

Re: Martins Creek Quarry Project Development Application (SSD 6612)

After reviewing the Martins Creek Quarry Project State Significant Development Assessment SSD 6612 (Assessment Document) and the associated recommended Development Consent Document SSD 6612 (Consent Document) presented on the NSW Government's Independent Planning Commission Web site, we wish to bring the following to the attention of the Independent Planning Commission (Commission) for consideration in making a determination regarding the NSW Government's recommended Development Consent for this project.

We note that the applicant, Buttai Gravel Pty Ltd and its parent company Daracon Group, has been engaged in consultation with the community over a several years concerning the proposed development of the Martins Creek Quarry currently before the Commission.

We together with others in the community have made previous submissions and raised our very real concerns regarding the proposed expansion of the Martins Creek Quarry.

We acknowledge that the applicant has considered and responded to some of our concerns and modified its initial proposed development.

However, in our view, the Assessment Document and the Consent Document do NOT adequately address the concerns of the community. Nor does the recommended Consent Document put in place adequate preventative measures to protect the community from the adverse impacts of the proposed expansion.

Consequently, we strongly object to the expansion of the Martins Creek Quarry as currently proposed.

We are very concerned about the impact the proposed expansion will have on the local environmental particularly noise, air quality, water resources, biodiversity and in due course the effectiveness of environmental rehabilitation of the quarry and affiliated sites.

Those living in and around Martins Creek, Paterson and more generally within the 5-7 km radius of the quarry are best able to identify the impact on them. We expect they will make there own submissions

Our submission raises specific matters pertinent to us and the local communities of Bolwarra Heights, Bolwarra, Lorn, East Maitland and Maitland.

Figure 5-1 in the Assessment Document identifies the key issue for the community as being traffic and transport.

The content of the Assessment Document and the recommended Consent Document each prompt further concern and raise further questions regarding the impact of traffic and transport reported in the Assessment Document and recommended Consent Document.

In this regard we raise the following;

Truck Haulage and Trip Numbers

We recognise that some quarry material needs to be delivered locally and consequently some truck movements are appropriate.

Disappointingly, however, the Assessment Document fails to adequately justify the maximum road haulage and truck movements and fails to balance its consideration of the impact of the recommended consent maximum road haulage on the community.

The applicant's proposed road haulage trip numbers in the Assessment Document (Page 17 Para 66) and those identified in the recommended Consent Document (Page 7 Para A13) are very

worrying given both our personal and the broader community's significant concerns, based on past experience of heavy vehicle truck movements to and from the quarry.

This includes damage to roads and private properties arising from truck vibrations evidenced by repeated distressing loud banging noises (see below) accompanied by rattling and breaking window glass and cracking of ornate and cornice plaster work as trucks pass these properties. The extent of physical damage to the roads, business properties and residential properties (some identified as heritage significant) are expensive to repair and can not be replaced with like for like once damaged. Such damage is proportional to the number and frequency of truck movements, laden and unladen, past these properties.

We note that the recommended Consent Document (Page 23 Para C2-C4) puts the onus on the business or private property owner to lodge a request for mitigation of matters thought to be linked with truck movements associated with the quarry. It does not specify who bears the cost in the first instance of preparing and evidencing the request. Does this fall to the person who privately owns the impacted site? While there are specific conditions in the recommended Consent Document regarding the process for identification of damage associated with quarry activities including truck haulage for those living relatively close to the quarry (Page 17 Para B42), such damage also occurs along the roads further a field such as Paterson Rd at Bolwarra Heights, Bolwarra, Belmore Rd at Lorn, and Maitland and Melbourne St East Maitland.

The challenges for those in these more distant local communities along the proposed primary haulage route and other local roads in establishing the impact at their location are not considered in the Assessment Document.

These include the challenge of ascertaining the contribution of truck movements associated with the quarry on the identified physical damage given there is considerable non-quarry associated vehicles. The capacity of Maitland Council (rate payers) and extent to which it will need to maintain and repair the roads exposed to such high heavy vehicle usage arising from the proposed quarry expansion is not assessed. This is of particular concern given the relatively limited obligations and specified mitigation and remediation costs incumbent on the applicant as stipulated in the recommended Consent Document.

In either case, that the burden of identifying and quantifying the extent of the physical impact of the number of truck movements arising from the proposed expansion of the quarry on properties along the primary haulage route and local roads will likely fall to the local property owners is unreasonable as the property owner is not responsible for or directly benefiting from the truck movements.

There needs to be a clear set of regulations in the Consent Document regarding the obligations and, importantly, the costs that the applicant must contribute to the preparation of the request for and subsequent independent assessment when a local community member raises concerns of damage to property that is suspected by a property owner to be arising from truck movements associated with the quarry.

