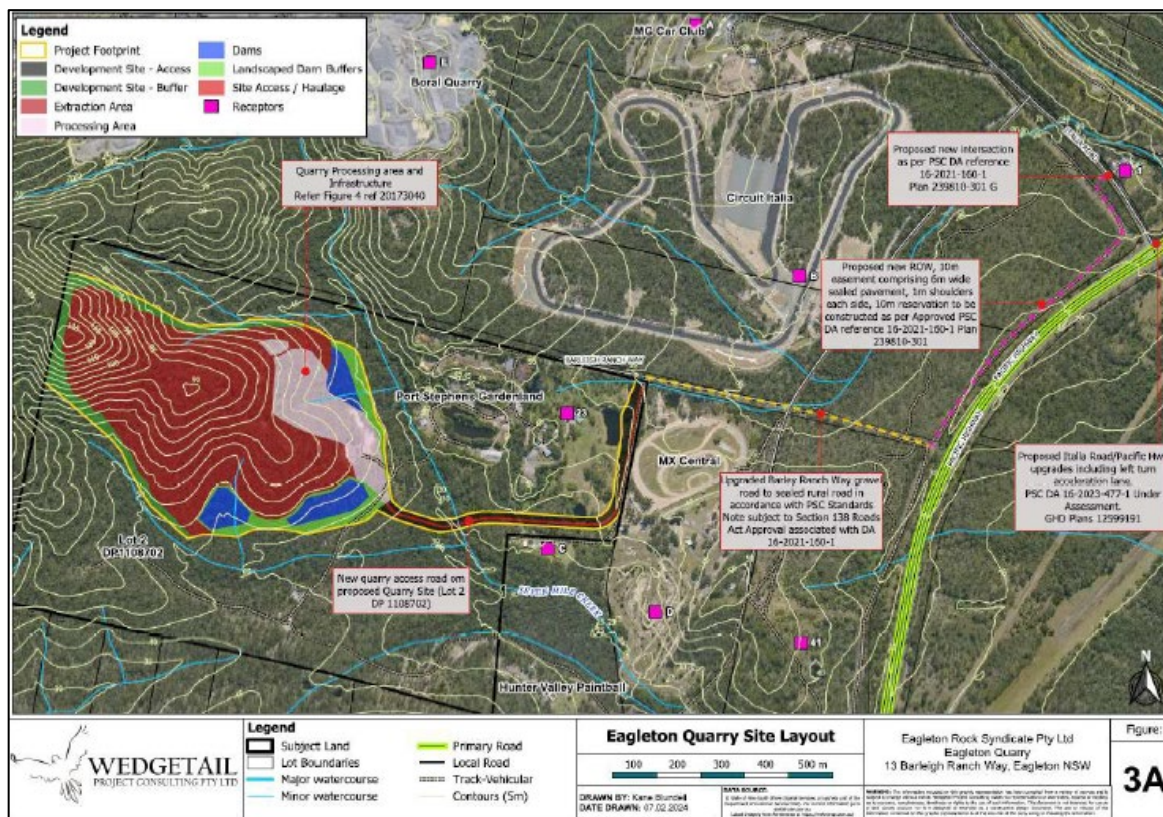
1. On 26 April 2024, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred the State significant development (**SSD**) Application SSD-7332 (**Application**) from Eagleton Rock Syndicate Pty Ltd (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the Eagleton Quarry Project (the **Project**) located in the Port Stephens Local Government Area (**LGA**) under section 4.38 of the *Environmental Planning and Assessment Act (EP&A Act)*.
3. In accordance with section 4.5(a) of the EP&A Act and section 2.7 of the *State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)*, the Commission is the consent authority as more than 50 unique public submissions have been made by way of objection.
4. Andrew Mills, Chair of the Commission, determined that Adrian Pilton (Chair), Alison McCabe and Juliet Grant would constitute the Commission for the purpose of exercising its functions with respect to the Application.
5. The Department concluded in its Assessment Report (**AR**) that the benefits of the Project outweigh its residual costs, the site is suitable for the proposed development and that the Project is in the public interest and is approvable, subject to the recommended conditions of consent.

2. The Application

2.1 Site and Locality

6. The 'Site' is defined as being within the Project area illustrated in Figure 1 below and is located on Barleigh Ranch Way, Eagleton, at Lot 2 DP 1108702, within the Port Stephens LGA. It is located approximately 12 kilometres (km) north of Raymond Terrace according to the Department's Assessment Report paragraph (**AR para**) 1.
7. The Site is zoned RU2 Rural Landscape under the *Port Stephens Local Environmental Plan 2013 (PSLEP)*. The Project is in a rural setting dominated by vegetated hills and drainage lines, with a number of industrial and recreational facilities nearby and the Pacific Highway located to the east of the Site (**AR para** 6).
8. To the south of the Site there are several rural residential dwellings and a respite centre approximately 1-1.5 km to the south along Six Mile Road (**AR para** 7) and a future residential area (Kings Hill Estate) located approximately 1 km south of the Site (**AR para** 9). The Site is also traversed by Seven Mile Creek that flows into Grahamstown Dam, which is located approximately 2.5 km to the south-east of the Site (**AR para** 8).
9. The Commission also notes there is a local business located south of the Site on Winston Road which is also known as and has the registered business name of 'Eagleton Quarry'. This business is not related to or connected to this Project.

Figure 1 - Proposed Site Layout (Source: Department's AR)



2.2 The Project

10. The Applicant is seeking approval to develop a new hard rock quarry to extract, process and transport up to 600,000 tonnes per annum (**tpa**) of hard rock material over a 30-year period. A summary of the Project is provided in Table 1 below.
11. Construction and operations will be split up into the following phases (EIS section 4.12):
 - Construction Phase: quarry establishment period including construction of access road, haul roads, intersections, stormwater devices, initial processing area and administration area;
 - Operation Year 1: establishment of extraction areas;
 - Operation Year 1 – 5: expansion of the initial extraction areas through benches and faces, expansion of the processing area, transition of processing area from diesel to electric power and additional water quality and quantity control devices including construction of a second dam;
 - Operation Year 5 onwards: expansion of the initial extraction areas through benches and faces.

