



New South Wales Government
Independent Planning Commission

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Martins Creek Quarry Project

SSD-6612

Statement of Reasons for Decision

Mr Chris Wilson (Chair)
Ms Clare Sykes
Professor Snow Barlow

13 February 2022

Executive Summary

The NSW Independent Planning Commission has determined to refuse consent to the State significant development application for the Martins Creek Quarry Project (SSD-6612). The application, made by Buttai Gravel Pty Ltd, sought approval to extract, process and transport up to 1.1 million tonnes per annum of quarry materials over a 25 year period from Martins Creek Quarry, located within the Dungog Local Government Area.

The Commission was constituted for this determination by Commissioners Chris Wilson (Chair), Professor Snow Barlow and Clare Sykes. The Commission found that the road transportation of 450,000 tonnes a year of hard rock quarry product over 25 years would have unreasonable and unacceptable impacts for the communities along the proposed haulage route.

The Commission acknowledges that the Project had strategic value and economic benefits. It also found that the on-site impacts associated with the proposed quarry – including water, air quality, noise and biodiversity impacts – could have been appropriately managed, if not for the significant off-site impacts along the road haulage route.

The Commission found that increased truck movements (up to 160 additional quarry truck movements per day) through the main street of Paterson and to a lesser degree, Bolwarra and Bolwarra Heights, had impacts on “residential amenity, tourism, local businesses and road and pedestrian safety” that would result in “significant and adverse impacts on the communities in the affected areas”.

The Commission concluded that the impacts of the Project, in particular the cumulative impacts of the proposed road haulage volumes are, on balance, not in the public interest, particularly given the 25 year period over which the impacts would be experienced.

The Commission further concluded that these adverse impacts could not be sufficiently managed through the imposition of conditions.

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Defined Terms

ABBREVIATION	DEFINITION
AIP	NSW Aquifer Interference Policy
Additional Material	The Department's Response to the Commission, dated 19 December 2022 and the Applicant's Response to the Commission, dated 9 December 2022
Amended Application	The Application, as amended by the Applicant, and submitted to the Department in May 2021
Applicant	Buttai Gravel Pty Ltd
Applicant's Response	The Applicant's response to the Commission's Request, dated 9 December 2022
Application	Martins Creek Quarry Project (SSD-6612)
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
AQIA	Air Quality Impact Assessment
BAR	Biodiversity Assessment Report
BC Act	<i>Biodiversity Conservation Act 2016</i>
BCD	Biodiversity Conservation Division of the Department
Commission	Independent Planning Commission of NSW
Commission's Request	The Commission's request to the Department and Applicant, dated 23 November 2022
DCCEEW	Commonwealth Department of Climate Change, Energy, the Environment and Water
Department	Department of Planning and Environment
Department's AR	Department's Assessment Report, dated October 2022
Department's Response	The Department's response to the Commission's Request, dated 19 December 2022
DSC	Dungog Shire Council
EIS	Environmental Impact Statement
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
GHGEs	Greenhouse gas emissions
Ha	Hectare
LEC	NSW Land and Environment Court
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
MCC	Maitland City Council
MCQAG	Martins Creek Quarry Action Group
MNES	Matter of National Environmental Significance
Mtpa	Million tonnes per annum
NIA	Applicant's Noise Impact Assessment, prepared by Umwelt (Australia) Pty Ltd and dated May 2021
Original Application	The Application submitted to the Department in September 2016
Planning Systems SEPP	<i>State Environmental Planning Policy (Planning Systems) 2021</i>

Primary haulage route	The proposed quarry product road haulage route as set out in Figure 5
Project	Martins Creek Quarry Project
Rail Report	Rail Logistics Options Report, dated 25 May 2021
Regulations	<i>Environmental Planning and Assessment Regulation 2000</i>
Revised Application	The Application inclusive of the revisions proposed by the Applicant in the Applicant's Response to the Commission, dated 9 December 2022
RtS	The Applicant's Response to Submissions, dated November 2021
Site	The site as described in section 2.1 of this report
SIA	Social Impact Assessment prepared by Umwelt and dated May 2021 and submitted by the Applicant as part of the Amended Application
SIA Guideline	<i>Social Impact Assessment Guideline for State Significant Projects</i> (NSW Government, 2021)
SSD	State Significant Development
TIA	Traffic Impact Assessment prepared by SECA Solutions Pty Ltd and dated May 2021 and submitted by the Applicant as part of the Amended Application
TfNSW	Transport for NSW

1. Introduction

1. On 5 October 2022, the NSW Department of Planning and Environment (Department) referred the State significant development (SSD) application SSD-6612 (Application) made by Buttai Gravel Pty Ltd (Applicant) to the NSW Independent Planning Commission (Commission) for determination.
2. The Application seeks approval under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) to extract, process and transport by road and rail up to 1.1 million tonnes per annum (**Mtpa**) of quarry materials from Martins Creek Quarry over a 25-year period (**Project**). The Project is located within the Dungog Shire Council (**DSC**) Local Government Area (**LGA**).
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 were made by way of objection.
4. Professor Mary O'Kane AC, Chair of the Commission, nominated Chris Wilson (Chair), Clare Sykes and Professor Snow Barlow to constitute the Commission in exercising its functions regarding the Application.

2. The Application

2.1 Site and Locality

5. According to the Department's Assessment Report, dated October 2022 (**Department's AR**), Martins Creek Quarry is an existing hard rock quarry located within the Upper Hunter region of New South Wales. It is operated by Buttai Gravel Pty Ltd, which is part of the Daracon Group (**Daracon**) (AR para 1).
6. Martins Creek Quarry is located to the north of the village of Martins Creek and is bound to the west by the North Coast Railway Line, to the south by Vogeles Road and Martins Creek and to the north and east by a vegetated ridgeline (**Site**) (AR para 9).
7. Existing vehicular access to the Site is via Station Street in Martins Creek.
8. Land uses surrounding the Site include agricultural, residential and rural residential.
9. The Site contains a rail siding which connects to the Main North Coast railway line, providing access by rail to Newcastle, Sydney and broader regional NSW. Historically, this connection has been used to supply railway ballast for regional rail infrastructure purposes (AR para 12).

2.2 Existing Operations

10. The Commission notes that the quarry was established in 1914 by the NSW Government, primarily for the purpose of supplying ballast and other quarry materials to the rail industry. It was operated continuously by various NSW Government entities until 2012, when the Applicant secured a long-term licence over the Site (AR para 4).

11. In 1991, DSC granted a development consent to expand quarrying activities into the Western Lands portion of the Site (within Lots 5 and 6 of DP 242210), subject to conditions. Quarrying operations commenced in this area in approximately 1993. Existing use rights for the processing of material within the Eastern Lands portion of the Site at a rate of up to 449,000 tonnes per annum (**tpa**) were recognised by DSC in 1999 (AR para 6).
12. In 2015, DSC lodged proceedings against Daracon in the NSW Land and Environment Court (**LEC**). DSC alleged that activities at the quarry were not being undertaken in accordance with the 1991 consent (AR para 7). In October 2018, the LEC ruled that operations were not in accordance with the 1991 consent and made several declarations and orders (AR para 8). The lessee and the operator subsequently lodged an appeal with the Court of Appeal. The Court of Appeal's June 2019 judgement did not specifically address all aspects of the existing approval rights. While the Court determined that extraction was permitted from within Lot 5 of DP 242210, it did not make a ruling on the approved annual extraction limit. In the absence of any such ruling, the annual production limit of 500,000 tpa set out in the environment protection licence (**EPL**) for the Site has been adopted by the Department (AR para 8).
13. The key components of the existing approved operations, based on the Court of Appeal's orders, the 1991 consent, and the EPL are outlined at Table 2.2 of the Department's AR.

2.3 The Project

2.3.1 Original Application

14. The Application as it was originally submitted to the Department sought expansion of the quarry into new areas to extract, process and transport by road and rail up to 1.5 Mtpa of hard rock material over a 30-year period (**Original Application**) (AR para 2).

2.3.2 Amended Application

15. In May 2021, the Applicant amended the Application to reduce the impacts in response to government agency and community feedback. The Amended Application proposed to extract, process and transport by road and rail up to 1.1 Mtpa over a 25-year period (**Amended Application**) (AR para 2).
16. The Project as it was referred to the Commission is the Amended Application. The Amended Application set out specific product haulage modes, truck frequency and associated volumes. Key components of the Amended Application are set out at Table 2-1 of the Department's AR.

2.3.3 Revised Application

17. The Commission has heard from the community, via both written submissions and submissions at the public meeting, who raised concerns with respect to both the volume of quarry materials proposed to be hauled via road and the proposed frequency of truck movements to facilitate this haulage (among other issues).

18. On 23 November 2022, the Commission wrote to the Department and the Applicant, outlining a number of concerns with the Project, and requesting additional information (**Commission's Request**). The Commission received a response from the Department, dated 19 December 2022 (**Department's Response**), which included a response from the Applicant dated 9 December 2022 (**Applicant's Response**). In the Applicant's Response to the Commission, revisions to the road haulage rates were proposed (**Revised Application**). The proposed revisions are outlined in Table 1 below.

*Table 1 - The Applicant's proposed reductions to road haulage rates
(Source: Applicant's Response, Table 2.1)*

Component	Revised Project as per ADA	Proposed further reduced rates	Reduction
Road haulage	500,000 tpa	450,000 tpa	10% reduction
Daily road haulage limit	Peak daily laden trucks of 140 per day (280 movements) for up to 50 days per year, otherwise 100 laden trucks per day (200 movements)	80 laden trucks per day (160 movements)	43% reduction in relation to peak, otherwise 20%
Hourly road haulage limit	<ul style="list-style-type: none"> 20 laden trucks per hour (40 movements), Monday to Friday between 7.00 am and 3.00 pm 15 laden trucks per hour (30 movements), Monday to Friday between 3.00 pm and 6.00 pm 	<ul style="list-style-type: none"> 12 laden trucks per hour (24 movements), Monday to Friday between 7.00 am and 3.00 pm 9 laden trucks per hour (18 movements), Monday to Friday between 3.00 pm and 6.00 pm 	<ul style="list-style-type: none"> 40% reduction during 7.00 am and 3.00 pm 40% reduction during 3.00 pm and 6.00 pm

19. The Amendments set out in the Revised Application have been accepted by the Commission. Accordingly, the Application determined by the Panel was the Original Application as subsequently amended by the Amended Application and the Revised Application.

