



Martins Creek Quarry Action Group Incorporated

Objecting Submission - SSSA-6612

22nd November 2022



Cover Photo:

The historic village and thriving activity centre of Paterson. This village, locality and valley more widely has been long regarded as a place of rural tranquillity with treasured built and natural values and truly unique village amenity. It is these values that have attracted visitors and residents to the area for many hundreds of years. The residents of the entire Paterson Allyn River Valley area treat Paterson as their activity centre and as a meeting place, as a place to socialize, as a place to connect and a place to conduct commerce. Residents, students, visitors, friends and family treasure the things Paterson has to offer; John Tucker Park, Tocal College & Homestead, Historical Society Museum, heritage walking trails, heritage listed properties, Rail Motor Society, golf course, river access, hospitality venues, places of worship and most importantly the rural and village amenity itself. Topographically constrained by rolling andesite hills to the East and West and bounded by the Paterson river, this village is a gateway and stopping point for visitors to the Barrington Tops world heritage listed National Park and the Visit Dungog Horseshoe trail.

It is these values and the impacted community of the area from Martins Creek, Vacy, Paterson, Tocal, Mindarriba, Bolwarra Heights, Bolwarra, Butterwick, Duns Creek, Brandy Hill and East Maitland that are being existentially challenged by this planning proposal.

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Executive Summary

Commissioners, this is a truly unique SSDA Proposal before you.

Likely for the first time in NSW Planning history is it that you are determining an extractive industry proposal where the proposed **hourly, daily, weekly, monthly and annual** scale and intensity of operations have already occurred without consent. Also for the first time in NSW Planning history is that the clearing of lands, removal of EPBC threatened species and extraction and processing of material has occurred to within 20m of adjoining private land owner boundaries without consent on land that is now the subject of this application.

Because of the nature, duration and scale of the unlawful operations detailed above, impacted residents around the site and along the haulage route and similarly users of historic Paterson village activity centre, know full well what is to come if an approval of the Proposal is granted.

The lived experiences of impacted residents have been documented since 2003 in Council complaint records, in public meetings, in video evidence, in witness court affidavits, in EPA complaint records, in the Proponents own SIA analysis and now in many hundreds of public submissions.

The Commission is urged to consider these documented lived experiences and to give them weighting in the determination process. These are not perceived fears, these are real life impacts and they can be taken as fact.

Relevantly the DPIE in their assessment report has incorrectly linked the high levels of community concerns about the Proposal with “*aspects of the quarry’s past activities*”, when in fact community concern is with the **Proposal** and the proposed hourly, daily, monthly and annual scale of operations both at the site and along the haulage route.

The applicant is seeking an approval for a change in use of the subject land. The applicant is seeking an approval to convert at a species level, from one whose lawful use and purpose was for the production of railway ballast only, to one for general construction aggregates production. The Proponent and their consultants have taken a strategic approach to distort and contaminate the version of history relating to the Site, the Proponent in every technical study has referred to past operations in respect of construction material supply from the Site and historical unlawful uses and scale to enhance then to solicit sub conscious bias from the “whole of government” accessors. That solicitation is reflected in the DPIE’s own Assessment Report where they refer to operations at the site over 18 years as being some type of justification to clarify and authorize those operations to occur into the future with a new approval.

Furthermore as is detailed within our submission, if an approval is granted of the Proposal, this would be the only species level general construction aggregates quarry in New South Wales with comparable operational scales located **more than 26km away from State Arterial transport routes** and whose extractive operation is proposed to occur with **no buffer zones to adjoining private land owners** nor residential communities and with a haulage route that provides **no bypasses of potentially impacted activity centres**.

Commissioners, contrary to the Proponent and now DPIE’s claims, presently there is absolutely no confusion as to the what the current lawful uses of the land permit. The site currently is a lawful extractive industry only for the purposes of railway ballast production. The scale and mitigations of which were sought by the applicant and determined by Dungog Shire Council in

1991 having due regard for the sensitive local environment that it was envisaged to operate within. The resource under the current consent is currently being exploited in an environmentally, socially and ecologically sustainable manner. The railway ballast facility is existing sustainably within the community it operates within.

As detailed within this submission there are numerous issues with the Proponents technical studies that have gone un-addressed by the Proponent and now the DPIE. These un-addressed issues mean that not all likely impacts of the development have been properly assessed and therefore not properly (if at all) considered by the DPIE in making of their recommendation.

The DPIE fails to disclose to what extent any evaluation of cumulative impacts from the Proposal has been assessed. In its whole of government assessment the DPIE has blatantly ignored the local road authority's (Dungog Shire Council) concerns in respect of traffic safety impacts and requested development consent amendments. The DPIE has chosen incorrectly to constrain their assessment to DPIE guidelines and policies, emerging case law has shown that not all government guidelines and policies cover all aspects nor all likely impacts of a development proposal. In completing their evaluation, the Proponent and now the DPIE have **not attributed or quantified any of the short term or long term external environmental costs** that will be borne by the impacted community if an approval is granted.

By ignoring the external environmental costs of the Proposal and supporting the project parameters and mitigations suggested without requiring other reasonable or feasible mitigations to be put in place, the DPIE has fundamentally undermined and ignored the object of the EP&A Act at Section 1.3 (b) in relation to Ecologically Sustainable Development (ESD) considerations within the assessment process.

An approval of the Proposal in its current form, **will result in:**

- A deterioration of the health, diversity and productivity of the impacted environment both for the current generation and future generations,
- The generator of the pollution and impacts will **NOT** have to bear the full cost of containment, avoidance or abatement, and
- The users of the goods and services emanating from the development if approved will **NOT** be paying the full life cycle cost of the goods

Commissioners, it is our submission that the proposal if granted an approval will cause unacceptable social impacts. These will occur as a result of individual and cumulative impacts emanating from the Site and the proposed haulage route, it will be **almost certain** that there will be a substantial deterioration to amongst other things; the sense of community, rural character, Paterson village activity centre function, road safety, rural amenity, health and social fabric (as reported lived experiences state) **across a widespread area** from Martins Creek, Vacy, Paterson, Tocal, Mindarriba, Bolwarra Heights, Bolwarra, Brandy Hill and East Maitland affecting many people for 25 years resulting in a **'major 'magnitude impact** and a **'very high or extreme 'residual social risk ranking.**

We set out below in our submission, our concerns with the Proposal and the DPIE Assessment Report, furthermore we detail comprehensive grounds for refusal of the Proposal.

We respectfully submit that in balancing the public interest to approve or disprove the Proposal, having regard to the competing economic and other benefits and the potential negative impacts of the project would have if approved (1), In this case, the exploitation of

andesite resource with in the Paterson Allyn River Valley at the hourly, daily, weekly, monthly and annual intensity for the primary purpose of general construction aggregates production with a major proportion of that product proposed to be transported by local roads through a historic village activity centre and within residential urban streets that the Panel ought find that the negative impacts of the Proposal including impacts on the existing, approved and likely preferred land uses, the amenity impacts, the amenity impacts of noise and dust and vibration that cause social impacts, other social impacts and transport safety impacts outweigh the economic public benefits of the Proposal.

We respectfully request that the Proposal be determined by refusal of consent to the application.

Contents

Introduction	8
Values of the Locality	9
Objecting and Impacted Businesses	11
Summary of Concerns Regarding DPIE Assessment Report	12
Lived Experiences.....	16
Misleading Information.....	20
Decision Making Process.....	24
Land Use & Planning Objectives	24
Air Quality Impacts.....	27
Noise Impacts.....	28
Amenity Impacts	31
Mental Health Impacts	34
Social Impacts	36
Traffic Impacts	39
Biodiversity Impacts.....	44
Heritage Impacts.....	45
Blasting & Vibration Impacts	46
Economic Impacts	48
Conclusion.....	48
Grounds for Refusal	51
References	52
Attachment 1 – Visit Dungog Horse Shoe trail	53
Attachment 3 – EPL Analysis – Equivalent Scaled Facilities in NSW	55
Attachment 4 – Complaint Records – RailCorp	57
Attachment 5 – Complaint Records - EPA.....	58
Attachment 6 – Impacted Resident’s Affidavit	59
Attachment 7 – Video Evidence – Trucking Impacts	60
Attachment 8 – Air Quality Impacts.....	61
Attachment 9 – Noise Impact Assessment Peer Review	62
Attachment 10 – Social Impact Assessment Peer Review	63
Attachment 11 – TfNSW Correspondence.....	64
Attachment 12 – Biodiversity Impacts – Photos of Threatened Species Sightings	65
Attachment 13 – Activity Centre Impacts.....	66

Attachment 14 – Traffic and Road Safety Impacts 70

Introduction

1. Martins Creek Quarry Action Group (**MCQAG**) is an incorporated community organization formed to represent members and the community who were severely impacted by the past unlawful operations and now will be impacted again, if approved, by the proposed expansion plans of Martins Creek Railway Ballast Quarry at Station Street, Martins Creek (**the Site**). Our members reside in Martins Creek Village, Vacy Village, Paterson Village, Paterson Valley Estate, Duns Creek, Woodville, Butterwick, Brandy Hill, Wallalong, Bolwarra Heights, Bolwarra, Lorn and East Maitland.
2. We write to object to the Development Application by Buttai Gravel Pty Ltd (Daracon – **the Proponent**) and its Amended Development Application (**ADA**) and Response to Submissions report (**RTS**) prepared by the proponent and exhibited between 2nd of June and 31st of July 2021. Furthermore we write to contest and dispute the findings detailed with in the Department of Planning industry & Environment (**DPIE**) Assessment Report (**AR**) which contains grossly erroneous and miss leading information. We note that in spite of receiving more than 838 objecting submissions the ADA parameters are largely unchanged from that which were exhibited in 2021.
3. Our association lodged an objecting submission (**2021 Submission**) to the ADA and RTS that was exhibited in July 2021. Our 2021 Submission comprehensively detailed the impacts, lived experiences and issues with the Proponents environmental studies. As expected, these have been summarily rebutted or ignored by the Proponent. More concerningly is that the content of our 2021 Submission has been completely ignored by the DPIE in the compilation of their AR. On the face of it, it would appear the AR has been drafted with a pre-determined outcome in mind.
4. We set out in our submission below a number of concerns which we have with the AR and ADA, and request that relevant principles of case law be adopted in the assessment and decision-making process by the Panel.
5. Based on lived experiences of previous unlawful operations the proposed expansion and change of use at Martins Creek Railway Ballast Quarry (**MCRailwayBQ**) as presented within the ADA, if approved, will seriously and adversely impact upon the amenity of multiple communities within Paterson River Valley and Maitland Hinterland.
6. Our committee seeks that the facility be required to operate on a more reasonable scale than that asserted within the DPIE's AR and the Proponents ADA and that it continues to co-exist within the communities that surround the Site and the haulage routes. The facility should operate in a manner and with modern consent conditions such that the local amenity of residents adjacent to the Site and haulage route is preserved. We detailed in our oral submission on 7th November to the Panel the results of MCQAG research into other modern quarrying facilities in New South Wales that have put into place reasonable and feasible mitigations to achieve these community focused outcomes.