The proposition in the Assessment Document that the recommended maximum of 500,000 tones of quarry material per annum be transported by road is consistent with 30% of the maximum annual extraction of the previous approval for the quarry, that it is also consistent with previous road haulage between 1993- 2019 and that the quarry has previously operated a trucking rate close to this over the past 18 years (Assessment Document Page 18 Para 69) are, in our view, fundamentally flawed rationals for setting a road haulage amount and trucking rate for 2023 and beyond.

This approach is particularly galling as there is no real consideration or weighting given in the Assessment Document to the adverse impacts and concerns that the community expressed during this period, the change in road usage or conditions over this time or associated repair costs. Nor is there consideration of the concerns or costs to the community in raising its concerns that led the Court to determine that these activities were outside the approval in place during this period even though there is acknowledgement in the Assessment Document of each of these issues and impacts on the community.

The failure of the assessment to factor in the community concerns and changes in road usage when deriving a maximum haulage tonnage per annum and truck movements brings into question the merit of the Assessment Document. The failure to explicitly state and provide relevant and up to date data concerning vehicle usage of the roads (see Page 20 Table 6.2; data is missing for heavy vehicle proportion and the limited reference to assessment of road traffic implications for Brandy Hill SSD5899 approved in 2020 which may not have accounted for an active Martins Creek Quarry as it was inactive during the Bandy Hill Quarry assessment period due to Court orders) when modelling the traffic impact of the proposed expansion inevitably undermines the reliability and accuracy of the modelling.

As residents we can attest to the significant increase in traffic movements along Patterson Rd, Flat Rd and Melbourne St to say nothing of the movements along Belmore Rd, Lorn, and into the Maitland CBD, all of which have clearly increased since 2018-2019 when the Martins Creek Quarry ceased activity.

So significant is the increase in road usage since 2018-2019 that it is now not uncommon to have traffic heading toward Lorn along Paterson Rd backed up and stationary outside our residence in Bolwarra over 2.5 km from the Belmore Bridge/Maitland CBD intersection and concurrently along Pitnacree Rd from Melbourne Street to the junction of Pitnacree Rd and Flat Rd some 1.6 km from Melbourne St in East Maitland during the early morning.

In both the morning and late afternoon traffic movements along Paterson Rd toward Bolwarra Heights and Paterson have increased to the point it is not only difficult and often unsafe to exit our driveway, it is quite unsafe for school children boarding and alighting school buses or for parents with very young children attending the local children's daycare nursery to cross Paterson Rd by foot as there is rarely a break in the stream of traffic traveling along Paterson Rd.

As noted in our previous submissions regarding the impact of the proposed expansion the heavy vehicle movements it was our experience that during 2013-2018, when there were notably fewer non-heavy vehicle traffic movements than is currently the case, a number of traffic accidents and near misses involving heavy vehicles occurred. Clearly increase movements of such vehicles is likely to increase the risk of such events.

We fear what might occur if the proposed expansion of the quarry is approved and the number of heavy vehicle truck movements are increased to that as proposed and noted in the recommended Consent Document. We believe many of these truck movements are NOT necessary and can be avoided for the reasons outlined below.

We acknowledge that, in response to community concerns, the applicant is proposing to make arrangements to use rail to haul quarry material. However, in doing so the Assessment Document indicates that the balance between road haulage and rail haulage, while noting logistic and time tabling challenges regarding accessibility of rail infrastructure for haulage, attributes the primary challenge to the greater use of rail than is proposed is based on 'the viability of selling product in Sydney' (Page 29 Para 100). That is, in effect, the lack of profitability of using rail.

However, it is argued elsewhere that expansion of the quarry is justified in order to meet the market in Sydney (Page 6 Para 13; Page 7 Para 19). The assessment has failed to critically assess the adverse impacts on the local community when using the proposed levels of road haulage over rail haulage.

The Assessment Document only superficially considered options that may be available that would allow the quarry to be profitable while reducing the impact on the community.

For example, the Assessment Document accepts Daracon's position that it is not profitable to use rail haulage (Page 29 Para 105). However, has the applicant explored viability/profitability of rail haulage to other more distant sites in the NSW where quarry material from Martins Creek could be usefully used to reduce the impact of quarrying elsewhere?

The recommended number of road movements reported in the Assessment Document and Consent Document, and thus impact on the community, could be reduced either as a proportion of the total quarried material by increasing the proportion hauled by rail to markets where rail haulage is profitable as suggested above. Alternatively, by reducing the total amount of quarried material extruded from the quarry per annum. The latter would increase the life of the quarry but arguable return profits, making the quarry viable, over the longer term while reducing the adverse impact of truck haulage on the community.