3. The Commission's Consideration

3.1 Material Considered by the Commission

20. In this determination, the Commission has considered the following material (**Material**):
- the Applicant's Environmental Impact Statement (**EIS**), dated September 2016, and its accompanying appendices;
 - the Applicant's Response to Submissions (**RtS**) dated November 2021;
 - the Applicant's Amended Development Application and RtS, dated May 2021, and its accompanying appendices and supplementary information including responses to request for information;
 - all public submissions on the EIS made to the Department during public exhibition;
 - all Government Agency advice to the Department;

- the Department's Merit Review of the Social Impact Assessment, dated August 2021;
- the Department's AR, dated October 2022;
- the Department's recommended conditions of consent, received October 2022;
- comments and presentation material at meetings with the Department, Applicant, Dungog Shire Council and Maitland City Council, as referenced in Table ;
- all speaker comments made to the Commission and material presented at the Public Meeting held on 7 and 8 November 2022;
- all written comments received by the Commission up until 5pm AEDT, 22 November 2022;
- the Applicant's letter to the Commission dated 9 December 2022 advising of updates to the Schedule of Lands;
- the Applicant's Response to the Commission, dated 9 December 2022;
- the Department's Response to the Commission, dated 19 December 2022; and
- all written comments received by the Commission on the Additional Material, up until 31 January 2023.

3.2 Strategic Planning Context

3.2.1 Hunter Regional Plan 2036

21. The Hunter Regional Plan 2036 sets out the NSW Government's strategic vision for the Hunter Region based on four key goals (AR para 14) which aim to strengthen the region's economic resilience, maintain economic and employment bases, and build on existing strengths to foster greater market and industry diversification. They also aim to protect its ecological systems, conserve heritage values, and create thriving communities (AR para 15). The Commission has given consideration to the environmental, social and economic costs and benefits of the Project in Section 5 below.

3.2.2 Demand for Construction Materials

22. The Department's AR states that the construction sector is a key contributor to economic growth in NSW and competitive and reliable supplies of quarry products are critical to the NSW construction industry (AR para 17). The need for infrastructure investment in NSW, including within the Hunter region, is identified in several key State and regional strategy documents, outlined in the Department's AR (AR para 18):
- Future Transport 2056
 - Hunter Regional Plan 2036
 - NSW State Infrastructure Strategy
 - Strategic Regional Land Use Plan: Upper Hunter Infrastructure
23. According to the Department, to meet these identified infrastructure needs, the NSW Government has committed over \$108 billion in infrastructure spending over the four years to 2025, the construction of which would require substantial quantities of high-quality hard rock quarry products (AR para 19).
24. The Commission accepts that there is strong regional demand for hard rock quarry products and that this demand could be partially met by the Project (AR para 16).

3.2.3 Regional Extractive Industry Market

25. The Department's AR states that to be economically viable, extractive material suppliers need to be relatively close to markets, with good transport links to enable the conveyance of high volumes of product (AR para 20). The Department also states that Martins Creek Quarry has historically supplied markets in the Hunter, Central Coast, Lower North Coast and Sydney Metropolitan regions (AR para 21). The extractive materials produced by the quarry can be used in rail, concrete, asphalt and general civil construction.
26. The Commission notes that in addition to the existing Martins Creek Quarry, there are six other approved hard rock quarries with the capacity to provide significant volumes of high strength aggregates and construction materials within the Hunter Region. A breakdown of production rates and total available resources from these quarries is illustrated in Table 3.2 of the Department's AR.
27. The Department in its Response to the Commission stated that it is clear that the recent influx of SSD applications for hard rock quarries in the region points to a strong regional demand for this material (Department's Response, p.2).
28. The Applicant in its Response to the Commission, stated that Martins Creek Quarry "has the ability to produce high quality material and products for use in rail, concrete, asphalt and general civil construction, including products to meet the specifications of Transport for NSW (TfNSW), Australian Rail Track Corporation (ARTC) and Sydney Trains" (Applicant's Response, p.12). According to the Applicant, major customers of the quarry include airports and port authorities, and various local Councils. Further to the above, the Applicant states that the Martins Creek Quarry produces material for supply to all market sectors and that this is an important point of difference between the Martins Creek Quarry and other hard rock quarry producers in the Hunter Region (Applicant's Response, p.12).
29. The Commission recognises the strategic benefits the quarry would provide and is of the view that the Project's proposed extraction and processing of up to 1.1 Mtpa over a 25-year period could be appropriately managed on the Site subject to relevant conditions of consent. However, the Commission does not consider that the strategic merit and economic benefits that would result from the Project outweigh the adverse amenity, and social impacts resulting from the proposed road haulage of quarry product along the primary haulage route (see Figure 4), and particularly through Paterson and to a lesser extent Bolwarra.

3.3 Statutory Planning Context

3.3.1 Permissibility

30. The Commission agrees with the reasons set out in the Department's AR (paragraphs 24-26) and is of the view that the Project is permissible with consent.

3.3.2 Surrender of Development Consent

31. Section 4.5 of the Department's AR states that if the Application were to be approved by the Commission, the Applicant would surrender the existing development consent and the quarrying operations at the Site would be regulated under the new development consent.

3.3.3 Biodiversity Assessment

32. For the reasons outlined at section 4.6 of the AR, the Application was accompanied by a Biodiversity Assessment Report (**BAR**) and a Biodiversity Offset Strategy, rather than a Biodiversity Development Assessment Report.

3.3.4 Commonwealth Matters

33. On 21 July 2016, the (now) Commonwealth Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) determined that the Application was a “controlled action” under the *Environmental Protection and Biodiversity Conservation Act 1999* (**EPBC Act**), due to its potential impacts on threatened species and communities.
34. The Commission notes that under the Bilateral Agreement between the Commonwealth and NSW governments, the Application may be assessed by the NSW Government. However, the Commonwealth's decision-maker maintains a separate approval role, which would normally be exercised following the Commission's determination of the Application.
35. On 4 August 2016, supplementary Secretary's Environmental Assessment Requirements were issued addressing matters of national environmental significance (**MNES**) and on 24 February 2022, DCCEEW accepted a variation to the proposed action to account for the changes proposed in the Amended Application – i.e. the Commonwealth assessment requirements for MNES remain relevant (AR para 36).
36. The Department provides an assessment of matters under the EPBC Act in Appendix G of the AR. The Commission has given further consideration to biodiversity matters in section 5.5.5 below.

3.4 Mandatory Considerations

37. 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>Appendix F 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; • State Environmental Planning Policy (Resources and Energy) 2021 (SEPP Resources and Energy); • State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards); • State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP Biodiversity and Conservation); and

	<ul style="list-style-type: none"> • Dungog Local Environmental Plan 2014 (Dungog LEP).
Relevant Development Control Plans	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.
Likely Impacts of the Development	The likely impacts of the Application have been considered in section 5 of this Statement of Reasons.
Suitability of the Site for Development	<p>The Commission notes its position, as outlined in section 3.2 above, that the extraction and processing of up to 1.1 Mtpa of quarry product over a 25 year period could be managed at the Site subject to the imposition of relevant conditions of consent.</p> <p>However, the Commission has concluded, as discussed in Section 5, that the proposed road transportation of quarry product at the volume proposed over a 25 year period would result in unreasonable and unacceptable impacts to the community along the proposed primary haulage route, in particular at Paterson and to a lesser degree at Bolwarra and Bolwarra Heights. The Commission could not be satisfied that the adverse amenity and safety impacts associated with the haulage of product by road, and the resulting social implications could be managed with sufficient certainty by through conditions of consent.</p>
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 set out in this Statement of Reasons, is of the view that the Project is not consistent with the Objects of the EP&A Act. The Project does not, for example, “ <i>facilitate ecologically sustainable development</i> ” (see below) and does not “ <i>promote the social and economic welfare of the community</i> ”.
Ecologically Sustainable Development	<p>The Commission has considered the principles of ESD in its determination as set out below.</p> <p>a) The precautionary principle</p> <p>The precautionary principle was considered by the Commission but was not a reason for refusal of the Project. The Commission found that the Project did not trigger the two threshold tests of: a threat of serious or irreversible environmental damage; and scientific uncertainty as to the environmental damage.</p> <p>b) inter-generational equity</p> <p>‘Inter-generational equity’ is the principle that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.</p> <p>The Commission has considered inter-generational equity in its assessment of the potential environmental, social and economic impacts of the Project. The Commission finds that the Project would have unacceptable and unreasonable amenity, safety, and social impacts on the community over 25 years, particularly for the community along the primary haulage route.</p> <p>The Commission concludes that approval of the Project would be inconsistent with the principles of inter-generational equity.</p> <p>c) conservation of biological diversity and ecological integrity</p> <p>Impacts to biological diversity and ecological integrity were considered by the Commission and were not considered to be a reason for refusal.</p>

d) improved valuation, pricing and incentive mechanisms

Improved valuation, pricing and incentive mechanisms were considered by the Commission and were not considered to be a reason for refusal.

The Public Interest

The Commission has considered whether the grant of consent to the Project is in the public interest. In doing so, the Commission has weighed the predicted benefits of the Project against its predicted negative impacts.

The Commission has given considerable thought to the traffic and transport, public amenity, social, and economic impacts of the Application. These matters are discussed at section 5 of this Statement of Reasons. The Commission has considered the Applicant's latest reductions in transport numbers (the Revised Application) in its deliberations and acknowledges that these changes were intended to address the concerns raised by the Commission.

The Commission's consideration of the public interest has also been informed by consideration of the principles of ESD (principally, inter-generational equity), as discussed above. The Commission finds that, even under the Revised Application, the impacts of the Project, including the transport of quarry product from the Site of up to 450,000 tpa by road for a period of 25 years would have unreasonable and unacceptable impacts to people and communities along the proposed primary haulage route. The Commission also concluded that these impacts could not be managed with certainty through the imposition of conditions.

Overall, the Commission finds that, on balance, the Project would not achieve an appropriate balance between relevant environmental, economic and social considerations and that approval of the Project is not in the public interest.

3.5 Additional Considerations

38. In determining the Application, the Commission has also considered:

- NSW Road Noise Policy;
- NSW Aquifer Interference Policy (NSW Office of Water, 2012);
- 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**);
- The EPA's Climate Change Policy and Climate Change Action Plan 2023-26
- Future Transport 2056: Regional NSW Services and Infrastructure Plan
- NSW State Infrastructure Strategy;
- Upper Hunter Strategic Regional Land Use Plan (**SRLUP**);
- Hunter Regional Plan 2036 (**Regional Plan**); and
- Draft Hunter Regional Plan 2041 (**Draft Regional Plan**).