7. Relevantly in **Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018] NSWLEC 153**, His Honour Justice Molesworth (2) comments on the significance of characterizing Martins Creek Railway Ballast Quarry at a species level is informative; . *Usually a railway freight car will carry the ballast, and travel from the quarry siding, via the railway network to the end point where the ballast is directly off-loaded onto the railway lines (as described at Exhibit R-4, p 2,300 [30]). The whole process minimises the use of road transport. This process of transportation, and thus, external impact, is a critical and integral component of characterising the Quarry as a railway ballast quarry*
8. Our association's mission statement is to seek government recognition that the Proposal in its current form is an incompatible land use proposal, and that our association seeks modernized approvals that reflect the existing 1991 consent conditions in terms of use, purpose, scale and modal split of transport of product from the Site, in doing so enabling the andesite resource to be exploited in a ecologically sustainable manner (within the community that surrounds the Site) into the future.
9. Since the Proponent was restrained from unlawful operations at the Site, residents and our financial members have experienced a new normal, one that is free from endless convoys of quarry trucks day in and day out, one that is free from fearing for our families' lives as they make an attempt to cross the village roads or access Paterson commercial precinct, one that is free from intense extractive operations with blasting, crushing, earthmoving activities and associated industrial scale dust and noise impacts. This new normal "baseline" is the status quo of MCRailwayBQ operating not under "limited operations" as the Proponent claims but we say, "lawful operations".

Values of the Locality

10. These areas are made up of thriving urban and rural communities that have significant built and natural environmental values and in their own right are activity centres, meeting places, residential populations and above all place in which people love to live.
11. These communities are valued by residents and visitors alike for their rural amenity, character, ambience, scenery, natural beauty, European settlement and aboriginal history and as areas where the pleasure of neighbourhoods and outdoor surrounds can be enjoyed.
12. Furthermore the proposed haulage route is one of the primary gateways to the Barrington Tops National Park a world heritage and Australian Nation Heritage listed park. Visitors to the National Park stop in Paterson to gather provisions, to rest, to eat, to site see and enjoy the village heritage and rural amenity seven days per week.

13. The proposed haulage route is also part of the Dungog Tourism's Horse Shoe Trail (refer Attachment 1 – Visit Dungog Horse Shoe trail) and that includes Paterson as a key tourism destination along the trail. The trail is frequented by tourist, motorcycling groups, cycling groups, vintage car clubs, campervan and caravan travellers and visitors heading to many of the region's tourism events. Tourism and the local destinations of the region are visited seven days per week, 365 days per year.
14. The Panel would recall during their site visit at Bolwarra Heights, at Paterson Village, at Martins Creek Village and at View Street Vacy on 17th October 2022, having it pointed out to them the rural and village amenity features that residents so value. The residents of the area value being connected to the outdoors, the residents of the area value the natural environmental setting, the residents value being at one with nature, being able to hear the noises of a rural environment, the noise of the trees the sounds of nature interspersed with occasional light vehicle traffic flows. The residents of the area value being part of a connected community where one can speak with neighbours and friends across the road and where villagers feel connected to their parks, open spaces and businesses alike. This rural amenity and sense of community and connectedness speaks to the social fabric and very essences of the proposed impacted area.
15. The Panel would also recall during their visit the Paterson Village activity centre function. The Panel would recall having it pointed out to them the 14 or more commercial businesses that in aggregate make up the activity centre. The Panel would recall having it pointed out to them the key features of the activity centre function, that pedestrians informally and freely cross and interact with the carriage way in performing their visitation and commerce, that residents and visitors alike choose to stop in Paterson, to collect their mail, to pay their bills, to fuel their vehicles, to shop for groceries and produce, to have a haircut, to seek medical attention and purchase medicines, to have a meal or to have a drink and socialize. The Panel would recall observing the on-street parking and the movement of customers including adults, children and shop workers from their vehicles onto the primary carriageways.
16. Our association's concerns about serious and adverse impacts are not based upon unfounded fears or perceived outcomes from a proposed development. These are **real** concerns and are based on our committee's, membership's, residents' and communities' lived experiences, already having **endured and experienced the impacts from previous unlawful operations** which have occurred on and from the Site between 1998 and 2019.
17. On review of the DPIE's AR It is not possible to determine what weighting if any the DPIE has placed against or in favour of the built and natural values of the proposed impacted area.
18. **In making its determination we urge the Panel to place significant weighting in favour of the proposed impacted environment (built, natural and social).**

Objecting and Impacted Businesses

19. During the IPC visit on 17th October 2022 the Panel attended the activity centre of Paterson. The Panel would recall having it pointed out to them the location of the hair dresser, Paterson Service Station & Café, Paterson Country Café and Takeaway, Paterson Pharmacy, Medical Centre, Paterson Lodge Café and B&B, Paterson Post Office, Paterson IGA Grocery store, Paterson Tavern and the Paterson Courthouse Hotel.

20. We can confirm that all businesses listed above object to the Proposal, in particular all of the businesses listed above object to the proposed hourly and daily numbers of truck movements and the impact to Paterson village activity centre function those truck movement numbers will have. The loss of the car parking space adjacent to the Post Office, the heightened risks to pedestrian and customer (and staff) safety utilizing the on street parking whilst having to interact with the proposed intensity of truck movements and the likely down turn in patronage that will occur Monday to Friday as residents opt to conduct their shopping and affairs in Maitland or Dungog and visitors opt to not stop and make use of the hospitality services within the Village.

Summary of Concerns Regarding DPIE Assessment Report

21. The DPIE AR has not assessed or evaluated the likely impacts to Social Fabric, Rural Amenity Village Amenity, Health (mental and physical). Whilst the AR mentions in passing some of these aspects at par 185, the AR does not evaluate whether the Proponents financial contributions and ongoing community engagement will mitigate any of those impacts from occurring. The truth is for a number of impacts from the Proposal a community contribution fund, a sponsorship program, payments to local Council, an establishment of a CCC and employment of a Community Liaison Representative and an after the fact Social Impact Management Plan will do nothing to mitigate the Social Impacts that will be experienced by the most directly affected residents (as a result of the hourly, daily, monthly and annual proposed scale of operations) at the Site and along the haulage route.
22. The DPIE AR at par 190 states the Proponent's SIA has assessed the social cost and benefits of the Project. This is an erroneous statement, when one actually turns to the Proponents SIA, Cost Benefit Analysis and Local Effects Analysis in Appendix P of the ADA, there are zero dollars attributed to the social and health costs that would be incurred by the Proposal assuming an approval was granted for the new use in fact the CBA doesn't even reference the SIA as a documented referenced or in existence at the time of the CBA development.
23. In coordinating its whole of government assessment, the DPIE AR fails to resolve a number of serious road safety issues which the current road authority Dungog Shire Council (**DSC**) has with the Proposal. The issues and concerns raised by DSC have been incorrectly summarized in table 5-3 of the AR. Furthermore the road authority DSC and current consent authority over the current operations have had their requested "proposed" conditions of consent ignored by the DPIE.
24. There appears to have been some type of "negotiation" occurring between the DPIE and the Proponent during the drafting of the AR in regards to the suggestion that 250,000tpa interim scale was acceptable in spite of the fact that the scale of the new use and the new operations under that interim 2 year period would be occurring prior to the completion of numerous road, pedestrian safety and infrastructure upgrades intended to manage impacts (onsite and offsite) of the new use (if approved).
25. The DPIE AR has failed to bring to the attention of the reader what the residual magnitude of social risks will be should the Proposal be granted an approval. Relevantly the SIA and RTS states the residual social risk from the Proposal will shift from a rating of LOW under the 1991 Consent and current rail ballast production operations to residual rating of HIGH under a new general aggregates production consent. More importantly (and also ignored by the DPIE) is that MCQAG's social impact experts opinion provided to the DPIE on two separate occasions is that these residual risks due to the proposed 31,000 truck movement per year of construction material product to/from the Site it is 'almost certain' that there will be a substantial deterioration to the sense of community,

rural character, occurring (as reported lived experiences state) across a widespread area from Martins Creek through to East Maitland affecting many people for 25 years resulting in a 'major' magnitude impact and a 'very high or extreme' social risk ranking.