Table 1 – Key components of the Project (Source: Department's AR)

Aspect	Proposed Project
Workforce	<p>Approximately 10 full time equivalent (FTE) jobs during operation and 10 specialist contractors during operation</p> <p>Approximately 20-25 FTE haulage operator jobs (at peak production)</p>

Quarry products	Hard rock aggregates
Production limit	600,000 tpa quarry products
Footprint	33 hectares (ha)
Depth of extraction	45 m Australian Height Datum (AHD)
Quarry method	Open cut extraction methods, including excavation, drill, blast, load and haul
Processing	On site crushing, screening and stockpiling
Operating hours	<u>Extraction and processing operations</u> 7 am to 6 pm Monday to Friday, 7 am to 4 pm Saturday <u>Loading and dispatch of quarry products</u> 5 am to 6 pm Monday to Friday, 5 am to 4 pm Saturday <u>Blasting</u> 9 am to 4 pm Monday to Friday
Site access	Right of carriageway connecting Barleigh Ranch Way with Italia Road (approval for construction obtained under separate DA)
Product transport	Up to 20 laden truck movements per hour Up to 170 laden truck movements per day
Rehabilitation and final landform	Rehabilitated to achieve a stable, safe, free-draining landform revegetated with native vegetation

3. The Commission's Consideration

3.1 Material Considered by the Commission

12. In this determination, the Commission has considered the following material (**Material**):
- the Planning Secretary's Environmental Assessment Requirements issued by the Department dated 6 November 2015;
 - the following information provided by the Applicant:
 - the EIS and accompanying appendices dated 27 January 2017;
 - the Response to Submissions report (**RtS**) dated 13 October 2017 and its accompanying appendices;
 - the Amendment Report dated 11 September 2023 and its accompanying appendices;
 - the RtS report dated 22 December 2023 and its accompanying appendices;
 - supplementary information including all documents constituting the Applicant's Response to the Department's Requests for Information (RFI) dated:
 - 18 August 2021;
 - 6 September 2021;
 - 31 January 2024; and
 - 22 February 2024;
 - all public submissions on the EIS and Amendment Report made to the Department during public exhibition;
 - all Government Agency advice to the Department;

- the Department's AR, dated April 2024;
- the Department's recommended conditions of consent, dated April 2024;
- comments and presentation material at meetings with the Department, Applicant and Port Stephens Council, as referenced in Table 3 below;
- the Applicant's response to the Commission, dated 29 May 2024;
- the Department's responses to the Commission, dated 31 May 2024 and 20 June 2024;
- Council's response to the Commission, dated 12 June 2024;
- all written comments made to the Commission and material presented at the Community Stakeholder Meetings;
- all written comments received by the Commission up until 5pm, 7 June 2024 and those accepted out of time;
- the Department's response to the Commission, dated 20 June 2024;
- the Department's correspondence to the Commission dated 4 July 2024; and
- the Department's advice (dated 2 July 2024) on the feasibility and workability of proposed conditions.

3.2 Strategic Context

13. The *Hunter Regional Plan 2041* (**Regional Plan**) sets out the NSW Government's strategic vision for the Hunter region. It aims to strengthen the region's economic resilience, maintain its a well-established economic and employment bases, and build on its existing strengths to foster greater market and industry diversification. The Regional Plan also aims to protect its diverse terrestrial and aquatic ecological systems, conserve its heritage values, and create thriving communities that enrich the quality of life and wellbeing of their residents (AR para 10). The Regional Plan also emphasises the need to manage different land uses in pursuit of complementary outcomes and attainment of its overriding goals (AR para 10).
14. In its December 2023 Infrastructure Market Capacity Report, Infrastructure Australia rated the capacity risk for quarry products as high, meaning that the potential for hard rock supply shortages currently threatens infrastructure and development projects. The report also acknowledged that due to high transportation costs relative to the value of materials, quarry products must be sourced locally. This Project would provide capacity for the Hunter, Central Coast and Sydney construction markets (AR para 14).
15. According to the Department, the hard rock resource comprises a mixture of rhyolite, rhyodacite and conglomerate. The products would be suitable for road bases, and a range of aggregates used for ballast, drainage, concrete and road surfaces (AR para 12). Testing commissioned by the Applicant indicates that the rhyolite and rhyodacite resource would meet Transport for NSW (**TfNSW**) specifications for high polishing aggregate friction value which are typically used in the construction of roundabouts, intersections and other areas where high grip road surfaces are required (AR para 13). The Commission acknowledges the Project is a good source of high-grade hard rock material.
16. The Commission also notes that there are several other existing and proposed hard rock quarries within 25km of the Project, as set out in Table 3-1 of the Department's AR. For the purposes of this Statement of Reasons, the Commission has considered the cumulative impacts of quarrying within the region as they exist at the time of this determination.
17. The Commission finds that the Site is suitable for a hard rock quarry given the demand for its hard rock resources, topography, avoidance of major environmental constraints (as set out in section 5) and access to the regional road network.

3.3 Statutory Context

3.3.1 State significant development

18. The Application constitutes SSD under section 4.36 of the EP&A Act as the Project is an extractive industry development that would extract 600,000 tonnes of hard rock materials per year and meets the criteria specified in clause 7 of Schedule 1 of the Planning Systems SEPP.

3.3.2 Permissibility

19. The Site is zoned RU2 Rural Landscape under the PSLEP. The Project is a development for the purposes of 'extractive industries' under the PSLEP and is permissible with consent in the RU2 zone. Section 2.9 of the *State Environmental Planning Policy (Resources and Energy) 2021* (Resources and Energy SEPP) also states that "development for the purpose of extractive industry is permissible with development consent on land on which development for the purpose of agriculture may be carried out".