3.6 The Commission's Meetings

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

Table 3 – Commission's Meetings

Meeting	Meeting date	Transcript/Notes Available
Site Inspection and Locality Tour	17 October 2022	24 October 2022
Department	20 October 2022	26 October 2022
Applicant	19 October 2022	27 October 2022
Dungog Shire Council	20 October 2022	26 October 2022
Maitland City Council	21 October 2022	26 October 2022
Public Meeting	7 & 8 November 2022	15 November 2022

3.7 Dungog Shire Council Comments

40. The Commission met with DSC on 20 October 2022 to hear its views on the Project. DSC noted that although it has no objection to the development application per se, it opposes haulage of quarry product by road due to road safety risks, residential amenity and road upgrade concerns.
41. DSC also recommended rewording the Department's draft recommended conditions of consent to ensure that the Applicant carries out the necessary intersection upgrades and infrastructure works prior to any road haulage of quarry products and pays the appropriate contribution in accordance with the relevant Council's local infrastructure contribution plan requirements. The Commission also heard from representatives of DSC at the Public Meeting, who explained the above concerns in detail.
42. On 30 January 2023, DSC provided a written submission to the Commission following a review of the Revised Application. DSC acknowledged that the reductions in road haulage would be favourable, but reiterated its position that if consent is granted then all quarry products should be transported by rail; if not, the proposed road upgrades and infrastructure must be in place prior to the commencement of quarry activities on the Site. DSC also noted that it has not agreed to enter into a VPA with the Applicant for the proposed development.

3.8 Maitland City Council Comments

43. The Commission met with Maitland City Council (**MCC**) on 21 October 2022 to hear MCC's views on the Project. MCC raised concerns regarding the increase in heavy vehicle traffic along the MCC local road network through the Maitland LGA and traffic noise impact on the amenity of the residents.

4. Community Participation & Public Submissions

4.1 Community Group Attendance at the Site Inspection and Locality Tour

44. On 17 October 2022, the Commission conducted a Site Inspection and Locality Tour. Commissioners Chris Wilson (Chair), Professor Snow Barlow and Clare Sykes attended the Site Inspection and Locality Tour. The Commission invited representatives from community groups to attend and observe the Site Inspection. The following groups were represented:

- Martins Creek Quarry Action Group (**MCQAG**);
- Brandy Hill and Seaham Action Group;
- Paterson Progress Association; and
- Paterson Historical Society.

4.2 Public Meeting

45. The Commission conducted a Public Meeting on 7 and 8 November 2022. The Public Meeting was held at the Tocal Agricultural College, with registered speakers presenting to the Commission Panel in person and via telephone and video conference. The Public Meeting was streamed live on the Commission's website.

46. At the Public Meeting the Commission heard from the Department, the Applicant, DSC, various community group representatives and individual community members. In total, 53 speakers presented to the Commission during the Public Meeting. Presentations made at the Public Meeting have been considered by the Commission as submissions and are referenced below in section 4.3.

4.3 Public Submissions

47. Section 4.3 of this report sets out the matters raised in the submissions made to and considered by the Commission. Consideration has been given to these submissions in the Commission's assessment of the Project as summarised in the Key Issues section of this report (see section 5 below).

48. 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 AEDT 22 November 2022 (**First Submission Period**). The Commission engaged Online Gravity to undertake an analysis of submissions received in the First Submission Period. Online Gravity found that the Commission received a total of 1453 unique written submissions on the Application, comprising:

- 517 submissions in support of the Application (35.6%);
- 931 objections to the Application (64%); and
- 5 submissions commenting on the Application, neither in support nor objection (0.4%).

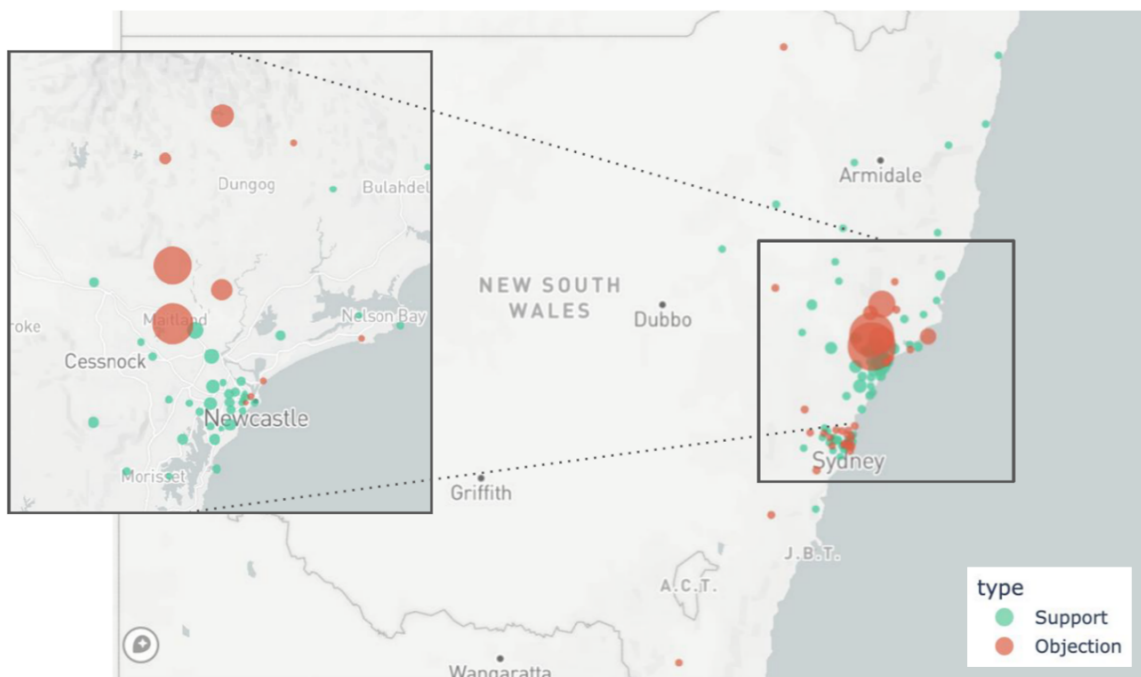
49. Following receipt of the Department's Response and the Applicant's Response (**Additional Material**) the Commission considered that it would be assisted by public submissions on the Additional Material. The Commission re-opened public submissions on the Additional Material (with submissions permitted by email only) between 23 December 2022 and 5pm AEDT, 31 January 2023 (**Second Submission Period**)

50. The Commission received a total of 89 written submissions in the Second Submission Period.

4.3.1 Geographic Distribution

51. A geographic analysis was undertaken on all submissions received during the First Submission Period. Figure 1 illustrates the submissions received in support of and objecting to the Application throughout NSW, with the size of the circle indicating the relative number of submissions from that area. The Commission observes that, in general, there is localised objection to the Project, with broader support found regionally.

Figure 1 - Geographic Analysis (Source: Online Gravity, December 2022)



4.3.2 Topic Analysis

52. Submission analysis was undertaken on all submissions received by the Commission during the First Submission Period, including written submissions, submissions made through the Commission's 'Have Your Say' portal and verbal submissions made during the Public Meeting.

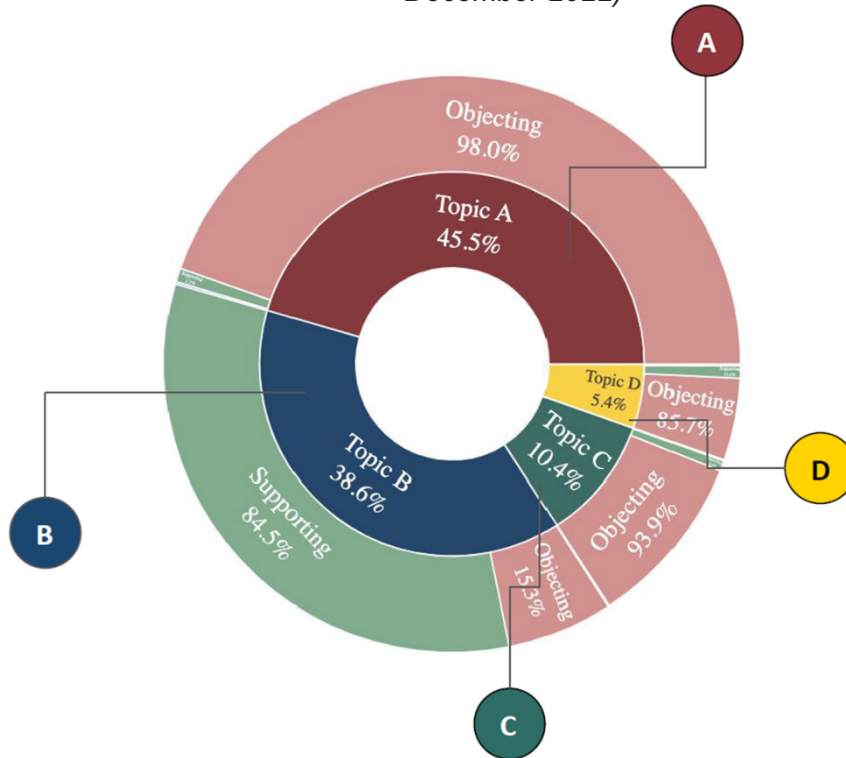
First Submission Period

53. Analysis of submissions received by the Commission in the First Submission Period found that the majority were unique submissions, with only 1.8% of submissions providing an identical response. In addition to reviewing the text of written submissions, word frequency and topic analysis was undertaken on detailed submissions.
54. Figure 2 below illustrates the four key topics identified as common topics among the detailed submissions, which are:
- A. Traffic, transport and safety (45.5%)
 - B. Jobs, growth & business (38.6%)

- C. Social impacts (10.4%)
- D. Data, planning and assessment (5.4%)

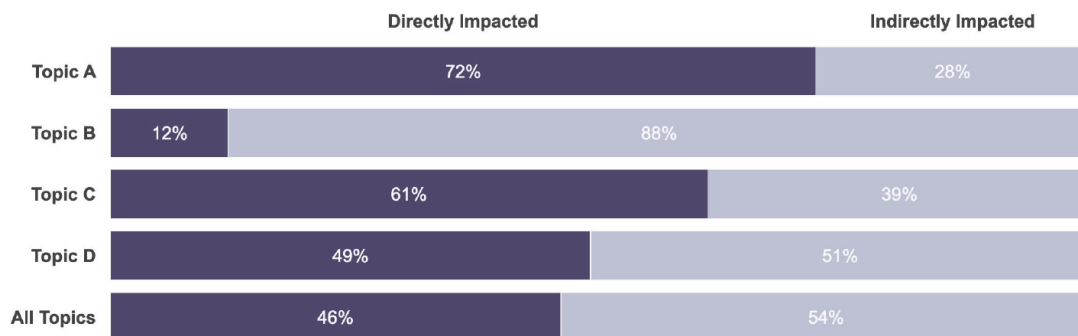
55. The Commission observes that topics A, C and D were dominantly raised in objections to the Application, whereas topic B was dominantly covered in the supporting submissions.