In our view the proposed road haulage and trip movements as reported in the Assessment Document and identified maximums in the recommended Consent Document is **NOT** based on a sound rational nor has there been a balanced and critical consideration given to the very significant impact on residents and road users, including pedestrians such as school children in the local communities of Bolwarra Heights, Bolwarra, Lorn, East Maitland and Maitland and those road users traversing the New England highway between the Pacific Highway and Rutherford.

Further specific concerns arising from the Assessment Document and recommended Consent Document related to road haulage include;

Truck Haulage Times

The assessment of traffic and transport does not include the impact of heavy vehicles moving to or away from the quarry site in regard to the communities of Bolwarra Heights, Bolwarra, Lorn, East Maitland and Maitland.

The recommended Consent Document stipulates quarry vehicles cannot be in Paterson prior to 6:45am Monday to Friday (Page 7 Para A16 Table 1) nor can they commence loading before 7am on Monday to Saturday. However, it has been our experience between 2014 and 2019 when the quarry's activities were ordered to cease that heavy vehicles moving to the quarry commence passing our front door on Patterson Rd in Bolwarra as early as 5:00 am to be at the quarry in time to collect a load as soon as the quarry opened so they can make the return trip to distant sites such as Sydney.

Based on the timelines stipulated in the recommended Consent Document, in order to attend the quarry at opening, we expect truck movements past our residence at 6:30am but probably earlier as the haulage trucks, particularly subcontractors, compete for first access to the quarry site at 7:00am.

We expect based on previous behaviour that although the recommended Consent Document prohibits attendance at Paterson before 6:45am the heavy vehicles will approach, park and queue outside Paterson in readiness for access to Paterson and then the quarry for 7:00 am. This will lead to trucks passing our front door in Bolwarra, and all the associated intrusive consequences impacting us possibly as early as 5:30am.

Vehicles leaving the quarry at the 7:00pm, being the last load as per the recommended Consent Document, would not pass through Bolwarra until 7:30pm.

The additional heavy vehicle movements arising from the proposed quarry expansion as stipulated in the recommended Consent Document will increase the impact of heavy vehicles on our local community over at least 14 hours of the day, each day of the working week, over the entire year with a few identified exceptions. There is scant assessment and consideration of this in the Assessment Document and no preventative measures identified in the recommended consent document.

Haulage Truck Route

We note the advice in the Assessment Document that the applicant has proposed a primary road haulage route of road travel from the quarry to delivery sites beyond Maitland (Page 4 Figure 2-2 Assessment Report) that incorporate recommendations proposed by the community that would, importantly, direct truck movements away from the built up communities of Bolwarra, Lorn and Maitland's Belmore Bridge CBD access.

However, we note the Assessment Document acknowledges that other 'local' roads (Page 17 Para 65) would be used.

While we note in the recommended Consent Document that a traffic management plan is a requirement of the Consent Document (Page 17 B44 (c) 1), that a Driver's Code of Conduct is to have a provision to ensure that drivers 'adhere to designated transport routes and travel times' (Page 18 Para B44 (d) ii)), and that a primary haulage route has been identified (Page 4 Figure 2-2 Assessment Report), an *a priori* set of enforceable specific plans for the haulage routes is not part of the the recommended Consent Document. This is particularly concerning given the number and timing of truck movements identified in the recommended Consent Document.

While a code of conduct for heavy vehicles attending the quarry has been proposed it lacks any significant incentive to observe them likely resulting in them being ineffective.

We also note that the efficacy of self regulation involving codes of conduct are a contentious instrument for regulating and preventing potential impacts or adverse events particularly when the code of conduct is being imposed on persons not employed by the body responsible for managing the code of conduct. In this case, this would involve an unknown number of sub-contractors and other persons driving haulage trucks who are not not employed by the applicant. This and the possible consequences have not been addressed in the Assessment Document or adequately regulated in the recommended Consent Document.

The lack of a specific haulage route plan raises significant concerns as the recommended Consent Document fails to ensure that community concerns are addressed regarding the impact of the significant number of truck movements relative to road use other than the identified proposed primary haulage route.

Furthermore, as noted above, that the Assessment Document has utilised out of date and incomplete data to model traffic movements and flows compounds these concerns.

We note that the Assessment Document has reported the impact of daily traffic flows (Page 20) stating in paragraph 78 that the signalled intersections of Pitnacree Rd/Melbourne St/Laws St and Melbourne St/New England Hwy are predicted to deteriorate to the worst performance level by 2028.