3.3.3 Commonwealth Matters

20. According to the Department, the EIS concluded the Project was not likely to have significant impacts on any Matters of National Environmental Significance (**MNES**) listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**) and therefore the Applicant did not refer the Application to the Commonwealth Department of Climate Change, Energy, the Environment and Water (**Commonwealth DCCEEW**) to determine if the Project was a 'controlled action' requiring approval under the EPBC Act (AR para 31).
21. Therefore, the Commission notes that the Department has not undertaken an assessment of impacts to MNES and therefore, if the Project were to be determined to be a 'controlled action', the Applicant is required to separately seek EPBC Act approval from the DCCEEW.
22. However, the Commission notes that in its meeting with the Commission, the Applicant advised its intentions to make a referral to the Commonwealth under the EPBC Act and in the Applicant's response to the submission dated 29 May 2024 noted the referral is underway. The Commission notes that this is a separate process to the subject SSD.

3.3.4 Integrated and other NSW Approvals

23. Under section 4.41 of the EP&A Act, several other approvals are integrated into the SSD approval process, and therefore are not required to be separately obtained for the Project (AR para 19). The Commission has considered the Department's recommended conditions of consent relating to integrated and other approvals as part of its deliberations.

3.3.5 Water licenses

24. According to the Department, the Project is predicted to require a maximum of 7.5 megalitres per year (ML/year) of licensed groundwater allocation from the *Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Sources 2016* (Sydney Basin – North Coast Groundwater Source). The Applicant has noted there are available entitlements and has committed to obtaining the required groundwater entitlements for the Project (AR para 22).

25. The Project is not expected to require any licensed surface water entitlement and the surface water demand for the Project is predicted to remain within the harvestable rights provisions for landholders set out in the *Water Management Act 2000* (**WM Act**) (AR para 23).

3.4 Mandatory Considerations

26. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the listed matters as are of relevance to the development the subject of the Application (**Mandatory Considerations**). The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Application. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

Table 2 – Mandatory Considerations

Mandatory Considerations	Commission's Comments
Relevant EPIs	<p>Section 4 and Appendix C of the Department's AR identifies relevant EPIs for consideration. The key EPIs (in their present, consolidated form) include:</p> <ul style="list-style-type: none"> • Planning Systems SEPP; • Resources and Energy SEPP; • State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure); • State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards); • State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP Biodiversity and Conservation) (including the current, consolidated provisions of the now repealed <i>State Environmental Planning Policy No 44 – Koala Habitat Protection</i>); and • PSLEP LEP 2013. <p>The Commission agrees with the Department's assessment of EPIs set out in Appendix C of the AR and in the Department's response to the Commission dated 31 May 2024. The Commission therefore adopts the Department's assessment.</p>
Relevant DCPs	<p>Section 2.10 of the Planning Systems SEPP states that development control plans do not apply to SSD. The Commission does not consider any development control plans to be relevant to the determination of the Application.</p>
Likely Impacts of the Development	<p>The likely impacts of the Application have been considered in section 5 of this Statement of Reasons.</p>
Suitability of the Site for Development	<p>The Commission has considered the suitability of the Site and finds that the Site is suitable for the following reasons:</p> <ul style="list-style-type: none"> • the Application is permissible with consent; • adverse impacts on surrounding receivers have been minimised as far as practicable and would be further managed and mitigated by the imposed conditions of consent;

	<ul style="list-style-type: none"> the use of the Site as an appropriately regulated hard rock quarry is an orderly and economic use and development of land; and the Site is capable of being rehabilitated to a stable, safe and non-polluting final landform.
Objects of the EP&A Act	In this determination, the Commission has carefully considered the Objects of the EP&A Act and for the reasons detailed in section 5 of this Statement of Reasons is satisfied that the Application is consistent with the Objects of the EP&A Act.
Ecologically Sustainable Development (ESD)	For the reasons detailed in section 5 of this Statement of Reasons the Commission finds that the development is consistent with ESD principles and would achieve an acceptable balance between environmental, economic and social considerations.
The Public Interest	<p>The Commission has considered whether the grant of consent to the Application is in the public interest. In doing so, the Commission has weighed the predicted benefits of the Application against its predicted negative impacts.</p> <p>The Commission's consideration of the public interest has also been informed by consideration of the principles of ESD.</p> <p>The Commission has given consideration to the principles of ESD in its assessment of each of the key issues, as set out in section 5 below. The Commission finds that, on balance, the Application – subject to the imposed conditions of consent – is consistent with ESD principles, and that the Project would achieve an appropriate balance between relevant environmental, economic and social considerations. The likely benefits of the Project warrant the conclusion that an appropriately conditioned approval is in the public interest.</p>

3.5 Additional Considerations

27. In determining the Application, the Commission has also considered:
- NSW Noise Policy for Industry (**NPfi**);
 - Interim Construction Noise Guideline (**ICNG**);
 - NSW Road Noise Policy (**RNP**);
 - NSW Aquifer Interference Policy (**AIP**);
 - NSW Biodiversity Offsets Policy for Major Projects;
 - Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (EPA, 2016) (**Approved Methods**);
 - Social Impact Assessment Guideline for State Significant Projects (NSW Government, 2021) (**SIA Guideline**); and
 - Hunter Regional Plan 2041 (**Regional Plan**).

3.6 The Commission's Meetings

28. As part of the determination process, the Commission met with various persons as set out in Table 3. All meeting and site inspection notes were made available on the Commission's website.

Table 3 – Commission's Meetings

Meeting	Date	Transcript/Notes Available on
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Department	16 May 2024	21 May 2024
Applicant	16 May 2024	21 May 2024
Council	16 May 2024	21 May 2024
Site Inspection	30 May 2024	5 June 2024
Community Stakeholder Meetings	31 May 2024	4 June 2024

4. Community Participation & Public Submissions

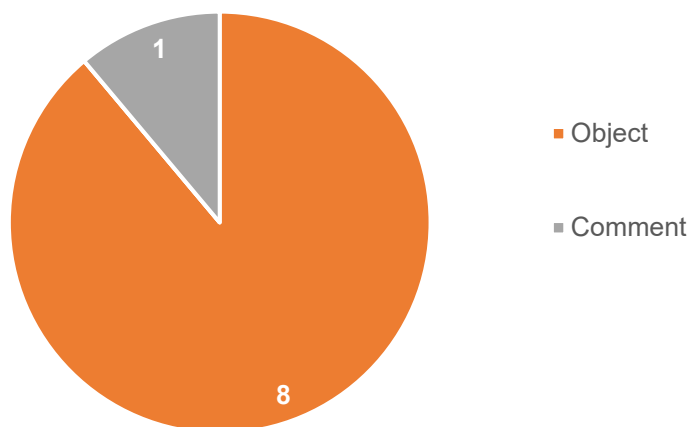
4.1 Community Stakeholder Meetings

29. Due to limited registrations for the Public Meeting scheduled for 31 May 2024, the Commission cancelled the Public Meeting. Instead, the Commission met separately with all five interested individuals/groups who had registered to speak at the Public Meeting to hear their views. The Community Stakeholder Meetings were held in-person on 31 May 2024. Presentations made at the Community Stakeholder Meetings have been considered by the Commission.