Figure 2 Key topics – First Submission Period (source: Online Gravity, December 2022)



56. A topic-based direct impact analysis was completed based on the respondents who self-identified as being directly or indirectly impacted by the topic. Figure 3. indicates that the majority of submissions objecting to the project self-identified as being directly impacted by the project, while supporting submissions were made by those who self-identified as being indirectly impacted by the Project.

Figure 3 Direct Impact Analysis – First Submission Period (Source: Online Gravity, December 2022)



4.3.3 Key Issues Raised

First Submission Period

57. Overall, 64% of all submissions received in the First Submission Period were in objection to the Application. Topics raised in objections included:
- adverse impacts of increased traffic on the proposed haulage route on the safety and efficiency of the local road network;
 - insufficient and inaccurate traffic studies;
 - negative impacts on the Paterson Village heritage conservation area;
 - amenity impacts, including unsettling noise and vibration from blasting, crushers and truck movements on the roads;
 - health impact of air and water pollution;
 - visual impacts of the expansion of the quarry footprint;
 - impacts of clearing of land on local biodiversity; and
 - rehabilitation and final landform impacts.
58. Overall, 35.6% of all submissions received in the First Submission Period supported the Application. Topics raised in support included:
- local employment generation; and
 - the limited supply of quarry materials for the regional construction industry and large infrastructure projects.

Second Submission Period

59. The Commission received 89 written submissions on the Additional Material, including from DSC and the MCQAG. A number of these submissions noted that the Revised Application's reduced road haulage and truck movements would have no meaningful effect on reducing the Project's adverse social and economic impacts.

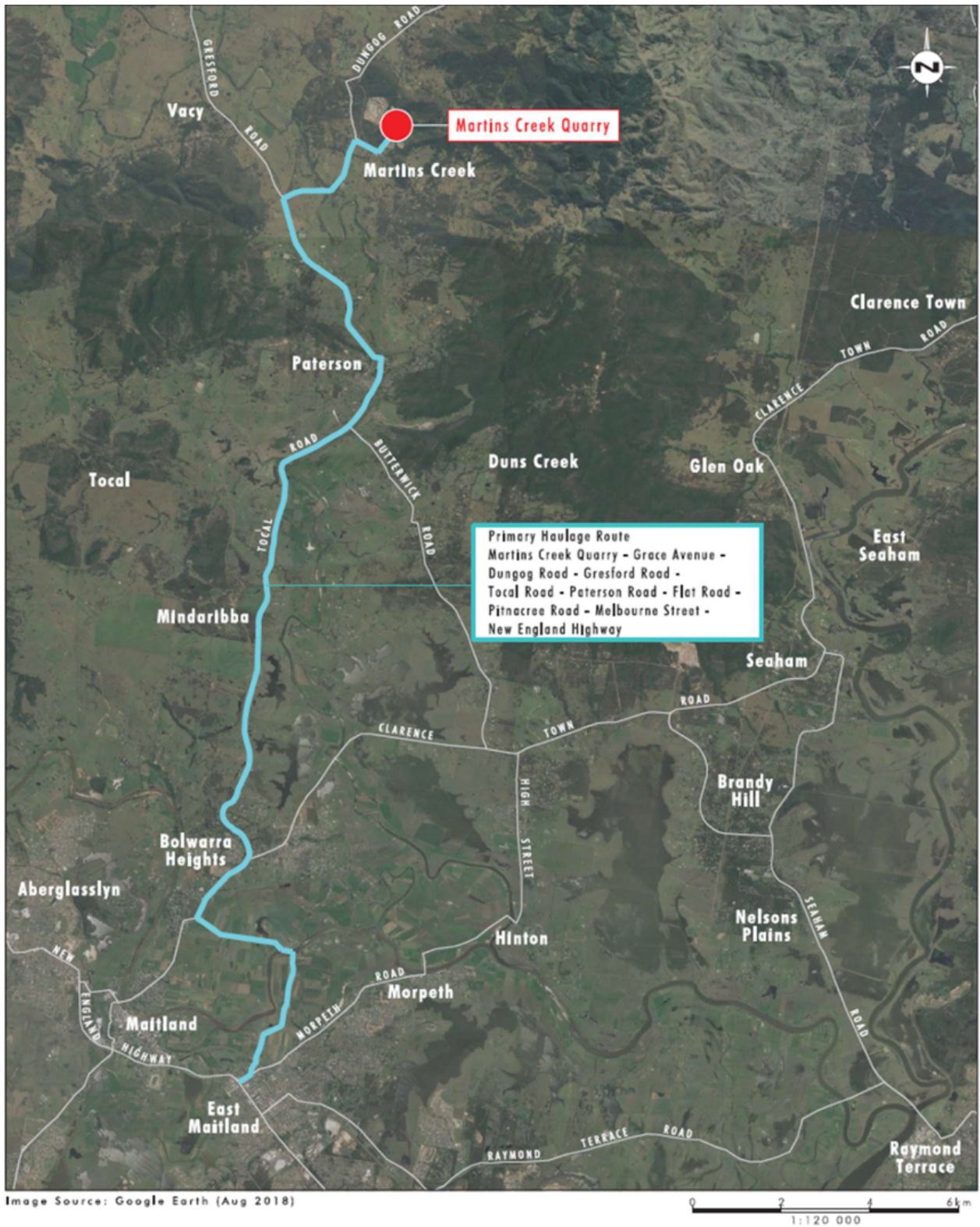
5. Key Issues

5.1 Traffic and Transport

Quarry material haulage

60. With respect to the existing approved operations, the Department identifies (AR section 2.1) that based on the Court of Appeal's orders, DSC's 1991 consent and the EPL, the quarry:
- has an existing extraction limit of up to 500,000 tpa and processing limit of up to 449,000 tpa
 - road transport is limited to not greatly more than 30% of annual production and rail transport is limited to not greatly less than 70% of annual production
61. The Department also states that 150,000 tpa would represent a reasonable approximation of the currently approved level of road transport (AR para 69).
62. The Project as it was originally referred to the Commission (the Amended Application), proposed extraction of up to 1.1 Mtpa with product to be hauled from the quarry via both road and rail (the Commission notes that the Site includes an existing rail siding which connects to the North Coast railway line). Up to 500,000 tpa of quarry product was proposed to be transported from the Site by road, with the balance of 1.1 Mtpa to be transported from the Site by rail. The proposed haulage of the quarry product by rail is discussed later in this section.
63. Existing road access to the Site is via Grace Avenue and Station Street, Martins Creek. The Project would provide a new access point to the Site from Dungog Road, with the existing Site access to be used only for temporary emergency access (AR para 81).
64. The proposed road haulage route (**primary haulage route**) is 28 km in length from the Site to the New England Highway at East Maitland (Figure 4). When servicing local projects, the quarry would not be restricted to the primary haulage route and may utilise other roads in the local road network. The Applicant's Response (p.37) states that "Local projects are defined as projects that are located between the proposed quarry site and the New England Highway, or within Dungog LGA, to the north of the quarry" and estimates that some 5-10% of annual production could be delivered locally.
65. The Project would result in additional traffic along the primary haulage route, including through Martins Creek, Paterson, Bolwarra Heights, Bolwarra and East Maitland (AR para 65).

Figure 4 - Primary Haulage Route (Source: Department's AR, Figure 2-2)



Legend
Primary Haulage Route

FIGURE 2.13

66. As part of its Amended Application, the Applicant sought approval to dispatch a maximum of 140 laden trucks per day (280 truck movements), for up to 50 days per year. For the remainder of the year, the Applicant sought to dispatch 100 laden trucks per day (200 truck movements) (AR para 66). No road haulage of quarry products would be undertaken on Saturdays, Sundays, public holidays, and 24 December to 1 January (inclusive). In addition, no trucks would be permitted to travel through Paterson village before 6:45am (AR para 67). Hourly peak trucking was proposed to be limited to:
- Monday to Friday, 7am – 3pm: 20 laden trucks / 40 truck movements, per hour; and
 - Monday to Friday, 3pm – 6pm: 15 laden trucks / 30 truck movements, per hour.
67. An updated Traffic Impact Assessment (**TIA**) prepared by SECA Solutions Pty Ltd and dated May 2021 was submitted by the Applicant as part of the Amended Application. The TIA assessed the Project's road traffic impacts, including the cumulative impacts of the proposed development, the Project's impacts in relation to daily traffic flows, and the Project's impacts on key intersections. Table 4 (below) illustrates the heavy vehicle movements proximate to Paterson in February 2020. Section 2.5.1 of the TIA states that the quarry was not operating in the week beginning 17 February 2020, but no further explanation is given other than that within TIA Table 2-14 and reproduced (in part) below.

Table 4 – Recorded heavy vehicle movements (Source: TIA Table 2-14):

Location	Total daily flow	Total heavy vehicle daily flows	Quarry classification truck movements
Gresford Road north of Paterson Feb 2020 (NO Martins Creek quarry trucks)	3307	627	34

Heavy vehicles shown above are vehicles from medium rigid upwards, classes 3 to 12 inclusive as per Austroads Vehicle Classifications allowing for all heavy vehicle movements, not just those associated with the quarry. Heavy vehicles associated with the quarries are class C9 (6 axle articulated) and C10 (Heavy truck and trailer combination).

68. The Department (AR para 107) states that:
- The Department acknowledges that traffic and transport impacts from road haulage activities are key community concerns for the Project. Given the history of Daracon's operations, during which road transport peaked at a rate of approximately 1.1 Mtpa in 2013-14 (prior to the LEC's decision regarding the existing quarry's approved limits), these concerns are fully understandable.*

69. During the Department's assessment process and in response to concerns raised by the community, the Applicant proposed a number of mitigation measures (outlined at AR paras 85 and 106), including road and pedestrian upgrades along the haulage route, road maintenance contributions, and contributions for the community's benefit. The road upgrades proposed to be completed by the Applicant include the proposed new quarry access road off Dungog Road (as outlined in paragraph 63 above); upgrades to the approach to Gostwyck Bridge; upgrades to the Gresford Road and Dungog Road intersection; and modified footpath and line marking at the King Street and Duke Street intersection in Paterson (AR para 86). With specific reference to pedestrian safety in Paterson, the Applicant proposes the aforementioned upgrades to the King Street and Duke Street intersection (see also Figure 5), as well as the implementation of a Driver's Code of Conduct to include provision for heavy vehicles to reduce speed to 40km per hour when travelling through Paterson and passing stationary buses (AR para 93).
70. In its assessment, the Department considered alternative road haulage options, including the option of bypassing Paterson. The Department found that road haulage alternatives would be longer, could have unsuitable roads and involve passing through other villages, shifting potential traffic and amenity impacts to multiple other villages (AR para 71).
71. The Department states that it "considers that the additional traffic movements generated by the Project would have an acceptable impact on the operation of the key intersections along the primary haulage route" (AR para 79) and that it "is satisfied that the Project would pose an acceptable level of risk to road users, including cyclists and pedestrians" (AR para 94).
72. With respect to the cumulative traffic impacts of the Project, the Department has stated that it "is satisfied that the traffic movements associated with the Project would have an acceptable impact upon the overall (i.e. cumulative) operation of the road network" (AR para 95).
73. The Commission conducted a site inspection and a locality tour on 17 October 2022. As part of the locality tour, the Commission met with members of the community at various locations (as nominated by the community members) along the proposed primary haulage route. These locations included the intersection of Tocal Road and Paterson Road, Bolwarra Heights; Tocal Agricultural College; the corner of King Street and Duke Street, Paterson; the corner of Station Street and Cory Street, Martins Creek; and Gostwyck Bridge (amongst others). The community members highlighted various physical and location specific attributes at these locations including the road condition and passing traffic, nearby residential and community land uses and the location of local businesses.
74. The Commission notes that the primary haulage route through the town centre of Paterson (see Figures 5 and 6) is particularly constrained, with no viable bypass options having been identified.