26. The DPIE AR states in the Executive Summary and at par 278 that it considers the Site to be well suited for the Project. MCQAG asserts this statement to be grossly incorrect. The Site is completely unsuitable for the proposed scale and intensity of operations planned. To inform that opinion MCQAG completed an analysis of existing NSW quarries with Environment Protection Licence scale based limit of between 500,000 to 2,000,000tpa limit (refer Attachment 3 – EPL Analysis – Equivalent Scaled Facilities in NSW), this is the same licence scale based limit MCRailwayBQ would require if an approval of the Proposal is granted. Each of the 17 facilities were then manually screened to determine the distance from the quarry to arterial infrastructure, whether the haulage routes transect activity centres in reaching those arterial carriage ways and to what distance the nearest receptors lay in relation to their site boundaries. The analysis of results was enlightening. Not a single one of the 17 quarry's routes transect an activity centre (let alone a rural village). The distance each facility was located from state arterial road infrastructure was between 0.2 and 1.1km's. The closest nearest residential receptor of any of the sites was 400m and the average was 1.1km away. Three facilities utilized private bypass roads including the nearby Brandy Hill Quarry whose 1980's consent required the construction of Brandy Hill Drive as a bypass to avoid trucking impacts on the village and activity centre of Seaham. The desktop analysis and the Southern Highlands study tour confirms in MCQAG's view absent further reasonable and feasible mitigations the Site is truly unsuited to the Proposal.

27. The DPIE AR and by implication the Proponent's EIS, ADA and RTS more generally, has misleadingly detailed the historical operations at the Site.

- At par 4 of the AR, the DPIE incorrectly states *that It was operated continuously by various NSW Government entities until 2012, when Buttai Gravel Pty Ltd, which is part of the Daracon Group (Daracon), secured a long-term licence over the site* . What the DPIE fails to detail is that RailCorp abandoned the Site in late 2012, the Eastern Lands were sold to Noel Mitchell (the existing owner of the Western Lands), the fixed crushing plant was purchased by Daracon and under a lease agreement Daracon commenced quarrying operations at the Site. Notably in *Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018] NSWLEC 153* that the Daracon transaction was the subject of legal due diligence which confirmed that prior to the purchase of the fixed plant that Daracon's legal advice was that lawful consents at the Site for quarrying were doubtful.
- At par 6 of the AR, the DPIE has omitted key historical information that between 1960 and 1993 the extractive operations that occurred on the Eastern Lands were being performed at a much smaller scale and as a "railway undertaking". Being the type of development "required in connection with the movement of traffic by rail"

- In the historical time line between par 6 and par 7 of the AR, the DPIE has failed to acknowledge:
 - That in 2006 RailCorp commenced a Part 3A planning application in relation to the Site but withdrew from the process following unfavourable environmental study findings in relations to impacts to residents and sensitive threatened species habitats.
 - That between 2003 and 2012 Dungog Shire Council's (the current consent authority) position was that the Site was being used unlawfully and outside of the terms of the 1991 consent by RailCorp.
 - That in 2007 following several years of complaints RailCorp convened a public meeting in Paterson attended by numerous residents who's concerns at the time centred around existing trucking impacts, excessive trucking numbers, impacts to rural and village amenity, Paterson activity centre function impacts and other road and traffic safety issues.
 - That in 2010 Dungog Shire Council launched Land & Environment Court Proceedings against RailCorp in an attempt to restrain their unlawful operations this action was settled out of Court when RailCorp confirmed they would be ceasing quarrying operations at the Site.

28. We respectfully submit to the Commission that the absence of the above details relating to the factual history of the Site within both the AR and the Proponents ADA and RTS would indicate that these facts have not been properly examined, considered or incorporated into the Assessment process.

29. The AR has incorrectly characterized the **current and historical lawful use and purpose** of the Site.

- In completing its assessment the DPIE infers at par 21 that MCRailwayBQ has historically supplied local markets with extractive materials used in rail, concrete, asphalt and general civil construction. The AR goes on to state at Table 6-17 that an economic benefit of the project is continued supply of construction materials for housing and infrastructure. What the AR failed to detail is that for the larger part both RailCorp a government entity and then Daracon after them supplied those markets from Martins Creek Railway Ballast Quarry unlawfully and with great and unmitigated impact to the built and natural environment.
- Also at par 6 of the AR, the DPIE has incorrectly construed the details of the 1991 Consent. As confirmed in *Hunter Industrial Rental Equipment Pty Ltd v Dungog Shire Council* [2019] NSWCA 147, where his Honour Justice Basten (3) declared *that in relation to the Western Lands the consent to development application 171/90/79 granted by Dungog Shire Council ("the consent") permitted use of the land only as a quarry primarily for the purpose of winning material for railway ballast, in breach of which the appellants have since 2012 used the land otherwise than primarily for winning railway ballast.*

- Furthermore his Honour also declared that the consent did not extend to the excavation of rock on lot 6, DP 242210 and that *the activity of the appellants in extracting rock from lot 6 is carried out without development consent and in contravention of s 4.2(1)(a) of the Planning Act.*
- At par 6 of the AR, the DPIE has incorrectly referenced the Dungog Shire Council's recognition of existing use rights in 1999. The correct reference is that based on RailCorp submissions at the time, the Council accepted the existing use rights proposition for the processing of 449,000 tonnes per annum (tpa) to enable a quantity of 300,000 tpa of saleable product to be produced.
- Section 2.1 of the AR also fails to reference any particular detail in regards to the 1991 Consent. Justice Basten (3) and Chief Justice Preston held *that reference may legitimately be made to the 1990 Environmental Impact Statement associated with the 1991 Consent in order to identify the nature, extent and features of the development.* It is apparent that the DPIE has not referred to the 1990 EIS to confirm the characterization and type of use currently approved at the Site, had they done so, they would have identified in Section 2.1 and Table 2.2 that Key Elements of the existing development at the Site included:
 - *A small 5ha rail ballast extractive pit in Lot 5 only*
 - *12 truck loads per day (24 truck movements)*
 - *300,000 tpa annual production*

30. The Commission may ask why is the above history and land use characterization issue relevant and how might it be used in the Commission's merit base assessment of the Proposal? Our respectful submission is in two parts;

- a) The DPIE AR has not incorporated this information into its assessment process because it is absent from the AR, the ADA and RTS. We presume had the DPIE known these facts there is a potential to have better appreciated or better understood the baseline environment and better estimated the likely impacts of the Proposal (as distinct from the impacts of existing lawful operations at the Site) with this information.**
- b) the Commission ought to be basing its determination with a more complete understanding of the current environmental baseline, the current above new information would provide to the Commission a more complete context of the current environmental baseline, the contained nature of the existing impacts at the Site and a better estimate and understanding of the likely impacts of the Proposal in making its determination**

31. The DPIE AR has not applied emerging principles of case law in its assessment, specifically MCQAG in past submissions had brought it to the DPIE's attention that the decision-making process of this Proposal was likely to involve polycentric problems. At table 6-17 of the AR the cumulative impacts of the proposal are not detailed, in fact with the Proponents ADA no assessment of overall cumulative impacts has been made, certainly the ADA purports to assess cumulative noise impacts or cumulative air quality impacts but there is no

assessment of the culmination of all impacts types together at the most impacted receptors. A polycentric problem involves a complex network of relationships, with interacting points of influence. Each decision made communicates itself to other centres of decision, changing the conditions, so that a new basis must be found for the next decision: J Jowell, "The Legal Control of Administrative Discretion" [1973] Public Law 178, 213. His Honour Justice Preston (1), the Chief Judge, identified the nature of the decision-making process under section 79C as involving the resolution of a polycentric problem. His Honour explained this "as involving a complex network of relationships, with interacting points of influence. Each decision made communicates itself to other centres of decision, changing the conditions, so that a new basis must be found for the next decision"

32. It is not clear from the contents of the AR whether the DPIE has applied any assessment or consideration to the impacts of this Proposal in polycentric approach, nor is it possible from the AR to determine what if any weighting the DPIE has given to the receptors whilst making such a consideration. We say there is numerous interacting influences involved in this Proposal, from the clearing of native vegetation, to the encroachment of rural residential receptors with new industrial noise, with reducing air quality, with new road noise impacts, with the social impacts these amenity impacts will cause around the Site. Furthermore for residents along the haulage route there will be numerous interacting influences, being awoken every morning 5 days per week at 6:45am (or earlier south of Paterson), the changing of ones households moving rooms, shifting from enjoying the outdoor surrounds to one where life must be lived indoors, stopping conversations mid sentence, experiencing the fear of leaving one property or crossing the road and being reminded daily that one resides along a mining haul route.
33. **We urge the Panel to make their determination of the evaluation of the impacts of the Proposal using the polycentric process, we further request that the Panel exercise the required managerial authority and in the absence of statutory indication of the weighting to be given to the various relevant considerations, we request that the Panel determine the question of weight and provide significantly more weighting to the impacted residents of the Proposal.**

Lived Experiences

34. In completing its whole of government assessment the DPIE's AR has failed to properly consider the lived experiences of impacted residents. Whilst the Proponent's own SIA refers extensively to the documented lived experiences, they are largely unaddressed in both the Proponent's studies and now the AR itself. The Proponent's "project refinements" and iterative design approach will be in and of itself the cause of great impacts. This is clear from the submissions collated during the SSSA process:

"The whole house shakes. At one stage it was every week, now its once a month."

“They used to cap the blasts 40 years ago This whole house rattles”.

“The noise is rattling the windows. “

“We feel blasts. Our pictures move and we are 4-5km [away] from the quarry. “-

“My biggest problem was the explosions shaking the daylight out of the place. The vibrations in a two-story brick house is a concern. You wonder what it's doing to the property. If the explosions got any greater it would be a worry”

“My toilet cistern fell off the wall during a blast”

“My partner suffers from PTSD and the blasting is a trigger for his illness”

“The readings mean nothing to us, the numbers don't help us, and we are living with it.”

“Stress – just waiting for blast”

“There is noise all day. You go outside and think, why bother?”