4.2 Public Submissions

30. As part of the Commission's consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission until 5pm 7 June 2024.
31. The Commission received a total of 9 written submissions on the Application. An overview of the written submissions received by the Commission is provided in Figure 2 below. The key issues raised in submissions are summarised in section 4.2.1 below.
32. For the reasons set out in this Statement of Reasons, the Commission considers that the matters raised in submissions do not preclude the grant of development consent and that the matters can be satisfactorily addressed by the conditions of consent imposed by the Commission.

Figure 2 – Submissions received by the Commission



4.2.1 Issues Analysis

33. Submissions to the Commission raised a number of issues, which are outlined below. The Commission notes the submissions referred to below are not an exhaustive report of the submissions considered by the Commission, they are reflective and illustrative of what the Commission regards as the key issues that emerge from those submissions.

Noise and blasting

34. Submissions objecting to the Project raised concerns relating to noise impacts. One submission raised concerns with the cumulative noise impacts of the proposed quarry and the surrounding existing quarries.
35. Submissions also raised concerns regarding the impacts of blasting. Specific concerns were raised regarding the potential impacts on buildings. A submission stated that noise and vibration monitoring should be undertaken by the Applicant as a safeguard. A submission from a community group suggested that the conditions of consent include requirements for the Applicant to co-ordinate noise and blasting operations with other neighbouring quarries.

Air quality

36. Impacts to local air quality, specifically impacts on human health and property were raised in submissions objecting to the Project. One submission raised the need for air quality monitoring.

Traffic impacts

37. Submissions objecting to the Project raised concerns relating to traffic generation, road safety and associated impacts on local roads. Some submissions raised concerns with the proposed intersection at Italia Road/Pacific Highway and one raised concern with the broader safety of the Pacific Highway and its intersections.

Biodiversity

38. Submissions objecting to the Project raised concerns regarding the loss of habitat for local flora and fauna, including several threatened species. Many submissions focused on impacts to koalas including koala habitat fragmentation and loss and that, as a result, the now endangered species is under further pressure.
39. Specific concerns were raised regarding the length of time since the Applicant's biodiversity assessment in December 2016 noting that the biodiversity value of the area may have changed with regard to the Koala and other endangered species.

5. Key Issues

40. The Commission observed in its review of submissions that noise, traffic, air quality and biodiversity were the most frequently raised Project-related impacts of concern. These were followed by water resources, social impacts and final landform and rehabilitation.

5.1 Noise

41. Aspects of the Project with the greatest potential for noise impacts are those associated with the operation of plant and equipment during extraction (including blasting), processing and truck loading, and from road haulage activities (AR para 58).
42. The Applicant's updated Noise and Vibration Impact Assessment (**NVIA**) dated February 2024 found that the noise levels would be well below the Project Noise Trigger Levels (**PNTL**) at all receivers at all stages of the quarry life (AR para 71). Noise levels at Eagleton Ridge Disability Services are predicted to be 10 dB(A) below the PNTL of 41 dB(A) (AR para 72). The Department and EPA accept that the proposed quarrying operations would cause negligible noise impacts at all receptor locations (AR para 74).
43. The Project also proposes product dispatch activities during the morning shoulder (5 am to 7 am) which is classified by the NPfl as part of the 'night-time' period. The maximum predicted off-site operational noise level at any assessed receptor is 34 dB(A) which is 6 dB(A) below the morning shoulder noise trigger levels of 40 dB(A) (AR para 76). The predicted worst-case noise levels are set out in Table 6-1 of the Department's AR.
44. In relation to cumulative noise, the Department accepted that as the predicted operational noise levels are below the PNTLs, and below the cumulative daytime amenity noise limit of 50 dB(A), cumulative noise levels would be acceptable, and no further consideration of cumulative noise is required under the NPfl (AR para 77).
45. In relation to road noise, the Department stated that the potentially most impacted receiver is Receiver 1 which is 51m from Italia Road, near to the intersection with the Pacific Highway (AR para 78). The Project would result in a road traffic noise level of 43 dB(A), Leq(1 hour) at Receiver 1, which is below the recommended criterion for arterial roads of 50 dB(a), Leq(1 hour) within the RNP. With the addition of traffic generated by the proposed Stone Ridge Quarry, the predicted cumulative noise level at the nearest dwelling is 46 dB(A), remaining below the recommended criterion for the most critical morning shoulder period (AR para 79).

Commission's findings

46. The Commission acknowledges the concerns raised in submissions relating to noise impacts from the Project. However, the Commission finds that the Project is unlikely to result in greater than 'negligible' noise impacts on affected sensitive receivers. For abundant caution the Commission has imposed condition B1 which sets operational noise criteria for the Project. The Applicant must ensure that noise generated by the Project does not exceed these criteria at any residence on privately-owned land. The Commission also agrees with the Department and is satisfied that the cumulative daytime amenity noise limit would be met.