Figure 5 – Primary haulage route through Paterson and proposed intersection upgrade
(Source: AR Figure 6-5)



Figure 6 – Quarry trucks passing through Paterson at the corner of King and Duke Streets (Source: Paul O'Donohue - submission to the Commission)



75. The Commission notes that a substantial proportion of submissions on the Project, both at the public meeting and in written submissions, related to road haulage and its associated impacts, particularly along the primary haulage route.
76. Following the public meeting, the Commission wrote to both the Department and the Applicant, outlining its concerns with the Project, particularly in relation to transport and the proposed primary haulage route, and asked both parties to respond to a number of questions (**Commission's Request**).
77. In its Response to the Commission, the Applicant proposed a number of revisions to the Amended Application, particularly in relation to truck movements. The revisions proposed by the Applicant are previously set out in Table 1 in this Statement of Reasons. **Error! Reference source not found.**5 (below) provides a comparison of peak proposed truck movements between the Amended Application and the Revised Application over the 25 year life of the Project.

Table 5 – Peak proposed road haulage truck movements

Road haulage limit	Amended Application	Revised Application
Daily	Peak daily laden trucks of 140 per day (280 movements) for up to 50 days per year, otherwise 100 laden trucks per day (200 movements)	80 laden trucks per day (160 movements)
7am – 3pm Monday to Friday	20 laden trucks per hour (40 movements)	12 laden trucks per hour (24 movements)
3pm – 6pm Monday to Friday	15 laden trucks per hour (30 movements)	9 laden trucks per hour (18 movements)

78. Table 6 (below) identifies cumulative heavy vehicle flows on the primary haulage route proximate to Paterson and is based on the limited data provided by the Applicant in their TIA. The frequency of heavy vehicle movements in Table 6 has been averaged over 24 hours, but the Commission acknowledges that these movements are likely to be biased towards daylight hours and could be higher, noting that the TIA (p.25) states that “A closer examination of the survey results show that the percentage of heavy vehicles is greater in the morning and gradually decreases through the working day and from 5.00 PM the percentage of heavy vehicles drop off significantly”.

Table 6 – Cumulative heavy vehicle flows at Gresford Road north of Paterson (baseline and Revised Application):

	Baseline** (daily)	Proposed*** (peak daily)	Cumulative (peak daily)
Total heavy vehicle daily flows	627	>160 [#]	>787 [#]
Quarry classification truck movements*	34	160	194

*Heavy vehicles associated with quarry product haulage operations are class C9 (6 axle articulated) and C10 (Heavy truck and trailer combination) [as per 2021 TIA].

** "Baseline" is as per Table 3 of this Statement of Reasons and was sourced from the Applicant's TIA. Data was recorded in February 2020.

*** "Proposed" is as per the Applicant's Revised Application.

[#]Additional heavy vehicle movements other than for quarry product haulage will be required as part of the operations of the quarry.

79. The Commission notes that the Project's proposed haulage truck movements shown in Table 5 cannot be considered in isolation from the baseline heavy vehicle movements identified in Table 6. The limited baseline data available means that the Commission is unable to determine the likely cumulative heavy vehicle movements during quarry operating hours which contributes to uncertainty as to the magnitude (but not duration) of the Project's Road transport impacts. Based on the Applicant's peak proposed road haulage truck movements, the peak cumulative frequency of quarry truck movements through Paterson during quarry operating hours will be significantly higher than the baseline daily movement of 34 trucks per day as identified in Table 5.
80. The Commission notes that the Applicant's Response to the Commission (pp 7-8) references the Interim Environmental Management Plan (**IEMP**) and states:
- As the Department is aware, the quarry has previously operated under an Interim Environmental Management Plan (IEMP) put in place during the previous Court proceedings which placed limits on extraction and processing volumes, truck numbers and operating hours. The IEMP was revised between October 2018 and February 2019 to incorporate additional controls.*
- and
- The revised road haulage limits proposed above [as part of the Revised Application] are less than the IEMP limits which have previously been deemed acceptable by Dungog Shire Council, the Court and some complainants as noted by the Court.*
81. The Commission notes that the Applicant has put significant weight on the road haulage limits imposed under the IEMP as being acceptable (i.e., 450,000 tpa). The Commission agrees with DSC's submission that the IEMP was an interim Court-ordered arrangement which had not been the subject of a merit-based assessment.
82. DSC confirmed in its written submission to the Commission dated 15 November 2022 its continuing view that "the community should not be subjected to increased impacts as a result of road haulage associated with the quarry" (Council Submission 2022, p.1).

83. At the public meeting and via written submissions, the Commission heard concerns from members of the community regarding the volume of quarry product proposed to be hauled by road. Submissions also raised serious concerns regarding the proposed daily and hourly truck movements. Submissions commented on the frequency of proposed truck movements, citing concerns for pedestrian and road safety, impacts to residential amenity, impacts to tourism and reduced business activity. Numerous submissions to the Commission emphasised the cumulative impacts that the Project would have.
84. The Commission notes many of the local residents who made submissions reside along the proposed haulage route including in towns such as Martins Creek, Paterson, Bolwarra and Bolwarra Heights. This is reflected in the Commission's analysis of submissions in Section 4.3.1.
85. The Commission, in its request to the Department, asked how the Department had reached the conclusion that the impacts of the road haulage on road users, including cyclists, school bus passengers, and pedestrians, presented an acceptable level of risk.
86. The Department in its Response stated that "accident data provided by TfNSW does not show any accidents relating to quarry trucks and Daracon has confirmed that there have been no recordable or significant accidents associated with the quarry dating back to 2012" (Department's Response, p.8). The Department also stated that the Applicant's proposed road upgrades would improve road safety along the proposed haulage route, concluding that, with the implementation of the proposed road upgrades and "other reasonable and feasible mitigation measures, and the Department's recommended conditions of consent, risks to road safety from the Project can be appropriately managed" (Department's Response, p.8).
87. The Commission received submissions on the Department's and Applicant's Response to the Commission which raised continued concerns in relation to the proposed road haulage, noting that even with the reduced truck movements, the impacts would remain significant.
88. In its written submission to the Commission dated 30 January 2023, DSC noted that while any reduction to the road haulage would be favourable, the proposed revisions do not change DSC's position on the Project, noting that if consent were to be granted then all quarry product should be transported by rail (Council Submission 2023, pp.1 & 5).

Construction traffic

89. The Department is satisfied that traffic from construction activities associated with the Application would have minor and short-term impacts on the safety and efficiency of the local road network, subject to the implementation of the Applicant's proposed traffic management controls (AR para 98).
90. Issues associated with construction traffic considered by the Commission were not considered to be a reason for refusal of the Application.

Road Traffic Noise

91. As noted in paragraph 64 above and Figure 4, the proposed primary haulage route between the Site and the New England Highway at East Maitland would result in additional heavy vehicle traffic movements through Paterson, Bolwarra Heights, Bolwarra and East Maitland.
92. The Department has noted potential road noise impacts to sensitive receivers within the village of Paterson and along the primary haulage route and the limitations in avoiding or mitigating noise impacts on these receptors as haulage route alternatives are limited by physical, engineering and environmental constraints (AR para 143).

93. The Department notes that the Applicant's Noise Impact Assessment (**NIA**) prepared by Umwelt (Australia) Pty Ltd and dated May 2021 indicates that existing road traffic noise levels along the primary haulage route currently exceed the relevant criteria of the *NSW Road Noise Policy* for several receivers. The NIA further notes that any Project related increase in road noise levels would be less than 2dB and that the *NSW Road Noise Policy* states that 'road noise level increases of up to 2dB are considered barely perceptible to the average person' (AR para 144). Under these circumstances only one additional receiver would exceed this criterion at the Project's maximum trucking rates (AR para 144).

Rail Transportation

94. The Site benefits from an existing rail siding that connects to the North Coast railway line, which joins the Main Northern railway line and Hunter Valley Coal Network at Maitland. The existing rail siding can accommodate trains up to approximately 345m in length and is proposed to be extended by approximately 360m to the north-east to allow for loading of longer trains (AR paras 73 & 104).
95. As part of the Amended Application, the Applicant submitted a Rail Logistics Options Report prepared by Plateway and dated 25 May 2021 (**Rail Report**). The Rail Report assessed "the availability of access to the rail network for the quarry, the market demand for quarry products transported via rail, and the feasibility of rail transport for servicing local and non-local rail and construction markets" (AR para 99).
96. The Department provided the following summary of the Rail Report's findings (AR paras 100 & 101):

It found that, while there is sufficient network capacity to support increased use of rail transport, this capacity is generally not available during the hours of passenger train operation (primarily daytime period). If Martins Creek Quarry was used to load aggregate for the general construction industry, then evening and night-time loading would be essential. Similarly, rail distribution into the Sydney market would only be feasible with the ability to load trains on a 24 / 7 basis. The viability of selling products into the Sydney market would also be contingent on the quarry being able to accommodate longer trains and to secure access to suitable train paths and unloading facilities. The design of the Project reflects these requirements.

The study also found that the option of transferring aggregate output from road to rail in the Hunter Region would not be viable, due to the large number of individual customers and the small volumes being delivered to each destination. To enable a rail-based logistics option to be competitive in the local market, the market share and size would have to allow a throughput more than the Project's total proposed annual production.

97. The Department states that it considers "an appropriate mix of road and rail transportation options have been incorporated into the Project to balance road haulage related impacts on the community with the viability of the quarry" (AR para 105).
98. The Commission asked (Commission's Request) why it should not impose a condition requiring a greater proportion of product to be transported by rail, considering the proposed works to be undertaken to the rail siding. The Applicant's Response (p.14) stated:

The Martins Creek Quarry is an important resource for supply of Hunter Region construction materials. At this time, there is no viable rail unloading facility to enable rail haulage for regional supply, effectively resulting in no immediate market availability to the region via rail distribution. In the event that there was such a facility available, this would not avoid the need for an element of road haulage given the

need to deliver product across the region. Other quarries in the state that distribute their materials by rail, still have to reload onto trucks to deliver to market.