“Some days we hear the crusher going all day.”

“If the quarry is running, we can't use our balcony.”

“We cannot utilise house verandah, bedrooms, living room or garden.”

“We've moved our TV into the middle of the house to combat the noise.”

“The noise and the blasting they are saying that it is within guidelines but who said I need to acclimatize to that level of noise; the guideline says it's not a dangerous level of noise but its relentless and there is nowhere in the house that I can escape the noise. And I don't think that my level of acceptability is higher than normal, its so stressful.

“The current amount is unacceptable because I have a lived experience of that volume of trucking past my house and in the village that I live in and it is unacceptable. In particular because of the current baseline post September 2019 – everyday feels like a Sunday in Paterson. We aren't reminded every day that we are living on a quarry haul road and we don't incur that effect anymore of having the village transected by trucks”

“Still too many. It's been so nice since its stopped, the peace and quiet. Putting my grandchildren on the bus, I'm not worried about the trucks (safety at Dungog Road Bus Stop).”

“Not safe to cross the road from the Post Office to the Cafe. The thought of that many trucks around that corner, is scary”

“There are no pedestrian crossings, and people are ducking across, people aged 50-80-yearold, but that is the reality, people want to duck across the street.”

“We would apologise to guests for the trucks rumbling past waking them up in the morning. We would often need to stop our conversations mid-sentence when the trucks went past and stop until the trucks had passed.”

“Paterson is busy, the street is full of people when it isn’t divided into two by a haul road. Paterson is busy everyday of the week as a busy activity centre.”

“When the trucks were running, my household would make a conscious decision not to shop at Paterson and shop elsewhere due to the quarry trucks”

“It is not just about if you can cross the road, it is about recognizing that this is where people walk around to get their coffee, go to the shops and pick up their Land newspaper.”

“There are road safety issues that I have had to deal with and live with. From fears when me and my family have to walk across the road to walk to the shops. Fears for my family and friends entering and exiting their cars when they visit and they trying to get in and out of the car on the shared lane.”

“Quarry has been closed for approximately nine months. This has been blissful. The town has returned to the way it should be. A small rural town with an agreeable rural amenity.”

“Linkages between the sense of community and the safe movement of pedestrians within Paterson and road user safety were also particularly pertinent”

“It’s been really nice not having them here for the last 18 months and I don’t want to go back. My daughter can play on the street now with her scooter and there’s no trucks going past to worry about.”

“Take your life into your own hands if you park on the side of the road.”

“People are selling left, right and center, I have seen houses being sold multiple times. Every time the quarry moves to another area houses go up for sale. They are just letting them win by moving out which is what they want.”

35. The history of impacts, lived experiences and complaints stems back to 2003 when the use and purpose of the Site became unlawful. RailCorp’s own records in Attachment 4 – Complaint Records – RailCorp with an email from the General Manager of Corporate Affairs to an Environmental Adviser that indicate that the primary complaints at a public meeting with residents in 2007 were in relation to the unacceptable number of trucks and the impacts to Paterson that these were causing. Ironically the email the outcomes of the public meeting were that these could be managed with the implementation of a Drivers Code of Conduct. Clearly this mitigation measure failed to be an appropriate mitigation to the impacts being emanated and the lived experiences and evidence including video footage Attachment 7 – Video Evidence – Trucking Impacts, demonstrates the Driver Code of Conduct is inadequate to manage trucking related impacts.

36. The history of impacts, lived experiences and complaints continued on public record, with a plethora of complaints relating to trucking impacts, industrial noise, blasting impacts occurring in both EPA and Daracon's then Community Consultation Committee complaint records Attachment 5 – Complaint Records - EPA. The personal and household social impacts of the past unlawful operations and the now proposed hourly and daily intensity of operations is also clearly detailed in lay witness affidavits in Attachment 6 – Impacted Resident's Affidavit

37. We urge the Panel to consider the complaints contained in this submission as being true and accurate reflections of the unlawful operations and in a particular we urge the Panel to consider these to be factual indications of the impacts that are likely to occur from the development being sought approval for.

Misleading Information

38. It is incumbent on MCQAG to correct misleading information that has been presented to the Panel to date by both the Proponent and the DPIE. In so far as that misleading information is likely to influence the merit-based assessment of the Proposal.
39. The Proponent's representative is on the record at the IPC Public Meeting (2) as stating *that the truck numbers ran from the quarry in 2014 were unacceptable and we do not plan to run these total tonnes by road now or in the future* The issue with this statement is the ADA and AR propose an hourly and daily intensity of operations equivalent to the past unlawful operations that impacted residents disputed as being unliveable and un tolerable. Furthermore the Proponent and their consultants have failed to provide any hourly, daily or monthly historical data sets that enable the direct comparison of what was done unlawfully historically to what is now proposed. The DPIE has failed to make the necessary enquiries to obtain that data or gain insight into that history to enable any correlation with the Proponent's "claims". The DPIE in performing their assessment has omitted assessment of likely impacts on a weekly and monthly basis. We enclose in Attachment 2 – Monthly Historical Truck Loads vs the Proposal, one example of a historical data set disclosed to attendees of a meeting in Martins Creek Village in July 2014 by the Proponent. The data shows monthly unlawful extraction from the facility and has been overlain by what would be the equivalent tonnage under the ADA and AR's parameters of 100 and 140 loads per day respectively. The attachment clearly shows what is proposed is comparable to the untenable peaks and scale of operation that have been the subject of complaints and significant amenity impact since 2003.
40. The Proponent's representative is on the record in IPC meeting transcripts (3) as stating *We do produce the material for supply to all sectors including products to the highest specified requirements, and I did note on Monday that at the peak we were producing over 40 different products to supply to the greater civil construction industry. It's the very important difference that Martins Creek has between other hard rock quarries in the Hunter region.* What the representative did not disclose to the Panel was that that production was entirely unlawful.
41. The Proponent's representative is on the record in IPC meeting transcripts (3) discussing the options for rail unloading *the fact that a number of the current quarries use the road system is a more commercially-viable and flexible supply to service the same markets, but pivotable there isn't a current regional facility that could be used centrally for a rail distribution for local and regional markets....* What the representative did not disclose to the Panel is that within table 19 of Appendix N-Rail Logistics Option Report of the ADA that the assessment identified 3 options for rail unloading facilities in the Hunter Region at Bloomfield Colliery, Vales Point and Teralba. The Proponent's representative did not disclose that the only likely limitation to using those sites for offloading was that those sites would not be commercially viable due to the proximity of lower cost alternatives. In simple terms they cant compete with more appropriately located quarries in the Hunter region.

42. The Proponent's representative is on the record in IPC meeting transcripts (3) discussing the options that were assessed for intersection upgrades at King and Duke Street in Paterson *There was further and quite detailed consideration in relation to the King and Duke Street intersection in Paterson village itself and managing both the traffic impacts and the social impacts of the truck passage through the village That wasn't considered to be preferred from the community's point of view.* What the Proponent's representative fails to disclose to the Panel is that the outcome from the CAF in regards to the proposed mitigations was that all attendees at both CAF's position was that the intersection upgrades were to the benefit of the Proponent to make it easier for the movement of more class 9 vehicles through the activity centre and that from the attendees of the CAF's perspective the only remedy of the Social and Traffic Impacts was to reduce the proposed number of trucks on an hourly and daily basis and /or to exclusively utilize rail, and these remedies, requests and mitigations have been categorically ignored by the Proponent and now the DPIE.
43. The Proponent's representative is on the record in IPC meeting transcripts (3) discussing road improvements and hourly limits *The feedback from the community informed those reduced truck movements in the afternoon in that higher traffic time of school pick-up and bus time in the village, in particular and along the haul route..... Daracon's committed to no haulage in that Christmas period and revising haulage around days where there's extra traffic in Paterson and again this is specific response to concerns from the communities around there when there's busy times* What the Proponent's representative fails to disclose to the Panel is that the only reason a concession has been made for reduced hourly trucking rates in the afternoons is that it is naturally a time when there is reduced demand for quarry product. No offer or mention has been made of the morning school drop and bus times in the impacted area along the haul route. Furthermore the concession of no haulage in the Christmas period is not a concession at all, it is a latent condition of quarrying at the Site for many years the quarry has never operated during the Christmas holiday period.
44. The Proponent's representative is on the record in IPC meeting transcripts (3) discussing the need to extract material to construct the rail spur extension; *The rail spur extension requires extraction of 800,000 tonnes which we went through on Monday at the site visit and limiting the actual production from the quarry will actually delay the ability to extract the resource and as a result may delay the rail spur extension and the rail spur extension is required to allow greater access to the rail market* What the Proponent fails to highlight is that they are seeking early access to material for their own commercial imperative, the Site has more than enough area to extract and then stockpile material to enable the construction of a rail spur extension, in fact if there was an urgency to construct the rail spur they most likely wouldn't wait 3.2 years to extract and export off site product to install the rail spur they would excavate, stockpile and construct that extension within months of it being required. What the Proponent also does not disclose is that no assessment of the likely impacts of the 250,000tpa road export in year 1 and 2, ahead of any infrastructure upgrades have been completed.
45. The DPIE representative is on the record in IPC meeting transcripts (4) discussing the early access to 250,000tpa of product from the Site *As you can*

probably tell, this rate represents half of the proposed maximum road haulage limit of 500,000 tonnes per annum. We've done this in recognition of the need for the quarry to maintain continuity of operations, meet the urgent need for construction material in the region, and minimise the risk of traffic impact during construction of the upgrades. The DPIE have failed to disclose within the DPIE AR who has this urgent need, it is unclear which government agency has informed this urgent need. Furthermore the quarry quite reasonably maintains continuity of operations under its existing consents for the time being. The comment is also at odds with the Proponents version of reasons for the need to extract 250,000tpa, is it because it needs to extend the rail spur or is it for an urgent need?