47. The Commission has also imposed condition B4 which sets out noise operating conditions for the Project in accordance with the hours reviewed by the EPA, who raised no concerns. As part of this condition the Applicant must take all reasonable steps to minimise all noise from construction, operational and road transport activities. This condition also includes a requirement for the Applicant to operate a comprehensive noise management system commensurate with the risk of impact to ensure compliance with the conditions of consent. Condition B4(b) states that the Applicant must maintain the existing ridgeline along the southern boundary of the site as an acoustic barrier to the quarrying operations until the final year of quarrying operations. The Commission acknowledges the concerns raised in submissions regarding the removal of the ridgeline in the final year of quarrying and its potential to no longer mitigate noise impacts. The Commission has therefore imposed condition B4(c) which states that the Applicant must implement a temporary noise barrier in the final year of quarrying to ensure that the noise criteria set out in condition B1 are met.
48. The Commission also notes the concerns raised by Eagleton Ridge Disability Services regarding noise impacts on its residents. The Commission has imposed condition B4(f) requiring regular attended noise monitoring (at least quarterly) including, but not limited to, at the Eagleton Ridge Disability Services property (unless otherwise agreed by the landowner).
49. The Commission is also satisfied that the traffic noise produced by the Project would not exceed the road noise criteria set out by the RNP. The Applicant must minimise noise from road transport activities as set out in condition B4(a).

5.2 Blasting

50. Blasting is proposed to occur at a maximum of 2 blasts per day (with not more than 4 per week) during construction and 1 blast per day during quarrying operations). The Applicant has committed to restricting blasting to between 9am to 4pm Monday to Friday, with no blasts on weekends or public holidays. The Applicant's updated NIA found that blasting would meet relevant ground vibration and airblast overpressure objectives at all sensitive receivers throughout the life of the Project (AR Table 6-6).

Commission's findings

51. The Commission agrees with the Department that the blasting impacts of the Project are acceptable subject to conditions of consent. The Commission has imposed condition B8 which limits blasting frequency to 2 blasts per day (not more than 4 per week) during construction and 1 blast per day during quarrying operations. The Commission agrees with the Department that the proposed blasting associated with the Project presents negligible risk of any damage to private property or disturbance to fauna or associated habitat structures. The Commission has imposed condition B6 which sets blasting criteria at any residence on privately-owned land. The Applicant must ensure that the blasting criteria set by the Commission are not exceeded.

52. The Commission acknowledges the concerns raised by Eagleton Ridge Disability Services regarding the potential impacts of blasting on its residents. Eagleton Ridge Disability Services has advised that its residents are particularly noise sensitive and that permanently relocating its residents is not possible. The Applicant in its meeting with the Commission advised that offers had been made to the landowner of Eagleton Ridge Disability Services where the Applicant would cover the costs of taking the residents of the property off site during all blasts for the first 12 months of blasting. The Commission is of the view that Eagleton Ridge Disability Services provides significant public and community benefit and has therefore formalised this commitment by imposing condition B5. This condition requires the Applicant to make an offer to the operator (and if accepted, implement) to cover the reasonable and agreed to costs of transporting the residents of the property off Site, within the region, during all blasts for the first 12 months of quarrying.
53. The Commission acknowledges the concerns raised in submissions regarding the potential for damage to the submitters' residences as a result of blasting. The Commission has therefore imposed condition B15. As part of this condition the Applicant must take all reasonable steps to ensure the safety of people and protection of public or private infrastructure and property from blasting damage associated with the Project.
54. The Commission has also imposed condition B10 which states that the owner of any privately-owned land within 1 km of any extraction area on the Site can request a property inspection to establish the baseline condition of any buildings and structures on that owner's land. To ensure that the property owners are made aware of their ability to request this, the Commission has imposed condition A16 which requires the Applicant to consult the Community Consultative Committee in relation to opportunities to inform in writing any property owners within 1km of their right to request a property inspection under condition B10. Condition B12 imposed by the Commission states that the owner of any privately-owned land within 2 km of any extraction area on the Site can request an investigation into any claims that buildings or structures on their land have been damaged as a result of Project related blasting. The Applicant must repair any damage under condition B13 imposed by the Commission.

5.3 Air Quality

55. The key sources of emissions to air from the Project would include: dust from land clearing; drilling and blasting; unloading and unloading of material; vehicles travelling on and off site; crushing and screening processes; windblown dust from exposed areas and stockpiles; as well as fuel combustion-based emissions on and off site from quarry plant and equipment and product haulage trucks (AR para 128).
56. Emission calculations and dispersion modelling for Project-only incremental and cumulative scenarios indicate that the Project would comply with applicable Total Suspended Particulate and Deposited Dust impact assessment criteria for incremental and cumulative emissions at all receptor locations. The Project would comply with applicable Particulate Matter <10 µm (**PM10**) impact assessment criteria for incremental and cumulative emissions at the majority of receptor locations, with the exception of at the Hunter Valley Paintball facility and the Motor Cross Track facility which would experience minor exceedances (AR Table 6-3).

57. The Project would comply with applicable Particulate Matter $<2.5 \mu\text{m}$ (**PM2.5**) impact assessment criteria for incremental and cumulative emissions at the majority of receptor locations, with the exception of the Hunter Valley Paintball facility which would experience minor exceedance of the annual criterion for cumulative emissions (AR para 131). The Applicant considered that as neither staff nor public at these facilities would be present 24/7, it is unlikely that any individuals at these facilities would experience adverse health effects or undue discomfort as a result of the proposed quarrying activities (AR para 135). The Commission notes that NSW Health was satisfied that the Applicant's RtS had addressed its concerns.
58. In relation to potential risks from silica dust, air quality modelling results indicate that the highest annual average concentration of PM2.5 predicted at a neighbouring private residential receptor as a result of the Project alone was $0.3 \mu\text{g}/\text{m}^3$ (Receptor 41). The highest annual prediction for a recreational receiver was $1.3 \mu\text{g}/\text{m}^3$. No criteria for residential receptors exist within NSW for respirable silica, however the Victorian EPA define an annual average criterion of $3 \mu\text{g}/\text{m}^3$ for respirable crystalline silica. (AR para 143).