99. The Department confirmed that it considers the Applicant has demonstrated that the transportation of quarry products to regional markets by rail is severely constrained and that it accepts the Applicant's position that it is not feasible to undertake quarry operations that would solely rely on rail transportation. The Department stated that an appropriate mix of road and rail transportation has been incorporated into the Project design and that the Commission should not impose a condition requiring a greater portion of product to be transported by rail (Department's Response, p.4).

Commission's Findings

100. As per the Revised Application, the Applicant now proposes transportation of up to 450,000 tpa of quarry product by road. The Commission observes that the Project would result in an increase of approximately 300,000 tpa of quarry product transported by road, when compared to the existing approved annual road transportation limit, as determined by the LEC (see AR para 69).
101. The Commission notes the Department's consideration of alternative road haulage options (AR para 73) and accepts the Department's finding that alternative road haulage options, including the option of bypassing Paterson (noting that there are no available options to directly bypass Paterson), would be longer, could have unsuitable roads and involve passing through other villages, shifting potential traffic and amenity impacts to multiple other villages.
102. The Commission also notes that the Revised Application proposed a reduction of 50,000 tpa of quarry product by road (that is, up to 450,000 tpa of quarry product being transported by road for a period of 25 years should the Project be approved). The Commission accepts that this was an effort by the Applicant to further mitigate impacts associated with road haulage.
103. However, the Commission finds that the only way to appropriately address the impacts associated with the proposed road transportation of 450,000 tpa of quarry product from the Site over 25 years would be to significantly reduce or remove the quantum of product transported by road. In the absence of such, the Commission concludes that the haulage of quarry products along the primary haulage route at the proposed rate, and in particular through the township of Paterson, will have unreasonable and unacceptable impacts on the community for 25 years.

Amenity

104. As identified above, the peak cumulative quarry truck movements through Paterson each weekday could be in excess of 160 movements, with a higher proportion of activity occurring between 7 am and 3 pm. The Commission notes this does not include other heavy vehicle movements. Notwithstanding the findings of the TIA, and the Department's position on noise impacts from heavy vehicle movements along the primary haulage route, given the nature of the carriageway and the close proximity of both commercial and residential premises, the Commission is not satisfied that intermittent adverse noise impacts will not occur for those living and working near the carriageway and those using the footpaths.

105. Both the Applicant and the Department consider that the Project related increase in road noise would be less than 2dB and that the *NSW Road Noise Policy* states that 'road noise level increases of up to 2dB are considered barely perceptible to the average person' (AR para 144, the Commission). From a practical perspective, the Commission notes that the *NSW Road Noise Policy* is not completely determinative of whether an acoustic impact of a development is acceptable. The Commission considers that a significant increase in heavy vehicle movements every hour from 7 am to 3 pm during the week is likely perceptible with intermittent and adverse noise impacts on those receivers closest to the carriageway, and furthermore, these impacts will persist for 25 years.

Road and pedestrian safety

106. Significant concern was raised by the community in submissions and at the public meeting regarding road and pedestrian safety. Key concerns included sharing the roads with heavy vehicles, safe access to bus stops, and crossing the haulage route in residential and commercial areas. While acknowledging the Department's position in relation to accident data, the Commission does not have any certainty on how such a significant increase in heavy vehicle movements along the primary haul route would affect the risk profile.
107. The Commission is also of the view that residual and unacceptable risks to pedestrians would persist along the route, and in particular in and around Paterson. The predicted increase in heavy vehicle numbers would make it difficult and dangerous to cross the road to access other services, especially for the young and less mobile. This is discussed in more detail in Section 5.2.

Commission's conclusion

108. The Commission has carefully considered whether conditions could be imposed to manage the identified impacts particularly those impacts associated with road haulage. The Commission concludes that these adverse impacts cannot be sufficiently managed through the imposition of conditions.
109. The Commission finds that the cumulative impacts of the Project, in particular the impacts of the proposed road haulage volumes are, on balance, not in the public interest, particularly given the 25-year period over which the impacts would be experienced.
110. With respect to the proposed new access road, the Commission agrees with the Department that the new access road would provide for improved access to the quarry (AR para 83). The proposed new access road is not a matter that contributes to the Commission's reasons for refusal and the Commission notes that if the Application were to be determined to be approved, the new road access would be an essential element of the Application.

5.2 Social Impacts

111. In its assessment of the Application, the Commission has found that the social impacts of the Project are inextricably linked to the proposed road transportation of quarry product and the impact on the community of Paterson, and to a lesser extent Bolwarra and Bolwarra Heights. As such, the Commission's consideration of the Project's social impacts, and the Commission's findings in this regard, are interrelated to those outlined at section 5.1 above.

112. Before outlining the Commission's specific findings on this matter, the Commission notes that it is clear that the social impacts of the Project are a key concern for the community. Below, the Commission will outline the Applicant, the Department and the community's position with respect to the social impacts of the Project as it was originally referred to the Commission. The Commission will then outline its views on the Applicant's proposed revisions and provide its findings in this regard.
113. The Applicant submitted a Social and Economic Assessment dated 15 June 2016 and a Stakeholder Consultation Issues Report dated 7 July 2016 as part of the Original Project application, both prepared by Monteath Powys. When the Application was amended in 2021, the Applicant submitted a Social Impact Assessment prepared by Umwelt and dated May 2021 (**SIA**) with the Amended Application.
114. A review of the Applicant's SIA was commissioned by the MCQAG and prepared by Dr Hedda Askland and Dr Louise Askew, dated 29 July 2021. This review raised concerns regarding whether the 'lived experiences' of the local community during the previous unlawful operation of the quarry had been properly considered and whether the social impacts may have been underestimated (AR para 183).
115. A review of the Applicant's SIA was also commissioned by DSC and prepared by Judith Stubbs & Associates, dated 1 September 2021, and this review was provided as part of DSC's submission to the Commission dated 15 November 2022. DSC's review identified numerous concerns about the SIA, stating that the findings and conclusions of the SIA could not be relied upon and concluding that the adverse social impacts outweigh the positive social impacts (Council Submission 2022).
116. The Applicant's SIA was also reviewed by the Department's in-house social impact assessment experts. The review found that the SIA was based on a thorough, inclusive, and meaningful community and stakeholder engagement program, which represented leading practice in social impact assessment and was completed with due consideration of the guiding principles set out in the SIA Guideline (AR para 184).
117. The Applicant proposed a number of mitigation and management strategies (outlined at AR para 186) including financial and economic contributions to the wider community and ongoing community engagement through the implementation of a Community Engagement Strategy and re-establishment of a Community Consultative Committee for the Project.
118. The Commission heard from community members at the Public Meeting and in written submissions who shared their concerns in relation to the potential social impacts of the Project. Community members emphasised their lived experience in relation to the transportation of quarry products by road and their ongoing concerns in relation to the proposed truck movements through the communities along the primary haulage route.
119. Concerns were raised in relation to pedestrian and vehicle road safety, the acoustic impacts of quarry truck movements, and impacts to general residential amenity. These concerns were raised with specific reference to the proposed truck haulage volume and movements as well as the potential cumulative impacts of all vehicle movements related to the Project, in particular heavy vehicle movements in general.
120. The Commission recognises the concerns raised by the community and acknowledges that the concerns primarily relate to social impacts arising from the proposed road transportation of quarry materials.

121. As part of its request, the Commission asked how the recommended conditions would ensure that those most directly impacted by road transport are targeted by the proposed mitigation measures, including but not limited to social impact mitigation measures. The Commission notes that as part of its response, the Applicant proposed to revise the Application (as previously outlined at section 2.3.3 above), reducing the proposed daily and hourly truck movements. With respect to the recommended conditions, the Applicant states (Applicant's Response, p.25):

The recommended conditions are considered best practice conditions of consent and provide Daracon and the community certainty in relation to the limits of the Project. Importantly, the recommended conditions have captured many of the key commitments from Daracon in relation key mitigation measures intended to improve social impacts

122. The Department, in its response to the Commission's Request, identifies "that those most directly impacted by road transportation from the Project are the individuals living or working along or regularly using the proposed primary haulage route. This includes residents, businesses, motor vehicle operators, cyclists and pedestrians" (Department's Response, p.6). The Department goes on to state (Department's Response, p.6):

the Department's recommended conditions require that the Project is undertaken in accordance with the description of the Project and the proposed mitigation measures committed to by the Applicant in the Amended DA and the supplementary information provided to the Department during its assessment of the proposal. This includes requiring that the road haulage activities, road upgrades and traffic, noise, air quality, social and other amenity impact mitigation measures are undertaken as described in this documentation. Where necessary, the Department's recommended conditions also establish specific and targeted operating parameters and management requirements to mitigate road transportation impacts for those most affected.

123. The Commission also asked the Department to explain how intergenerational factors have been measured over the life of the Project, noting the 25-year life of the proposal, and particularly taking into consideration the proposed number of truck movements through the towns along the primary haulage route and the impact of these truck movements on the amenity and character of these communities.

124. In its response, that Applicant stated (Applicant's Response, p.20):

It is understood that perceived impacts of the community are influenced by the 'lived experiences' of residents' along the haul route. This must however be put into context. The 'lived experiences' referenced generally relate to the operations during 2014 which Daracon has acknowledged was unacceptable... Based on consultation feedback and residents' testimony, the 'lived experience' during the Railcorp road haulage was acceptable.

In relation to the now proposed road haulage limits... there would be minimal change to amenity beyond what has been previously experienced by the residents along the haul route during RailCorp operations. In fact, given the reduced haulage rates and extensive suite of management and mitigation measures proposed by Daracon, the impacts are likely to be less than what has been experienced during the 2002 to 2011 period in which RailCorp operated at similar or higher haulage rates.

125. The Department, in its response to the same question, stated (Department's Response, p.5):

The fears, values and aspirations of the community were important considerations during the assessment process, particularly during the assessment of the social impacts of the Project. The Department understands that the community's perception of the future impacts of the Project on the amenity and character of towns

and residential development along the proposed haulage route has been shaped in part by the 'lived experience' of impacts from the existing quarry. The Department acknowledges this 'lived experience' and accepts that the Project would continue to impact the amenity and character of these areas. However, when assessed and evaluated in the context of relevant State and Commonwealth policies, standards and guidelines, the Department has found that the future impacts of the Project would be acceptable, subject to the Applicant's proposed mitigation measures and the Department's recommended conditions of consent.