46. The DPIE representative is on the record in IPC meeting transcripts (4) regarding community complaints.... *we have observed that there were less than ten community complaints made to the EPA between 2002 and 2012 regarding impacts from road haulage.* What the DPIE representative did not disclose to the Panel is that between 1998 and 2012 there were some 29 complaints lodged against the facility in the EPA complaints database. The DPIE has failed to acknowledge that the EPA is not the regulator in relation to off site impacts related to trucking, those complaint records rest with RailCorp, Daracon and Dungog Shire Council. Furthermore, what the DPIE fail to disclose is the granularity around how 40 truck movements per hour and 280 truck movements per day fed into that assessment. The truth is 280 truck movements per hour is an annualized intensity of circa 1,100,000tpa. We rhetorically ask what makes that level of intensity acceptable for 50 days per year – the answer is nothing makes that scale of operation acceptable to impacted residents whether it is for one day per year or 50 days per year.
47. We submit that the lawful use of the Site has been incorrectly portrayed in both the DPIE AR , ADA and numerous technical studies. For the Panel's information we note His Honour Justice Molesworth (2) in **Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018] NSWLEC 153** held [132] that *the incorporation of the 1990 DA and its associated 1990 EIS is by necessary implication, to remove ambiguity and uncertainty, so as to bring clarity as to how to read the 1991 Consent in its proper context.* MCQAG agrees with his Honour's comments that that these documents provided *key environmental and amenity management component of the railway ballast quarry.*
48. The author of the ADA has incorrectly portrayed the Court decisions that have been handed down. Contrary to the statement made in Section 1.4.1 par 3 of the ADA, the LEC did not determine that there are continuing use rights which apply to the Eastern Lands. In his Judgement his honour Justice Molesworth held at par 678 held *that the Court having made its findings with respect to the Western Lands, to the effect that the extraction of stone could not now be in accordance with the 1991 Consent (and could not have been for many years), then the lawful capacity for the ancillary processing on the Eastern Lands to be able to continue fell away from the time when the extraction on the Western Lands fell outside the 1991 Consent. Once the nexus to a lawful extraction operation was broken, the previous ancillary dependency fell away leaving the processing as a stand-alone industrial operation requiring development consent. Such further development consent has not been obtained.*

49. Furthermore, the Court of Appeal (3) in Hunter Industrial Rental Equipment Pty Ltd v Dungog Shire Council [2019] NSWCA 147 held that the existing use rights were in relation to the operation of a quarry primarily for the purpose of winning railway ballast, rather than the operation of a general quarry. (Basten JA; Gleeson JA and Preston CJ agreeing) held at par 30, 224, 265 *the fact that exemption from the planning laws depended upon the carrying on of a railway undertaking would at least be consistent with the definition of the existing use right as being primarily for obtaining railway ballast, rather than the operation of a general quarry. On that basis the existing use right terminated when that purpose ceased*

50. At Section 1.3 of the ADA the Proponent states *there [is] no limit on the number of trucks subject, provided that not greatly more than 30% of material per annum is transported by truck*. What the Proponent fails to articulate is that there is in fact a trucking limit on an annual basis. Whilst the consents did not explicitly prescribe a “number of trucks” limit, from an environmental base line perspective the Proponent has failed to identify in any of its baseline assessments that there is a limit and that is derived from that fact that general mass limited quarry trucks can typically carry a 32.5 tonne pay load. The numbers of trucks that could frequent the Site on an annual basis is then determined with basic arithmetic, taking the annual limit of extraction and processing, calculating 30% of that in accordance with condition 6 of the consent and then dividing that number by 32.5.

500,000 [EPL scale based limit] x 30% [by road from the 1991 consent] = 150,000

150,000 / 32.5 = **4615 trucks per year**

51. We note there is no quarrying or lawful use related to extractive industries relating to Lot 2 DP242210 nor is there any lawful extraction authorized in Lot 6.

52. MCQAG committee’s view is the current lawful use over the Site is best determined by the current consent authority (of existing operations) that being Dungog Shire Council.

53. Any reader of the ADA cannot determine what the current environmental baseline impacts are now and how the ADA would compare to these current baselines into the future if an approval was to be granted. The AR, the ADA and multiple other technical study documents refer to graphs depicting historical operations at the Site. These operations are referred to by the DPIE in their meeting transcript (4) with the Panel as some type of tacit justification or assessment that 500,000tpa by road is acceptable. In short that approach is not acceptable, nor should it be used to justify latent conditions, latent road safety issues and historical impacts of past unlawful operations as being acceptable or otherwise.

54. The Proponent has used the words “limited operations” throughout the ADA and RTS. MCQAG committee submit this language is completely misleading, the MCRailwayBQ is not in “limited operations” it is in “normal lawful operations”

complying with their current lawful consents the baseline of which the reader of the AR and ADA should be entitled to be informed upon.

Decision Making Process

55. In making a determination of the Proposal the Minister's power under section 4.36 and 4.15 of the *Environment Planning and Assessment Act (EPA Act)* is to grant or refuse an application and requires the consideration of the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

- Her Honour Justice Jagot, in ***CEAL Limited v Minister for Planning & ors [2007]*** [67] stated that "*Amenity has consistently been described as a wide and flexible concept, embracing such matters as the character of a place and the attributes of place which a community values as important contributors to its character.*" ***We request the Panel to consider the impacts on amenity of the Proposal be included as relevant matters within the decision making process.***
- His Honour Justice Preston, the Chief Judge, identified the nature of the decision-making process under section 79C as involving the resolution of a polycentric problem. His Honour explained this "*as involving a complex network of relationships, with interacting points of influence. Each decision made communicates itself to other centres of decision, changing the conditions, so that a new basis must be found for the next decision*"

56. As we understand it, the Panel in making their decision to grant or refuse the proposal must *identify the relevant matters to be considered, find the facts that relate to the relevant matters, then determine how much weight to give each of the relevant matters and then finally, to balance the weighted matters to arrive at a managerial decision*".

57. ***We request the Panel to adopt the approach described by his Honour Justice Preston and ask significant weighting be given in favour of the communities whose amenity, values and characters will be impacted upon by the Proposal.***

Land Use & Planning Objectives

58. The ADA and now the DPIE AR gives little consideration to the **Dungog Shire Local Environmental Plan 2014** (LEP). Unfortunately, the AR has constrained its review of the LEP requirements to the specific lot and deposited plans and land use zones upon which the development is proposed. In regard to LEP objectives, the AR has not assessed the impact to other land use and objectives

associated with the Proposal i.e. those lands that intersect or adjoin the haulage route and their zoning objectives have not been assessed or considered in the AR. The planning for the Dungog Shire and the areas of Martins Creek, Vacy and Paterson are embodied within this LEP. When read in its entirety it is clear that the LEP is intended to promote development that seeks among other things to preserve rural amenity, promote the growth of individual settlements as local service centres, enhance the character, including the cultural and built heritage, of each village. Section 4.15 of the EPA Act requires consideration to be given to relevant planning instruments and we are of the understanding the LEP is one such instrument. Clause 2.3 (2) of the LEP states that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

59. The land upon which the development is proposed is zoned RU1. The objectives of the of RU1 Primary Production Zone are;

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for recreational and tourist activities that are compatible with the agricultural, environmental and conservation value of the land.*
- *To promote the rural amenity and scenic landscape values of the area and prevent the silhouetting of unsympathetic development on ridgelines.*

60. The Proposal is inconsistent with a number of these objectives listed above, as the Commission is well aware the Proposal will not promote rural amenity.

61. In **CEAL Limited v Minister for Planning & ors**⁶ [2007] her Honour Justice Jagot stated [60] held that *Zone objectives have a broader function than the operation of provisions [of the relevant clause] of the LEP. Local environmental plans are intended to contain coherent schemes regulating land use planning within a defined area. Most local environmental plans use zones to identify the development permissible with and without consent and prohibited on land within the area. The impacts of development can, and often do, cross zoning boundaries.*

Her Honour went on to state in regard to the matter that *“One impact of the proposed development is that Monday to Saturday between the hours of 7.00am to 6.00pm, 52 weeks of the year, excluding public holidays, an additional 48 heavy vehicles (being a truck and three axle dog trailer) will pass along King Street, Bungonia, when the quarry is fully operational. Whether or not that impact is appropriate necessarily requires consideration of the planning scheme embodied by the LEP.”*

62. The land upon which the development is sought will trigger impacts upon the proposed haulage routes and via offsite impacts from industrial noise, blasting and dust, noting that the impacted lands from the Proposal are zoned R5 and RU5.

63. The objectives of R5 Large Lot Residential Zone are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To isolate housing from existing intensive agriculture or future intensive agricultural areas.*

64. The objectives of RU5 Village Zone are:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To promote the growth of individual settlements as local service centres.*
- *To encourage a variety of mixed-use development.*
- *To enhance the character, including the cultural and built heritage, of each village.*

65. The ADA and now the AR, contrary to caselaw, has not assessed whether the impact from trucking along the haulage route is appropriate in relation to the RU5 village zone detailed above, nor has the AR assessed whether the impacts to R5 large lot residential surrounding the site from blasting, industrial noise, air quality and intangible rural amenity impacts is appropriate.

66. Furthermore, the RTS at Section 13.1.2 incorrectly and misleadingly notes that because noise, air quality and vibration criteria are purportedly met, the revised project [in relation to haulage impacts] is not considered to be inconsistent with the objectives of R5 and RU5 zoning. We rhetorically ask: how are 40 truck movements per hour and 280 truck movements per day on a carriageway that otherwise has variable and at times in frequent light vehicle movements consistent with enhancing the character, cultural and built heritage of the villages that they would transect?