Commission's findings

59. The Commission agrees with the Department and is satisfied that air emissions associated with the Project are likely to remain below the applicable EPA incremental and cumulative impact assessment criteria at all sensitive assessment locations, except for nearby recreational facilities, as described above (AR para 151). The Commission agrees with the Department that the predicted exceedances are relatively minor and are at recreational facilities that would not be occupied on a continual basis. The Commission is satisfied that the exceedances are unlikely to cause adverse health impacts associated with prolonged exposure (AR para 140).
60. The Commission has imposed condition B17 which sets air quality criteria for the Project. The Applicant must not cause exceedance of these criteria at any residence on privately-owned land. The Commission has also set air quality and greenhouse gas operating conditions under condition B19. As part of this condition the Applicant must take all reasonable steps to minimise dust emissions and any visible off-site air pollution generated by the Project. The Applicant must also operate a comprehensive air quality management system which includes the implementation of proactive and reactive air quality mitigation measures to ensure compliance with the conditions of consent imposed by the Commission.
61. The Commission agrees with the Department that the risk of adverse health impacts to surrounding residents from silica dust is very low as set out above and is therefore acceptable.

5.4 Traffic

5.4.1 Proposed site access and intersection upgrade

62. The Applicant proposes quarry access via Barleigh Ranch Way. Egress from the Site is proposed via a new right of carriageway (approved by DA-16-2021-160 by Council), yet to be constructed, connecting Barleigh Ranch Way to Italia Road, which intersects with the Pacific Highway.

63. In response to concerns raised by TfNSW, the Applicant proposes an upgrade to the Pacific Highway/Italia Road intersection to provide for the proposed access through a left in/left out modification for the quarry trucks to utilise a detour north to the Tarean Road Grade Separation to turn around and head south. This would remove the existing at-grade right hand turn out of Italia Road for quarry trucks associated with this Project heading south on the Pacific Highway. The proposed upgrade includes:
- construction of a dedicated left-turn northbound acceleration lane on Italia Road;
 - widening the existing bridge over the Balickera Canal; and
 - lengthening the northbound deceleration lane into Italia Road (AR para 90).
64. TfNSW confirmed to the Department that an Agreement in Principle had been reached regarding the proposed intersection upgrade design. The Department noted that the construction of the proposed intersection upgrade would be approved via a local DA, separate to this Application (AR para 89). The Commission notes that this DA (DA 16-2023-477-1) has been lodged and is being assessed. The Commission notes the documentation lodged with the DA outlines works entirely within the existing road reserve with potential impacts including noise and vibration impacts on nearby residential receivers, the need for further geotechnical assessment and biodiversity impacts requiring offsets in accordance with the BAM. The documentation lodged with the DA has given consideration to potential impacts including traffic and transport, road safety, construction noise and vibration, contamination and aboriginal heritage.
65. Council raised concerns regarding the regulation of the left-turn only requirement for quarry trucks at the Italia Road/Pacific Highway intersection. Council recommended requiring the intersection to be upgraded, including the restriction of heavy vehicles to left-turn in and left-turn out of Italia Road, to be approved and delivered under a Works Authorisation Deed. Additionally, Council recommended the use of GPS tracking to monitor compliance with the required transport routes, and that the GPS data be made available to Council, TfNSW and the Planning Secretary upon request.
66. In its meeting with the Commission, the Applicant requested that the requirement for the left-turn only for quarry trucks be imposed, with the ability for TfNSW to agree otherwise.

Commission's findings

67. The Commission agrees with Council's request for the intersection to be constructed prior to the commencement of quarry product transportation and has considered the need for the impact on the road network to be minimised. Therefore, the Commission has imposed condition B34(a) requiring the Pacific Highway/Italia Road intersection, the new right of carriageway, extension of Barleigh Ranch Way and the site access haul road bridge to be constructed prior to the transportation of any quarry products from the Site on public roads.

5.4.2 Traffic impacts

68. The local and regional road network proposed to be used as the primary haulage route for the Project would involve trucks travelling from the quarry Site along Barleigh Ranch Way, along the new right of carriageway, making a right turn on Italia Road, travelling 200m and turning left on the Pacific Highway. Quarry trucks making deliveries to the south of Italia Road would be required to turn left at the Pacific Highway and make a U-turn at the Tarean Road Interchange before heading south along the Pacific Highway (AR para 93).
69. Traffic generated by the Project is predicted to be a maximum of 192 vehicle movements (a one-way trip from one point to another excluding the return journey) per day (170 haulage trucks and 22 light vehicles) and a maximum 31 vehicle movements per hour during peak times (20 haulage trucks and 11 light vehicles) (AR para 94).

70. The Traffic Impact Assessment (**TIA**) for the Pacific Highway/Italia Road intersection upgrade dated 10 August 2023 and submitted as part of this Application, gave consideration to background traffic growth and additional quarry traffic from three neighbouring quarries – including the Project, the existing Boral's Seaham Quarry and the proposed Stone Ridge Quarry (currently under assessment). The TIA concluded that motorists on the Pacific Highway would continue to experience a satisfactory level of service (LoS A). Additionally, the TIA noted an increase in level of service for motorists turning right from Italia Road onto the Pacific Highway and a maintained level of service for motorists turning left from Italia Road (AR para 98). Modelling indicated that with the upgrade of the intersection and the diversion of quarry trucks north to the Tarean Road interchange, average wait times for vehicles turning right from Italia Road onto the Pacific Highway would be reduced from 78 seconds to 42 seconds (TIA, page 16).

Commission's findings

71. The Commission acknowledges the concerns raised in submissions regarding the traffic impacts of the Project. However, the Commission agrees with the Department and finds that the increased number of heavy vehicles associated with the Project is unlikely to result in an unacceptable impact on the safety and efficiency of the local and regional road network – provided that the Italia Road/Pacific Highway intersection upgrade is constructed prior to the commencement of quarry product transportation (AR para 102). The Commission has therefore imposed condition A9 which limits the quarry to a maximum of 170 truck movements per day and 20 truck movements per hour. The Commission has also imposed condition A10 which states that all trucks travelling southbound from the quarry must turn left (i.e., northbound) onto the Pacific Highway and utilise the Taren Road Interchange to perform a U-turn. The Applicant must also ensure that no trucks turn left from the right of carriageway onto Italia Road and no trucks turn right from Italia Road onto the right of carriageway.
72. The Commission has also imposed conditions B36 to B38 which require the Applicant to prepare and implement a Traffic Management Plan (**TMP**) in consultation with TfNSW and Council. The Commission notes that construction traffic impacts are predicted to be smaller and more sporadic than during operation. Condition B36(c)(i) requires the Applicant to include details of construction related traffic management measures in the TMP.