However, there is no requirement on the applicant to prevent this from occurring or how the applicant will mitigate the impact of the heavy vehicles associated with the proposed quarry expansion.

Without up to date data sets how can the true timing and extent of adverse impacts of the recommended maximum truck movements through this intersection or elsewhere be determined given that a specific haulage route plan is not part of the Consent Document but rather a 'yet to be developed' requirement?

Furthermore, the Assessment Document does not address the need for upgrading of the intersection at Melbourne St and Pitnacree Rd, or elsewhere, which will be required to mitigate the impact of the increased traffic associated with the increased heavy vehicle traffic arising from the proposed quarry expansion.

Mitigation of adverse impact of the number of heavy vehicle traffic movements proposed in the Assessment Document and recommended Consent Document at this intersection alone may be very expensive as it will likely require alterations to existing intersection and or acquisition of land and property plus costs to build suitable additional road and pedestrian pathway(s) to deal with this increased heavy traffic flow. Who will fund the expensive costs arising from this additional quarry expansion traffic usage of these roadways and intersections? What cost will be born by the applicant?

It is incomprehensible that a consent document fails to stipulate an obligation on the applicant to provide specific funding for such major works to address a known impact with such broad implications for the community.

Noise

We note that noise associated with various activities in NSW is restricted and not permitted before 7:00am and 8:00pm in NSW.

Nevertheless, trucks passing our front door continuously through out the day but particularly at 5:30am and 7:30pm generate 'offensive noise' (as defined in the NSW *Protection of the Environment Operations Act 1997*) arising in particular from loud tailgate banging when passing over misaligned joints (hot mix junctions) in the road surface and or pot-holes as well as the use of their air brakes. As I sit in my residence prepare this submission this is currently occurring every 10 minutes, presumably due in part to heavy vehicles associated with Brandy Hill Quarry. This intrusive disturbance will only increase if the proposed expansion to Martins Creek Quarry is approved allowing even more significant heavy truck movements along Paterson Rd.

However, the recommended Consent Document will in effect not only permit the 'offensive noise' to occur at our property (and elsewhere along Paterson Rd) Monday to Friday and on Saturdays but also outside periods designated unacceptable when generated by other equipment or devices. This situation is incongruous to us.

Air Pollution

As noted above (Truck Haulage and Trip Numbers) the increase in traffic since 2018 has resulted in stationary idling vehicles outside our home and along Paterson Rd. This results in air pollution that will be significantly exacerbated if the numbers of haulage truck movements are increased to the level proposed in the Assessment Document and recommended Consent Document. This is very concerning as these trucks exude diesel fumes and particulate matter known to be dangerous to human health. This in and of itself should be reason alone for reducing the number of heavy vehicles along Paterson Rd so the impact of diesel pollution on the people residing at properties, attending schools and preschools along Paterson Rd is kept to a minimum.

In Summary

We respectfully put to the Commission that the consequences of approving the current application and recommended Consent Document will expose the communities of Bolwarra Heights, Bolwarra, Lorn, East Maitland and Maitland to well known and preventable adverse events and impacts consequent on the applicants proposed expansion of the Martins Creek Quarry.

The current Assessment Document lacks rigorous assessment of the applicant's proposed expansion of the Martins Creek Quarry and fails to i) critically analyse the impact of the proposed activities on the community and ii) explore additional options and strategies to reduce the adverse impact of heavy vehicle haulage by road.

Furthermore, that aspects of the recommended Consent Document need to be strengthened to ensure prevention, mitigation and appropriate recompense to those members of the community who would be adversely impacted by activities arising from the removal of materials and haulage from the Martins Creek Quarry whether activities at the Quarry are approved with or without an expansion of previous approved activities at the quarry.

It is our view that the community is hesitant to afford the applicant the usual goodwill and presumption of good intent afforded applicants when setting consent parameters in this instance as the community views that the applicant has, over many years, displayed wanton disregard for consent authority in place at the time and thereby imposing significant adverse impact on the local community's safety, health, and quality life.

Of particular concern was the need for the community to engage in lengthy activities to have the applicant behave according to the consent conditions in place at the time. Such was the resistance from the applicant to comply with existing consent that orders had to be made to have the applicant cease their activity at the quarry. Throughout this period, which extended over years, the community continued to be adversely impacted in many ways now well known to the Commission.

Consequently, it is our view that should approval be given to recommence activities at the Martins Creek Quarry, even without the proposed expansion, that the recommended Consent Document needs to be reviewed to address the concerns raised above and make its orders more explicit and amend current timelines incumbent on the applicant to be shortened in order to reduce the time period over which adverse impacts on the community occur without being resolved or orders given to cease the infringing activity and or, if necessary, to cease all activities at the quarry.