67. We respectfully submit that, having regard to lived experiences of multiple dozens of quarry traffic trucks on an hourly and daily basis during Daracon's unlawful operations and the associated amenity impacts that they brought to the area, the proposed parameters within the ADA and AR are most definitely inconsistent with the R5 and RU5 zoning objectives particularly in regard to *preserving sensitive locations and scenic quality and enhancing the character, including the cultural and built heritage of each village.*

68. We request the Commission to give consideration to these objectives and the planning scheme embodied within the LEP in the decision making process. Specifically, we request the Commission to consider the

appropriateness of the impacts in relation to the Site and the haulage route having regard to the DSC LEP.

Air Quality Impacts

69. Although the DPIE AR and Air Quality Impact Assessment (AQIA) purports to claim compliance with various policies and criteria, the results of the study do not align with lived experiences of impacted residents whose experiences during unlawful operations 2019 and earlier included;

- awaking to their vehicles covered in dust each morning,
- observations of a dust fog lingering over the Site (and Martins Creek Village) each morning as dust emitted from the atmosphere during conveyor and process start up,
- of “water carting” at the Site only occurring when regulatory inspectors or visitors were attending the premises,
- of abnormal quantities of particulate matter collecting on household surfaces surrounding the Site and
- concerningly at households surrounding the proposed haulage route. We note the comments in both 2016 public meetings and the 2021 public meeting where attendees spoke and gave verbal accounts of the respiratory illnesses, they and their families have suffered from during the Proponents unlawful operations in.

70. We have attached photos in Attachment 8 – Air Quality Impacts for the Panel’s information that record past and present dust impacts from operations at the Site. It is also apparent from resident’s accounts that conveyor start up and shut down operations in the Lot 1 processing area results in significant releases of unhealthy particulate to atmosphere.

71. We note that the impacts to air quality from the Proposal will almost certainly cause social impacts, whether or not they fall within the modelled air quality criteria. The changes in air quality due to the intensification of operations on an hourly, daily, weekly, monthly and annual basis will be noticed by many of the impacted residents, many of those residents objecting to the Proposal. This change in air quality is likely to have an emotional impact on mental health and wellbeing. This is reflected in public meeting commentary and within public submissions where residents were forced into opting to move away from the area as the only way of “dealing with the adverse and perceived impacts to air quality”. This of itself results in impacts to social cohesion.

72. We note in Section 5.5 of the AQIA states that *background air quality levels have been derived primarily from the measurement data collected at the Station Street monitor in 2015; the identified representative year*. MCQAG notes that during this period the extraction, processing and transport of product from the Site was occurring unlawfully. This data set is therefore based on unlawful operations and is not a true reflection of the environmental baseline that the Panel witnessed during the Site visit in 17th October 2022.

73. The ADA and AQIA fail to propose all reasonable and feasible mitigations for dust suppression. As detailed in our oral submission MCQAG is aware of other dust mitigation measures employed in modern quarries in the Southern Highlands that have not been proposed for this facility. These include water dust suppressions sprinklers being installed in each enclosed crusher housing, enclosed convey transfer points, water suppression sprinklers installed in every conveyer run, water suppression sprinklers and enclosures at all chutes, discharges and bins. Furthermore, other reasonable and feasible measures not considered or covered by the Proponent include fully enclosed silo storage units for the holding of product and automated loading / transfer bays for the loading of product into trucks and trains.
74. The ADA AQIA and also the AR have failed to assess the impacts from the proposed handling, storage and processing of lime and fly ash at the Site. MCQAG understands that these are binding agents used in pug milling activities formerly performed at the Site without consent. According to the US EPA fly ash contains contaminants including mercury, cadmium and arsenic. MCQAG notes that the potential impacts and emissions of fly ash during the handling, storage, mixing and transport of the product on and off site has not been considered, assessed or detailed.
75. We raised concerns in our 2016 submission in regard to the 14% free silica content of andesite rock that originates from MCRailwayBQ. Whilst the revised AQIA has an additional section on free silica, we consider the assessment to be deficient. According to the AQIA, the analysis of the potential for Silica impacts was based on a single day's data set (being 14 June 2019), but the analysis fails to detail the weather conditions on that day. The analysis fails to append the raw data and laboratory results collected during the one day of sampling. Given the extrapolation of that single day of monitoring comes within 33% of the Victorian recommended limits we hold grave concerns for the real-world impacts of silica emanating from the Site.
76. There is no offer by the Proponent to improve air quality monitoring by replacement of existing depositional gauges with Taper Element Oscillating Microbalance (TEOM) monitors. There is also no offer by the Proponent to make that data publicly available in real time. There is no offer by the Proponent to fully enclose processing facilities and improve dust suppression measures commensurate with modern processing facilities located within urban areas.

Noise Impacts

77. We attach an expert witness report in relation to the ADA, RTS and Noise Impact Assessment (NIA). Attachment 9 – Noise Impact Assessment Peer Review. The report was compiled by an appropriate qualified expert witness. Their findings are as follows:

- Noise modelling from the western pit quarry equipment has only been considered in the south-eastern corner of the West Pit, remote from residences, under calm (no wind) conditions;
- Noise from the western quarry pit equipment has only been considered in the far southern section of the West Pit, with the loader well shielded from residences by the pit walls, under east wind conditions; and
- In the southern half of the West Pit, relatively remote from residences, with the loader again shielded from closest residence behind a large earth wall under north-west and south wind conditions
- Despite the original source location figure showing equipment operating in the northern half of the West Pit, these sources were omitted (switched off) from Umwelt's noise model results.
- Modelled equipment operating locations are far from most residences, which understates predicted noise levels, and all figures showing modelled source locations include equipment that is not actually modelled
- Furthermore the presented noise model results include restricted operating locations under all weather conditions, including calm (no wind) conditions. This implies most of the West Pit cannot be extracted under any weather conditions. As a minimum, the acoustic assessment must at least demonstrate West Pit extraction can proceed under 'normal' (no wind) weather conditions. Until this is completed to the IPC's satisfaction, the IPC is being asked to approve a quarry development with unknown and unreported noise impacts at residences.

78. The expert witness opinion is that the noise impacts from the Proposal will be noise levels that are significantly over the predicted in the ADA and NIA levels at most residences.

79. We request the Panel to have due consideration of this expert opinion. In making a determination on the Proposal the Panel ought to give due consideration and weighting to the fact that the actual noise impacts from the Proposal are likely to be much higher than stated in the Proposal

80. The amended Noise Impact Assessment (NIA) purports to claim compliance with various policies and criteria; however the results of the study do not align with lived experiences of impacted residents who reside around the Site and along the proposed haulage route. The lived experiences (as detailed in residents' submissions) during unlawful operations 2019 and earlier included impacts from intrusive noises that include:

- a. experiencing industrial noise imposing upon one's household, including noise of vehicle beepers, noise of jack hammering and rock breaking, noise of truck loading, front end loaders operations, bobcat operations, water truck operations, rattle guns, grinders, horns, drill and blast rigs, tracking machinery, noise of haul truck unloading at primary crusher area.
- b. noise of train loading, shunting and audible noise of voices from rail workers at along the quarry rail siding, impacting upon and waking their

households (and then preventing them from returning to sleep) in the middle of the night.

- c. lived experiences in relation haulage noise impacts have including: having the unique noise signature (as distinct from other heavy vehicles and light vehicles on the road network) of hundreds and hundreds of unlawful quarry truck (laden and unladen) movements interrupting telephone conversations, interrupting conversations between individuals both inside and outside dwellings and within the village activity centre, forcing residents to move from their outdoor living spaces to inside their dwellings, being woken by unlawful quarry traffic whilst sleeping during the day as a shift worker and being unable to “think” minute by minute as one’s existence is continually interrupted and reminded of unlawful quarry truck movements occurring through one’s community.

81. Having regard to the background noise environment and the “new normal” with MCRailwayBQ now operating lawfully, and which was pointed out to the Panel in Paterson and at Martins Creek Village, we understand from the caselaw that the above description of noise impacts that would occur under an approval of the ADA can be reasonably considered intrusive noise.

82. We understand the greater the level of emergence of this type of noise upon impacted receptors, will make the predicted “new quarry” noise levels more noticeable and cause a higher level of impact on the residents’ acoustic amenity than in an environment where the measured background noise level is higher.

83. We also note that based on complaints and resident’s submissions and lay witness’ affidavits from court proceedings that the noise impacts generated from the Site and from the proposed scale of haulage would also likely be categorized as offensive noise as defined by the Protection of the Environment Operations Act 1997.

84. We note (and have been advised by an expert) that the noise environment in the impacted area around the Site and along the haulage route is unique and rural in nature. Under the current baseline, residents in the impacted areas from a noise environment perspective, have the pleasure of their rural amenity to enjoy. Residents around the Site can hear the wind in the trees, the sounds of wildlife and nature and the intermittent noises of light vehicle traffic. Within the village of Paterson under the current “new normal” baseline, residents and visitors in the village also enjoy the beautiful rural village noise environment, free from the noise of hundreds upon hundreds of unlawful class 9 quarry trucks. The ambient noise environment of the village of Paterson (which included occasional passing light vehicles, wind in trees, lawn mowers, birds and insect noise) was brought to the attention of the Panel during their site visit in 17th October 2022.

85. We are advised (and it is stated on record under oath in NSW Land & Environment Court transcripts by expert witnesses) that the noise models used to assess the criteria and impacts of traffic generating developments are based on steady state traffic flows in an urban setting. There is no provision in the models for the acceleration, braking or empty bin noises that the quarry traffic would make within a rural village traffic stream and on a type of road network through Paterson.