5.4.3 Road Safety

73. The Commission notes that Council and TfNSW previously raised safety concerns regarding the Italia Road / Pacific Highway intersection, particularly for long and heavy vehicles which require larger gaps in the downstream traffic stream to cross and turn (AR para 104). The Commission acknowledges that submissions raised safety concerns regarding the Italia Road / Pacific Highway intersection, in particular the right turn by quarry trucks.
74. The TIA stated that the right turn movement out of Italia Road into the Pacific Highway has been deemed a potential safety risk, particularly for long and heavy vehicles which require larger gaps in the downstream traffic stream to safely cross and turn. This is due to its configuration as an at-grade sign-controlled intersection on a high-speed road with high opposing traffic flows (TIA page 17).

75. The TIA also stated that the proposed intersection upgrade, which would include a northbound acceleration lane for left turns and would disallow all heavy vehicles associated with the three quarries (if approved) from turning right out of Italia Road, would see an improvement to the operation and capacity of the Italia Road / Pacific Highway intersection. The performance of the intersection would improve significantly compared to the 10-year forecast conditions without the upgrade. The TIA also stated that no material impacts are anticipated on school bus routes and that the Project is not expected to impact any pedestrian, cyclist or public transport users (TIA page 18).

Commission's findings

76. The Commission acknowledges the concerns raised in public submissions relating to the impact that the Project would have on traffic at the Pacific Highway/Italia Road intersection, as well as Six Mile Road and Italia Road.
77. The Commission agrees with the Department and is satisfied that the additional traffic associated with the Project would not present unacceptable safety risks to existing road users because of the requirement to upgrade the intersection. The Commission has imposed condition B35(b) which states that the Applicant must take all reasonable steps to minimise traffic safety issues and disruption to local road users. The Applicant must also prepare a Driver Code of Conduct as part of the TMP. The Driver Code of Conduct must include procedures to ensure that drivers adhere to designated transport routes and travel times.

5.4.4 Haulage contributions

78. In its meeting with the Commission, the Applicant requested that recommended condition A14 be amended to defer haulage contributions for a period of 5 years in relation to Barleigh Ranch Way to account for the construction of Barleigh Ranch Way by the Applicant in advance of quarry operations and the fact that these works would be bonded and subject to Council's requirements prior to acceptance.
79. The Commission sought Council's response on this matter. In its response to the Commission dated 12 June 2024, Council stated that it did not support the change to condition A14 for the following reasons:
- only a portion of the road to be constructed or improved is owned and maintained by Council. Council cannot discount haulage contributions for improvements to a private road;
 - a discount in funding over the first 5 years would mean Council is underfunded at later stages of the project to carry out any larger repairs; and
 - Council has never discounted haulage fees for new quarries or on new haulage routes for the reasons set out by the Applicant.

Commission's findings

80. The Commission agrees with Council for the reasons set out above and has imposed condition A14 as recommended by the Department.

5.5 Biodiversity

5.5.1 Biodiversity Assessment

81. The Application includes a Biodiversity Assessment Report (**BAR**) and Biodiversity Offset Strategy (**BOS**) prepared in accordance with the 2014 Framework for Biodiversity Assessment (FBA). *State Environmental Planning Policy No 44 - Koala Habitat Protection* was in force at the time of lodgement and is therefore applicable to the Project.
82. The Department in its AR concluded that the BAR and BOS (as revised) are adequate for assessing the biodiversity impacts and offsetting requirements of the Project.
83. Noting the concerns raised in submissions regarding the timing of the Applicant's BAR, the Commission wrote to the Department on 13 June 2024, seeking clarification from the Department and BCS as to whether the biodiversity values of the site and its surrounds are now materially the same as what were described in the BAR and BOS (prepared in 2017, relying on data between 2011 and 2016). The Commission also sought clarification from BCS regarding its state of satisfaction that the BAR and BOS are 'adequate for assessing the biodiversity impacts and offsetting requirements for the Project'.
84. The Department in its response to the Commission dated 20 June 2024, included written advice from BCS, dated 18 June 2024. In response to the Commission's questions above, BCS confirmed that there were no differences from the previous assessment and relied on BCS's previous detailed review to determine that it had no issues to raise. The Department in its response stated that its conclusions regarding the biodiversity impacts of the Project have not changed from those outlined in its Assessment Report.

Commission's findings

85. The Department and the Commission have considered the Project's biodiversity impacts in accordance with the requirements of the legislation and policy framework in force at the time of lodgement. However, the Commission also notes that, irrespective of which iteration of rules apply to the Applicant's assessment of the biodiversity impacts of the Project, the Commission is required to consider the matters for consideration applying to all development applications under section 4.15 of the EP&A Act including *"the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality"*.
86. The Commission considers the likely impacts of the Application to include the impact on current threatened species, populations or communities. The Commission acknowledges that listings for some species have changed since the preparation of the BAR and BOS. The Commission also notes that there has not been any significant disturbance to the Site since the EIS was submitted. Based on the advice provided by BCS and the Department above, the Commission is satisfied that the BAR and BOS are adequate to assess the biodiversity impacts of the Project. The Commission has given consideration to the biodiversity impacts of the Project in section 5.5.2 below.

5.5.2 Terrestrial biodiversity and aquatic ecology impacts

87. The Project would directly impact terrestrial biodiversity through the clearing of 33.07 ha of land for the quarry pit, stockpile areas, offices, ancillary infrastructure and the quarry access road (AR para 161). Of this land, 32.03 ha consists of native vegetation within one plant community type (**PCT**) with the remainder containing non-native vegetation and existing disturbed areas. The PCT is HU804 Spotted Gum – Broad-leaved Mahogany – Red Ironbark shrubby open forest and also contains a number of 1st, 2nd and 3rd order streams associated with riparian vegetation. The Applicant's BAR identifies that the PCT contains two threatened fauna species that would require offsetting (Southern Myotis and Koala) (AR para 163). Table 6-4 of the Department's AR sets out the extent of impacts from the Project on vegetation communities and the associated biodiversity credits required to offset these impacts in accordance with the FBA.