126. The Commission received submissions from the community on the Department's Response and the Applicant's Response, many of which noted that despite the proposed reduction in the road haulage volume and frequency of truck movements, they maintained their opposition to the Project.
127. The Commission notes that, in response to the Applicant's statement that "Based on consultation feedback and residents' testimony, the 'lived experience' during the Railcorp road haulage was acceptable" (see paragraph 124 above), the MCQAG submitted that "This is simply untrue and does not reflect the complaints between 2003 to 2010 to Railcorp as detailed in the MCQAG 2022 Submission" (MCQAG Submission to Commission, dated 31 January 2023, pp.15-16).

Commission's Findings

128. The SIA identified the most significant (high) social risks, based on the consideration of both stakeholder perceptions (as presented at above at Figure 1) and mitigated technical risk analysis, to be:
- impacts on social amenity associated with haulage of proposed volume of quarry product by road, truck and traffic movement and flow on impacts such as increases in noise, changes to air quality, local road infrastructure and potential for interactions with the public;
 - impacts on social amenity associated directly with onsite quarry site operations such as air quality, noise, blasting and vibration;
 - changes to sense of community including rural amenity, character of the locality and how people went about their lives due to truck movements and onsite activities at the quarry;and
 - trust in the decision-making processes, Daracon and associated engagement activities.
129. Other issues identified related to property damage and property prices (personal and property rights), economic impacts such as perceived impacts on livelihoods and possible economic opportunities associated with employment and the application and use of the quarry resource, and concerns regarding health and wellbeing, largely mental health impacts for some community members due to increased stress and anxiety.
130. A sense of place and community is generated in public places where people gather together, relax, celebrate and contemplate as well as work, participate in civic life, learn and exchange. Places that are communal and accessible and provide opportunities for social connection are therefore important to the community's well-being. Main streets, especially in small and relatively remote towns such as Paterson, which has a population of approximately 1,000 people, are significant contributors to the community and civic life.

131. The Commission is of the view that the proposed haulage of product by road along the primary haulage route through Paterson and to a lesser degree Bolwarra and Bolwarra Heights, will ultimately tip the balance (taking into consideration existing heavy vehicle movements) and change the place function of these areas to a movement corridor for heavy vehicles for a period of 25 years and potentially longer. This is because the proposed hours of operation between 6:45 am and 6 pm weekdays include the key business and trading hours during which most people would expect to conduct shopping and other trips to town. It is also during these times that children access school buses along the primary haulage route and within Paterson.
132. The use by residents of the main street of Paterson for day-to-day activities (i.e., the place function of the town) fosters the development and maintenance of the community's social connections, trust, and resilience. These social connections and trust between residents are likely to be fundamental contributors to the resilience and neighbourliness of the town's residents.
133. The SIA details the local sense of community as follows:
With residents describing their as tight-knit' with a strong sense of communal spirit and mutual support. When asked to describe what they value about living in the area SIA participants noted 'rural village amenity', 'sense of community', 'character' and 'connectedness' as important. Given the strong social networks in the community, in relation to the Revised Project there were also concerns held for community members considered more vulnerable within the community, including children and the elderly." "with residents describing their communities as 'tight-knit.'s constraints, and limitations on haulage by rail.
134. The consequence of a significant increase in heavy vehicle movements will result in people choosing other places to undertake day-to-day activities, and subsequently, local social connections will be lost. This will result in flow-on adverse impacts on the local sense of community and people's well-being as well as fewer visits to the town, with flow-on effects for economic viability. The loss of local amenity would also include impacts to the appeal and marketability of the town as a tourist and accommodation destination for those visiting the Hunter Valley's cellar door and other attractions.
135. The Commission acknowledges that the mediation of impacts and benefits of both movement and place functions are contestable and complex. The resolution of an appropriate balance between the movement and place function for a small-town main street such as Paterson warrants a focus on the place functions of the street and the value these place functions deliver for the town and the wider community, particularly in relation to health and well-being and social cohesion and resilience.
136. The place functions of the main street of Paterson could be maintained if an alternative route could be identified to accommodate the additional movement function required by the proposed development. Unfortunately, this is not possible due to the constraints of the existing road network.
137. The Applicant has proposed mitigation measures including a reduction in peak volumes of product hauled by road, and potentially an increased use of rail. However, the Commission does not consider that these are likely to sufficiently diminish the likely and perceived social impacts on way of life, sense of community, livelihoods, and health and well-being of the community.
138. The Commission has also carefully considered the conditions recommended by the Department including the need for a Social Impact Management Plan (SIMP) and the establishment of a Community Consultative Committee (CCC). The Commission is of the view that these measures are unlikely to sufficiently manage and mitigate the social impacts to the point that they would prevent the loss of social cohesion in Paterson.

139. In conclusion, the Commission considers that the proposal will have an adverse and unacceptable social impact on the township of Paterson, and to a lesser extent Bolwarra and Bolwarra Heights given that:
- the proposed road haulage movements for 11 hours per day 5 days per week for 25 years is inconsistent with the maintenance of street life, social connection and community cohesion;
 - the predicted changes to place characteristics and amenity of the affected areas, in particular Paterson, are high and unmitigable resulting in adverse consequences for livelihoods and the economic viability of the township;
 - these adverse impacts will be borne by the community for 25 years which is equivalent to a generation; and
 - the potential for conditions of consent to diminish these social impacts to acceptable levels is highly uncertain.

5.3 Economics

140. The Commission acknowledges that that the Project would provide for approximately 120 construction jobs and approximately 22 full time equivalent employees when the quarry is operating at full capacity and would provide a potential net benefit to NSW of up to \$58 million in net present value (NPV) terms. The Commission also agrees with the Department that a key economic benefit of the Project would be the continued supply of high-quality construction materials to facilitate housing and infrastructure development in the Hunter, Central Coast and Sydney Regions.
141. Further to the above, the Commission also acknowledges the concerns raised in public submissions regarding the Project's impact on local businesses and tourism as a result of Project truck movements.
142. The Commission finds that on balance and when weighed against the Project's traffic impacts set out in section 5.1 above, the possible net economic benefit does not warrant the grant of consent to the Application.

5.4 Noise

Construction, Operational and Non-Network Rail Noise

143. The Applicant's NIA addresses the relevant noise policy and guidelines outlined in AR paragraph 116 for construction, non-network rail and operational noise.
144. The Department notes the following in relation to these noise impacts:
- During construction, 31 receivers would be 'affected' by construction noise levels exceeding 45db(A), noting that no receiver would be highly 'affected' by construction (AR para 149). The Department also notes that construction works will be temporary and will assist in reducing the Application's ongoing operational noise impacts on sensitive receivers (AR para 149).
 - Trains entering and leaving the quarry via the quarry's rail spur are intended to be limited to two pass-by events during the evening period and two during the night-time period to ensure the Recommended Maximum LAeq noise levels would not be exceeded (AR para 114). The Department considers 'a small number of typically 130-second duration train pass-by events would represent an acceptable level of impact when spread over the course of an evening and/or night-time period' (AR para 114).

- During the quarry's daytime operation, the Department notes that the initial Year 2 noise level predictions indicated noise exceedances in scenarios with and without the existing rail loading facility operating (AR para 124). The Department also notes operational noise impacts during the evening shoulder period would be associated with the arrival and loading of 10 trucks between 6pm and 7pm Monday to Friday (AR para 128).
145. The Commission notes the mitigation measures recommended by the Applicant's NIA and the Department's recommended conditions (AR para 153), including the construction of a 4m high noise barrier prior to daytime train loading operations exceeding current approved limits (AR para 126), and restriction of truck arrivals during the evening shoulder period until the commissioning of a new access road (AR para 129).
146. The Commission agrees with the Department that, if it had determined to grant consent to the Application, construction, operational and non-network rail noise impacts to surrounding receivers are reasonably capable of being managed. As such, issues associated with construction, operational and non-network rail noise were not considered to be reasons for refusal of the Application.

5.5 Other Issues

5.5.1 Water Resources

147. The Commission agrees with the Department that the predicted groundwater impacts of the Project are largely unavoidable due to the location of the resource within a hard rock aquifer. However, predicted impacts would be very localised and limited to a 'less productive' aquifer.
148. The Project has been assessed as complying with the Level 1 minimal impact considerations under the *NSW Aquifer Interference Policy* at all privately-owned groundwater bores (AR para 220). The Commission agrees with the Department that this is acceptable.
149. The Commission agrees with the Department and DPE Water that, based on the predicted seepage rates set out in the Applicant's Groundwater Impact Assessment, the Applicant already holds sufficient licensed groundwater entitlement for the Project.
150. The Commission agrees with the Department that the Project would not lead to significant surface water impacts beyond those already experienced during development of the current quarry, subject to the implementation of the mitigation and management measures that the Applicant has proposed. The Commission finds that the risk of significant negative impacts to surface water and groundwater resources are low and that the Project could be suitably managed through conditions of consent.
151. The impacts on water resources were considered by the Commission and were not considered to be a reason for refusal of the Application.

5.5.2 Air Quality and Greenhouse Gas Emissions

152. The Applicant submitted an Air Quality Impact Assessment (**AQIA**) prepared by Jacobs. Following stakeholder feedback, the Applicant revised the AQIA in its RtS (AR para 162).
153. The Department engaged Simon Welchman of Katestone Environmental Pty Ltd to undertake an independent specialist review of the AQIA (**AQIA Review**) (AR para 166).

154. The Applicant has proposed a number of mitigation measures, including operational controls and a monitoring, evaluation and response, as outlined at AR paragraph 177.
155. With respect to operational air quality, paragraphs 168 to 175 of the Department's AR provide a summary of the operational air quality factors. The Commission notes that this includes one predicted exceedance of the EPA's cumulative 24-hour PM₁₀ air quality assessment criterion at receptor R1 in Year 20 of operations (AR para 179).
156. With respect to construction air quality, the Department notes that it considers that these impacts would be temporary and localised and could be appropriately managed through the Applicant's proposed mitigation and management measures (AR para 176).
157. After consideration of additional information provided by the Applicant, the AQIA Review concluded that the methodology adopted for the AQIA was appropriate (AR para 166).
158. The Commission notes that the EPA also sought additional information from the Applicant and, following review of this information, advised that its concerns with the AQIA had been adequately addressed, providing recommendations to be incorporated into the conditions of consent (AR paras 167 and 178).
159. The Commission received submissions from local residents highlighting that the expansion of the quarry would increase dust and air pollution.
160. The Commission notes that the Department and the EPA accept that the PM₁₀ exceedance at R1 in Year 20 could be eliminated through implementation of the Applicant's proposed air quality management system (AR para 179). The Commission agrees with the Department that the air quality impacts of the Project are acceptable (AR para 180) and that the Project could be suitably managed through conditions of consent.
161. The impacts on air quality were considered by the Commission and were not considered to be a reason for refusal of the Application.