86. We submit that under an approval as recommended by the AR that new noise would be emanating from the Site and the haulage route. It will be noise that

residents will for the first time be hearing in a lawful context. For residents who are new to the area it will be noise that is heard for the first time. This new noise will be of a greater emergence from a very low background noise environment. This has a twofold impact. Firstly, for residents residing around the Site and haulage route who enjoy the pleasure of their rural amenity whilst currently co-existing with MCRailwayBQ they will most likely not be in favour of that new noise source. Secondly for residents who have experience and memories of historical noise impacts from past unlawful activities by the Proponent and RailCorp, these noise sources will serve as a constant reminder of what was previously unacceptably endured. The net result is residents will be adversely affected acoustically and this will result in both noise impacts and unacceptable social impacts.

87. We submit to the Panel that in spite of technical studies purportedly finding compliance with policies and guidelines, we request that the Panel must consider and assess the impacts of persistent annoyance and consequential negative social impacts that will result from the intrusive noise levels, the emerging new noise and the cumulative noise levels that are proposed in the ADA.

Amenity Impacts

88. The term *social amenity* is variously defined as something that contributes individually to physical and material comfort, a feeling of personal wellbeing, attractiveness, peace of mind, pleasurable social experience and collectively as a sense of community or belonging.

89. In a planning context social amenity is a fundamental but sometimes elusive concept. In case law in Victoria the effect on the amenity of the area in deciding a permit application must consider the objectives of planning, one of which is securing a pleasant working and living environment. Victoria draws on interstate authority (NSW) about amenity and adopts a similar approach under planning law.

90. In the UK, amenities and social infrastructure are drawn together in helping new communities to grow, however the point is made that the mere provision of infrastructure and services does not of itself develop social amenity. It also relies on the cohesive nature of the community to develop relationships and support networks that build on the infrastructure and services provided. Typically, groups such as those associated with religious organisation, sporting and social clubs etc. achieve the cohesion that generates togetherness. These groups take many years and even decades to develop and therefore rely on a local environment that is conducive to local association uninterrupted by disruptive external impacts. In this regard it is evident that Paterson represents such a community, having developed social fabric and structure since the early years of settlement.

91. *Social amenity* is a component of the overall social and physical environment and is therefore fragile to the extent that it may be easily damaged, or even destroyed, by impacts that are imposed on it without control and appropriate

management strategies. Co-existence of community, local businesses and industry relies on a sustainable balance being achieved that allows all to thrive in a socio-economic sense without undue detriment to either component.

92. Whilst the ADA and SIA claim to have assessed the risk of impacts on amenity. The ADA and the DPIE's own AR fail to take into account the social, environmental and cultural structure of Martins Creek, Vacy, Paterson, Bolwarra Heights, Butterwick and Brandy Hill areas. While recognising that Paterson and the MCRailwayBQ have satisfactorily co-existed for nearly 100 years and the quarry being a source of hard rock railway ballast, the intensity of the current proposal, if approved, will compromise and destroy the social amenity described above. This is confirmed in at para 8 page 261 of the SIA with the statement: " *It is acknowledged that despite the above outcomes from the various technical assessments related to traffic and truck movements, for the purposes of the assessment of social impacts, based on feedback from the community, these outcomes do not make the predicted impacts associated with traffic on social amenity and surroundings any more tolerable by those affected.*"
93. Furthermore, the proposed mitigations described in the SIA at section 7.3.1.3 seek to mitigate the impacts of the operation proposed in 2016 EIS down to the operation proposed now in the exhibited ADA. These are not mitigations; these are project parameters which if approved will cause the unacceptable impacts already well documented by residents and the SIA authors own analysis.
94. In **CEAL Limited v Minister for Planning & ors [2007]** Her Honour Justice Jagot refused an application for a quarry on the basis that the proposed haul route through Bungonia village would undermine important aspects of the amenity of the village and thus an important part of the planning scheme embodied in the LEP.
95. Her Honour Justice Jagot said at [67];
- I accept that a consent authority should have regard and give weight to published guidelines providing objective criteria to facilitate assessment of issues arising in land use planning decisions. Nevertheless, insofar as this submission might have suggested that considering the performance of the development against the available objective criteria exhausted the assessment under s 79C (1), I do not accept it. For example, the ECRTN [Now the NSW EPA Road Noise Policy] does not cover all types of likely impact or all aspects of amenity. Insofar as it deals with one aspect of amenity (road traffic noise), the ECRTN applies generally throughout NSW. The Council's settlement strategy refers to the environmental criteria not being compromised, but that is quite different from the notion that compliance with the ECRTN exhausts the necessary or appropriate consideration under s 79C (1). Finally, the ECRTN does not have statutory force*
96. His Honour Justice Molesworth (2) in **Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018] NSWLEC 153** held [324] that *that increasing truck traffic to (improperly) accommodate the transport of greatly more quarry product by road, can be presumed, as a starting consideration, to likely interfere with the amenity of the neighbourhood*

97. Based on lived experiences presented to the Panel at the Public Meeting on 7th November 2022 the trucking scale now proposed in the ADA and AR, would result in numerous movements and convoys of class 9 quarry trucks moving through the village of Paterson. Whilst the "driver code of conduct" likely prohibits the convoying of trucks, the real-world reality at 40 trucks per hour and 280 trucks per day means that convoying or closely spaced trucks is unavoidable and "almost certain to occur" as was seen in the video evidence in Attachment 7 – Video Evidence – Trucking Impacts. The physical presence of class 9 trucks of that size and that intensity serves to divide the historic rural village of Paterson in two. A village that in the current baseline is one where visitors and residents alike move across, through and around the village without obstruction this is in some way the essence of what makes rural village life so special and valued.
98. **Setting aside the Traffic Impact Assessment and Noise Impact Assessment results, the ADA, SIA and AR have failed to assess the physical, amenity and social impacts that will inevitably result from the "physical presence" of so many Class 9 quarry trucks on an hourly and daily basis. We request the Panel to take this almost certain social impact (the literal division of a village in two with a mining haul road) in to consideration during the determination process.**
99. In relation to amenity impacts the ADA and SIA exhibit an unfortunate circular reference. The impacts from trucking are detailed in the SIA and the mitigations for amenity impacts are provided as being the operational scale parameters proposed in the ADA justified in part by technical studies on noise, air quality and vibration.
100. Based on "lived experiences" the hourly and daily scale of trucking movements proposed will result in unacceptable impacts to rural and village amenity of numerous residents and financial members. When one has regard for the lawful baseline (not the 2016 EIS nor historical unlawful operations). Except for referencing hypothetical future scenarios where "more product may be transported by rail" and mentioning administrative (and at times unenforceable) controls via a driver code of conduct that since 2007 has been an unsatisfactory management tool. Nowhere has the SIA proposed or assessed other potential mitigations to reduce the impacts on amenity in spite of numerous requests by residents at CAF forums to assess and implement other reasonable and feasible mitigations.
101. ***We request that the Panel in completing it's determination assess all likely impacts and all aspects of amenity that the impacted community so values. We request the Panel to consider the impacts on amenity of the Proposal be included as relevant matters within the decision making process.***

Mental Health Impacts

102. The SIA report details that, it is *likely that the Revised Project is contributing to mental health issues for some residents and landholders in the locality*. In spite of numerous residents making admissions during round 1 and round 2 Social Impact interviews as to the mental health impacts they have experienced, the report does not disclose that the past unlawful operations (the scale now being proposed) did most definitely have mental health impacts affecting many people across a widespread area.
103. The DPIE's AR refers to potential health impacts once in the entire AR. Noting residual impacts to the health and wellbeing of some community members due to increased stress and anxiety.
104. The author of the SIA has incorrectly ranked the health impact scoring relating to health impacts, stating in Section 7.5.1.2 that *It was likely health impacts will occur*. This statement is erroneous the correct definition of the probability of this occurrence is that it is *Almost certain* (e.g., it has happened before and will happen again based on the Proposal).
105. We have confidential reports from numerous residents suffering from mental health issues directly attributed to the past unlawful scale of operations now being sought approval for under the ADA. Those residents reside in and around the Site at Vacy, within the village of Paterson, Bolwarra, Bolwarra Heights and Brandy Hill. Reports include anxiety disorders and symptoms of anxiety and depressive moods along with increased stress brought on by the scale of trucking on an hourly and daily basis, from the hopeless amenity impact being imposed upon them and their households and their local communities. We also note a number of reported cases where residents suffering from PTSD who reside around the Site were impacted and triggered by unlawful blasting events occurring at the Site.
106. We have confirmed those residents would be willing to provide confidential medical records to the DPIE to support these claims; however no contact from the DPIE was ever made during the drafting of the AR. We can only assume that the DPIE did not refer to our 2021 Submission during the drafting of the AR. Two case study examples of the mental health issues arising in our community due to Martins Creek Quarry operations that have been reported to our committee include but are not limited to;
- An impacted resident reported onsets of suicidal ideation beginning in 2014 at the peak of Daracon's unlawful operations. The resident whose dwelling and family were directly impacted from haulage traffic and air quality impacts emanating from the Site states that those ideations have now subsided since Daracon has begun complying with their lawful consent conditions. The resident also reports that since the exhibition process of the ADA has begun, there is what seems to be a hopeless likelihood of the scale of truck movements and associated impacts returning to their household and lives as they were between 2012 and

2019, their senses of anxiety, helpless and suicidal ideations are now returning.

- An impacted resident whose dwelling is only less than 10m away from the proposed haulage route within the village of Paterson reported that during the peak of unlawful operations, at times when 20 to 30 trucks were transiting past their house day in and day out, the individual had a nervous breakdown and has since been diagnosed with an anxiety disorder. The anxiety attacks are exacerbated from what were unlawful movements of quarry trucks through Paterson village. At the peak of symptoms, the resident would call their partner crying multiple times a day, unable to function as their house shook from truck movements minute by minute. Their telephone conversations were interrupted by the noise of accelerating trucks, their thinking and thought processes were interrupted by the convoys of passing trucks. They stated their daily routine was constrained to remaining inside in a room located within the dwelling as far away from the road verge as was possible whilst the trucks were running. Their once pleasant rural backyard was unusable whilst the trucks were running. The resident notes a direct correlation of anxiety attacks and quarry truck movements with operations now being conducted lawfully from the Site the resident reports a new sense of mental wellbeing. They have noted that they continue to have anxiety attack symptoms that include hot flashes and chest pains at the sight and sound of a quarry truck taking them back to the time when dozens of trucks per hour turned their life in to a living hell.