88. In AR para 184, the Department notes that with the commencement of the BC Act on 25 August 2017, and the release of the Biodiversity Assessment Method (**BAM**) which replaces the FBA methodology used for the Project, the credit requirements identified may require a mathematical conversion to reasonably equivalent biodiversity credits under the BC Act to facilitate retirement under the new legislation. The Department has included a note in the recommended conditions of consent to reflect the policy arrangement.
89. Submissions raised concerns specifically with the loss of habitat for the koala population. The Site contains approximately 53.49ha of Koala habitat, of which 11.19 ha will be lost as a result of the Project (approximately 21%). The remaining 41.40 ha are proposed to be protected and managed in-perpetuity under a biobanking agreement. The Applicant's revised BAR included an assessment of significance which concluded that the Project is unlikely to have a significant impact on all threatened species, populations and ecological communities known or considered likely to occur within the study area. In relation to the Koala, the revised BAR (pg. 100) concluded that the Project is unlikely to have a significant impact on the local koala populations as:
- approximately 80% of suitable Koala habitat in the study area as defined under SEPP 44 would be retained;
 - the area of habitat to be removed is relatively small in the context of the extent of similar forest habitat that is contiguous with the Site (estimated <5%); and
 - the Project would not isolate habitat and is unlikely to impede movement and dispersal of this species in the study area or locality.
90. The Applicant's revised BAR included an Aquatic Habitat Assessment report. In addition, an Aquatic Ecology Assessment was prepared as part of the Applicant's Submissions Report. The Project involves the construction of a new bridge across Seven Mile Creek which would directly impact a small section of riparian vegetation and has the potential to have indirect impacts downstream through erosion and sedimentation, and introduction of weeds. The Aquatic Ecology Assessment concluded that the *"loss of portions of west-east feeder drainages to Seven Mile Creek to the Eagleton Quarry Project would deprive the creek of some low salinity base-line flow but, given the comparatively small sizes of the sub-catchments involved, this loss is unlikely to provide a material risk for the aquatic habitats plus biota of the main creek"*. The Aquatic Ecology Assessment recommended that the Project includes a surface water and groundwater management plan.
91. The Applicant's revised BAR found that that there was limited to no aquatic habitat along the majority of streams with the exception of that along the 3rd order section of Seven Mile Creek. There were no fish observed or caught during surveys, however some macroinvertebrates were sampled (AR para 174). No threatened freshwater species, endangered populations or endangered ecological communities listed under the *Fisheries Management Act 1994* have been recorded within the locality (5km radius of the study area) and it is considered it unlikely that any threatened aquatic species would occur in the study area due to the ephemeral nature of the streams (AR para 175).
92. The Applicant proposes to offset residual biodiversity impacts and implement a BOS in accordance with the FBA. The BOS includes an onsite offset site that would be protected and managed in-perpetuity and covers an area of 60.83 ha (AR para 185). The Koala species credit requirement would be fully satisfied by the credits generated at the onsite offset site (AR para 186). The proposed offset site would only satisfy a proportion of the biodiversity credits required, with a shortfall of 1,303 HU804 ecosystem credits and 127 Southern Myotis species credits. The Applicant proposes to secure the remaining credits by purchasing suitable credits from the market (AR para 197).

Commission's findings

93. The Commission has considered the Applicant's Assessment of Significance within the BAR done under the now repealed section 5A of the EP&A Act, which was in force at the time of lodgement. The Commission is satisfied that all factors listed in section 5A(2) of the EP&A Act have been adequately considered. The Commission agrees with the Department and is satisfied that the Project has been designed to avoid, mitigate and manage biodiversity impacts where practicable (AR para 190). The Commission finds that the impacts of the Project on biodiversity are acceptable subject to conditions of consent. The Commission notes that the Project would result in a range of residual impacts on biodiversity through the disturbance of 32.03 ha of native vegetation, including habitat for two threatened fauna species listed under either or both the TSC Act and EPBC Act. The Commission agrees with the Department that these residual impacts would be suitably mitigated, managed and/or offset under the proposed BOS.
94. The Commission has therefore imposed condition B43 which requires the Applicant to retire the biodiversity credits prior to commencing vegetation clearing. The Commission has imposed condition B45 which requires the Applicant to retire at least part of the biodiversity credits via the establishment of a Biodiversity Stewardship Site within its land holding adjoining the southern and eastern portions of the site. The Applicant must also prepare a Biodiversity Management Plan under condition B47 imposed by the Commission.

5.6 Other Issues

95. The Commission agrees with the Department's assessment of other issues (water resources, social impacts, economic impacts, blasting, hazards and waste, greenhouse gas emissions, Aboriginal cultural heritage, historic heritage, visual impacts and final landform and rehabilitation) at Section 6.5 and Table 6-6 of the Department's AR. Subject to the imposed conditions relevant to each of these issues, the Commission is satisfied that the Project's impacts are minimal and capable of being appropriately monitored and managed.

6. The Commission's Findings and Determination

96. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in oral presentations to the Commission at the Public Hearing. The Commission carefully considered all of these views as part of making its decision.
97. The Commission has carefully considered the Material before it as set out in section 3.1 of this report and has weighed the broader strategic and economic benefit of accessing the hard rock resource in the context of the impacts on the environment and local amenity of residents in section 5. Based on its consideration of the Material, the Commission finds that the Project should be approved subject to conditions of consent.
98. For the reasons set out in paragraph 97 above, the Commission has determined that the consent should be approved subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
99. The reasons for the Decision are given in the Statement of Reasons for Decision dated 8 July 2024.



Adrian Pilton (Chair)
Member of the Commission



Alison McCabe
Member of the Commission



Juliet Grant
Member of the Commission



New South Wales Government
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