Greenhouse Gas Emissions

162. The Project would generate greenhouse gas emissions (**GHGEs**) through the use of purchased electricity and combustion of fuels associated with machinery, processing equipment and transportation (AR Table 6-17). The Applicant has proposed "to minimise GHGEs by implementing energy efficiency initiatives, optimising productivity, undertaking effective maintenance of plant and equipment and considering new technologies as they become available." (AR Table 6-17).
163. The Commission agrees with the Department that the GHGE impacts of the Project are not significant and are capable of being managed to acceptable standards (AR Table 6-17).
164. GHGE impacts were considered by the Commission and were not considered to be a reason for refusal of the Application.

5.5.3 Blasting

165. The Applicant has proposed a number of measures to mitigate blast impacts on surrounding sensitive receivers, including (AR Table 6-17):
- Limiting blasting to be undertaken between 11:00am and 3:00pm Monday – Friday, with no blasting on weekends or public holidays;
 - Independent blast monitoring;
 - Preparing and implementing a blast management plan; and
 - Notifying residents of planned blast times.

166. The Commission agrees with the Department that, subject to the recommended conditions, the Project's blasting impacts are acceptable (AR Table 6-17).
167. The impacts of blasting were considered by the Commission and were not considered to be a reason for refusal of the Application.

5.5.4 Visual Amenity

168. The quarry is an existing feature of the landscape, having been established in 1914. The Applicant's EIS was accompanied by a Landscape and Visual Impact Assessment (LVIA) prepared by Moir Landscape Architects and further visual analysis was conducted as part of the Amended Application.
169. The LVIA found that there are limited views of the quarry available to the west from residential properties along Station Street and from elevated locations along Gresford Road however, views of the existing quarry are generally restricted due to vegetation and/or topography (AR Table 6-17).
170. The Applicant states that the primary visual impact of the Amended Application "is that views of the quarry are limited to the west, from residential properties along Station Street and from elevated locations along Gresford Road (refer to Section 6.17 of the ADA Report). These views are typically filtered by vegetation or undulating topography" (RtS, p.240). Additional visual impacts include views of the proposed noise control bunding along Station Street (visible from residences along Station Street), and the new access road off Dungog Road (visible to road uses and nearby residences).
171. The Commission agrees with the Department that views of the proposed noise control bunding would be mitigated by vegetation screen planting and would not be inconsistent with the existing visual landscape in the area, and that the new access road would be in keeping with the existing road infrastructure and is not expected to have a significant impact on the visual amenity of the area.
172. The Commission agrees with the Department that lighting impacts would largely be mitigated by directing lighting from surrounding residences (AR Table 6-17).
173. The visual impacts of the Application were considered by the Commission and were not considered to be a reason of refusal of the Application.

5.5.5 Biodiversity

174. The quarry has an existing disturbance footprint of 48.6 hectares and the Project would result in the total disturbance of 66 hectares (AR para 224). Biodiversity impacts from the Project potentially "include loss of native vegetation and fauna habitats, habitat fragmentation or isolation, altered hydrology regimes and the potential incremental decline in quality and extent of habitat during construction and operation" (AR para 102).
175. The Applicant submitted a Biodiversity Assessment Report prepared by Conacher Consulting and dated May 2021 with the Amended Application (**BAR**). Following the provision of additional information, the Biodiversity Conservation Division of the Department and the Department "are both satisfied that the BAR and additional information have been prepared in accordance with relevant guidelines and policies and are adequate for assessing the biodiversity impacts and offsetting requirements for the Project" (AR para 229).

176. There are four Plant Community Types within the disturbance area that generate ecosystem credits that would require offsetting, including one which is listed as Vulnerable under the *Biodiversity Conservation Act 2016* (AR para 230). The four Plant Type Communities also provide habitat for three species-credit threatened fauna species (AR para 231). This includes two EPBC Act listed species and habitats, *Eucalyptus glaucina* (Slaty Red Gum); and *Phascolarctos cinereus* (Koala). The Department's AR identifies the extent of the Project's impacts on these communities and species-credit threatened fauna species and the associated biodiversity credits required to offset these impacts (AR Table 6-15)
177. The Applicant has proposed mitigation measures, outlined at paragraph 235 of the AR and, to offset the residual biodiversity impacts, proposes to implement a Biodiversity Offset Strategy (AR para 105).
178. The Department states that biodiversity impacts have been adequately avoided through minimising disturbance and maximising the use of existing disturbed area (AR para 234).
179. The Commission acknowledges it received a number of submissions that raised concerns with the impacts the Project would have on biodiversity and habitat loss. Some submissions raised concerns specifically regarding koala habitat loss.
180. The Commission agrees with the Department that the proposed Biodiversity Offset Strategy and retirement of ecosystem and species credits in accordance with the *Biodiversity Conservation Act 2016* and the EPBC Act would suitably mitigate, manage and/or offset the impacts to biodiversity values at the Site and that overall, the Project's impacts to biodiversity are acceptable (AR para 251).
181. The biodiversity impacts of the Application were considered by the Commission and were not considered to be a reason of refusal of the Application.

5.5.6 Rehabilitation and Final Landform

182. The Applicant's proposed "final landform would primarily consist of vertical batter face slopes, horizontal benches, flat or gently sloping quarry floor areas, two pit void lakes (the West Pit Void and East Pit Void) and water areas retained for sediment control and hydrological balance purposes" (AR para 255). The Applicant has also proposed to undertake progressive rehabilitation which would begin within approximately two years of any consent and continue throughout the life of the Project (AR para 260).
183. The Commission notes the Department's acknowledgement "that the timing of rehabilitation would be dependent on the rate of resource extraction in each area and the final levels of the quarry floor" (AR para 260).
184. The Biodiversity Conservation Division of the Department recommended that development of a preliminary rehabilitation design should be included as a condition of consent, and that the rehabilitation design should consider "the hydrological and hydraulic impacts of including permanent voids in the landscape and includes proposed actions to respond to any decline in riparian health" (AR para 262).
185. The Commission has considered the proposed rehabilitation and final landform and agrees with the Department that the Project area is capable of being rehabilitated to achieve an appropriate final landform and rehabilitation outcomes (AR para 265) and considers that the undertaking of progressive rehabilitation would be beneficial for the Site. Accordingly, rehabilitation and final landform were not considered to be a reason for refusal.

5.5.7 Heritage

Aboriginal Cultural Heritage

186. The EIS was accompanied by an Aboriginal Cultural Heritage Assessment Report prepared by Niche Environment and Heritage in consultation with the Registered Aboriginal Parties. The Aboriginal Cultural Heritage Assessment Report concluded that it would be unlikely that the quarry would harm any known Aboriginal objects or cultural heritage values (AR Table 6-17).
187. The Commission has considered the Project's impacts to Aboriginal cultural heritage and agrees with the Department that the Project is likely to have low potential for adverse impacts to Aboriginal cultural heritage. Accordingly, impacts to Aboriginal cultural heritage were not considered to be a reason for refusal.

Historic Heritage

188. The EIS was accompanied by a Historical Heritage Assessment prepared by Niche Environment and Heritage. With respect to heritage items located on and in the vicinity of the site, 'Martins Creek railway buildings and quarry' (item of local significance under Dungog LEP) is mapped as partially overlapping with the southern part of the Site. 'Martins Creek Railway Station' (listed on the NSW State Heritage Inventory) and 'St James Church' (item of local significance under Dungog LEP) are heritage items located in proximity to the Site, to the south.
189. With respect to heritage items located along the proposed haul route, 'Gostwyck Bridge' is listed as a heritage item on the NSW State Heritage Inventory, Dungog LEP and the TfNSW Section 170 Heritage Register (Gostwyck Bridge Report, p.7) and will be utilised by heavy vehicles to transport quarry material. In addition, the haul route passes through Paterson Village which is listed as a heritage conservation area of local significance.
190. Heritage NSW, in its submissions to the Department, raised no objection to the proposal and provided limited comments, confirming that the Project is not expected to have any adverse physical or visual impacts to the items of the State Heritage Register (AR Table 6-17). In its submission to the Department dated 30 July 2021, Dungog Council note that it remains concerned "concerned about the impacts of heavy truck movements through Paterson and the impact that this may have on the character of the Heritage Conservation area and its impact on residents, tourists and visitors" (Dungog Council Submission, p.7).
191. The Commission received written submissions, and heard comments at the Public Meeting, that raised concern in relation to the impacts of the road transportation of quarry materials to the amenity and heritage values of the Paterson Village heritage conservation area and Gostwyck Bridge.
192. The Commission agrees with the Department that there is low potential for adverse impacts to historic heritage from the Project (AR, Table 6-17).
193. The historic heritage impacts of the Application were considered by the Commission and were not considered to be a reason of refusal of the Application.

6. The Commission's Findings and Determination

195. The Commission has carefully considered the Material before it as set out in section 3.1 of this Statement of Reasons. In addition, the views of the community were expressed through public submissions as well as in oral presentations to the Commission at the Public Meeting. The Commission carefully considered all of these views as part of making its decision.
196. The Commission has given considerable thought to the traffic and transport, public amenity, social, and economic impacts of the Application. The Commission has considered the Applicant's latest reductions in road haulage numbers (the Revised Application) in its deliberations.
197. The Commission has considered whether the grant of consent to the Project is in the public interest. In doing so, the Commission has weighed the predicted benefits of the Project against its predicted negative impacts.
198. The Commission recognises the strategic benefits the quarry would provide and is of the view that the Project's proposed extraction and processing of up to 1.1 Mtpa over a 25-year period could be appropriately managed on the Site subject to relevant conditions of consent. However, the Commission does not consider that the strategic merit and economic benefits that would result from the proposal outweigh the adverse amenity, safety and social impacts resulting from the proposed road haulage of quarry product along the primary haulage route for 25 years, particularly through Paterson and to a lesser degree at Bolwarra and Bolwarra Heights.
199. The Commission's consideration of the public interest has also been informed by consideration of the principles of ESD (principally, inter-generational equity), as discussed above. The Commission finds that, even under the Revised Application, the impacts of the Project, including the transportation of up to 450,000 tpa of quarry product by road from the Site for a period of 25 years would have unreasonable and unacceptable impacts to people and communities along the proposed primary haulage route. The Commission could not be satisfied that the adverse amenity and safety impacts associated with the haulage of product by road, and the resulting social implications, could be effectively mitigated with sufficient certainty through the imposition of conditions.
200. Overall, the Commission finds that, on balance, the Project would not achieve an appropriate balance between relevant environmental, economic and social considerations and that approval of the Project is not in the public interest.
201. Based on its consideration of the Material and the public submissions, the Commission finds that the Application should be refused for the reasons set out in this Statement of Reasons, dated 13 February 2023.



Mr Chris Wilson
(Chair)
Member of the
Commission



Professor Snow
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