107. The Proponent and SIA author's suggested mitigations in relation to mental health impacts are non-functional at best and fanciful at worst. We rhetorically ask the following question:

- how does the proposed mitigation of having an "open door policy in relation to impact monitoring and management activities" and "Ongoing and transparent provision of environmental monitoring results to the community" ameliorate mental health impacts affecting impacted residents that will have to live with 200 to 280 trucks per day traversing past their residential households for the next 25 years?

108. MCQAG committee has sought advice from an expert psychologist who has reviewed the ADA and proposed mitigations and is familiar with the impacts that occurred during the unlawful operations at the Site between 2012 and 2019. The expert concurs in MCQAG's position: that the mitigations proposed with the ADA are unacceptable and deficient. Their advice for the only mitigation and effective management strategies are as follows:

- a. Reduce the proposed scale of operations at the Site
- b. Reduce (by substitution or elimination via bypass, alternate routes and/or rail) the proposed scale of truck movements emanating from the Site
- c. Prescription of psychotropic medication
- d. Provision of psychotherapy and/or counselling services
- e. Exclusion, by moving the impacted resident away from the impacted area

109. MCQAG committee submits to the Panel respectfully that the impacts to mental health based on lived experiences of unlawful operations that occurred at a comparable scale to those now proposed within the ADA and AR are completely unacceptable. Furthermore, we submit the health impacts and mitigations outlined in the ADA and RTS are completely inadequate.
110. **We request the Panel to consider the proven and specific health impacts documented in public submissions and absent it having been done in the AR, give appropriate weighting to those almost certain health impacts of the Proposal in the determination process.**

Social Impacts

111. MCQAG committee has grave concerns in relation to the content of the ADA and SIA in relation to social impacts. The Proponent's environmental consultant has taken a strategic approach to focus only on the impacts that can be resolved by technical studies involving road safety, noise, air quality and vibration. And conversely, the SIA author has focused on measuring social impacts and scoring social impacts within the bounds of those technical impacts. The approach is then repeated by the DPIE in their AR and further confirmed during the Public Meeting by Clay Preshaw (5) *that the SIA Guidelines explicitly state that those policy settings on a range of technical matters must be incorporated into the overall assessment of social impacts*
112. The issue MCQAG has with this is there are far more impacts that can't be resolved, solved or explained away against any measurable government policy or criteria. Those social impacts include the impacts to village amenity, the impacts to rural amenity, the impacts to activity centre function, the impacts to social cohesion, the impacts to sense of place and the impacts to wellbeing amongst others. In so far as technically assessing impacts from noise, air quality or vibration against non-discretionary guidelines and standards assess just three aspects of amenity but in no way do they (or their guidelines) enable assessment of all aspects of amenity. It is clear from the DPIE response above that the AR limits the assessment to impacts and mitigations only prescribed by guidelines and policies.
113. Based on real, lived experiences referred to in earlier sections of this submission, that during unlawful operations the impacts to these social aspects at the proposed 40 trucks per hour and 280 trucks per day are completely unacceptable to our membership and others in the community.
114. The ADA, SIA and now the AR have all failed to correctly assess the impacts of increasing annual truck movements from the Site from the current approved level of 4615 rail ballast loaded class 9 truckloads per year to what would potentially be an annualized figure of some 15,384 loaded class 9 trucks carrying product other than railway ballast per year. Furthermore the Proponent and the DPIE omit the granularity in detail to assess what those impacts look like on a hourly, daily, weekly or monthly basis.

115. Of grave concern to us is also the fact that the SIA author has throughout the document taken the approach to under-rate social risk scores. Contrary to Australian Standards for Risk Management practices the risk assessment process did not involve anyone from the impacted community and in spite of feedback during CAF forums from residents the SIA author has not acquiesced in the assertions made by residents that the scoring is in error.

116. The SIA refers to the "proposed ADA parameters" when compared to the 2016 EIS and past unlawful operations, as purported mitigations. In regard to amenity impact, the SIA refers to administrative controls such as the Driver Code of Conduct, voluntary speed reductions, new quarry access road, provision of a camera monitoring station and a raft of uncommitted suggestions that involve "exploring" "management plans" and "consultation"- all proposed as mitigations for very high and extreme ranked social risk scores. Once again, we rhetorically ask:

- How does a Driver Code of Conduct ameliorate the physical impacts (being the physical presence and division of a mining haulage route in two) of hundreds upon hundreds of trucks through the villages of Martins Creek, Paterson, Bolwarra and Maitland? The obvious answer is: it does not.
- How does a new access road in year one and year two of the development ameliorate the impacts of 15,600 truck movements per year down Grace Avenue and Station St Martins Creek? The answer: it does not.
- How does a new access road in year four through to year 25 of the development ameliorate the impacts of 31,000 truck movements per year through Paterson, Tocal, Bolwarra Heights, Bolwarra and East Maitland? The answer: it does not.
- How does a camera at King Street and Duke Street ameliorate the impacts on the activity centre of Paterson? The answer is: it does not. Furthermore, who will monitor this camera and for what and whose purpose does it serve?
- How does the widening and intersection improvement to facilitate class 9 vehicle movements through the King and Duke Street intersection mitigate the down turn in commerce and visitation in Paterson Activity Centre? The answer is: it does not
- How does the concession of nil Saturday sales of product restore the social fabric, the rural amenity and the village amenity of residents between Monday and Friday? The answer is it does not.
- How does the community investment and sponsorship fund remedy the decision of residents to take their commerce and grocery shopping to Maitland because it is simply un safe to exist or enter a vehicle within the Activity Centre of Paterson with a truck running past every 90 seconds or less? The answer is it does not.

117. We have commissioned expert peer review of the SIA by appropriately qualified expert witnesses. The review in Attachment 10 – Social Impact Assessment Peer Review was comprehensively ignored and refuted by the Proponent's environmental consultants. Furthermore the review was presumably

not even seen by the DPIE's own Social Impact Expert reviewer. The MCQAG commissioned review has concluded that there are significant flaws, errors and omissions in the ADA SIA as exhibited. The experts further concluded that a number of residual social risks should be more correctly rated as "**Almost Certain**" to occur, having a "**Major**" social impact that will result in an "**Extreme or Very High risk rating**" and the mitigations exhibited are inadequate and the residual negative social impacts, based on lived experiences, will be unacceptable to a significant cohort of the impacted population

118. **We request that the Panel include the attached peer review in the Panel's determination process in particular noting the residual social risk rankings likely from the Proposal.**

119. **We also respectfully request that the Panel in making a determination take into account and give weighting to the impacted communities noting that the mitigations strategies proposed by the Proponent and the DPIE will not actually target or benefit those who will be directly affected by the Proposal if an approval was to be granted.**

120. Despite several years of MCQAG and residents within the impacted area requesting Daracon and Umwelt to lessen the scale of proposed operations and/or find alternate controls involving elimination, engineering or substitution mitigations, the Proponent has point blankly refused, claiming it is not commercial. The issues we particularly have, is that in 2015/2016 the Proponent said at 1.5Mt extraction per annum and 100% removal by road, it was not commercial to make any concessions to the community concerns, a purely subjective opinion from the operator. But how does one objectively determine whether what is proposed is really commercial or not and whether the Proponent really has any further head room to accommodate lessening impacts on the community?

121. When one reviews other NSW quarry projects, one asks the question for the proposal here: why was it commercial for the operators of those quarries to put in place mitigations that ameliorated the impacts on affected residents but not us? Why was it commercial for Multiquip's Ardmore Park Quarry (which has approval for 400,000tpa and 88 total truck movements per day) to construct a 6km bypass road around Bungonia Village and be precluded from running any trucks from the quarry during school drop off / pick up times? Why was it commercial for Brandy Hill Quarry in 1983 (which had approval for 700,000tpa) to construct a bypass road (Brandy Hill Drive) around the village of Seaham? And why was it commercial for the other 15 quarries in this state with a scale-based limit of between 500,000 and 2,000,000 tpa to not have to have a haul route traverse through a rural village activity centre? If it is good enough for them we rhetorically ask, why is it not good enough for Paterson, Martins Creek, Bolwarra, Tocal and Bolwarra Heights.

122. **On the basis that the Proponent is unwilling or unable to develop further mitigations to reduce the social impacts on impacted residents then we respectfully submit that the Proposal is contrary to the public**

interest and that the development application for the Proposal should be determined by refusal of consent to the application.

Traffic Impacts

123. The DPIE AR assessment of traffic impacts at par 69 and 108 making a justification for the Proposed scale of annualized tonnage by road based on 18 years of unlawful operations, as if to imply some type of tacit approval.
124. The DPIE AR at par 71 goes on to detail its assessment of reasonable and feasible road haulage alternatives. Ironically this assessment has been made without any information that could possibly inform that assessment by the Proponent. The Proponent has not detailed feasibility or cost estimates studies for alternate routes that the DPIE in the AR sights as being not feasible. The DPIE AR also finds at par 71 that alternative routes would be longer and would involve passing through other rural villages. MCQAG rhetorically asks the question if the proposed traffic impacts are good enough for Paterson why can't they be shared by other Villages and other alternate routes. The truth is the impacts are no more acceptable to other villages than they are unacceptable to Paterson Village.
125. The DPIE AR at par 78 makes no mention of peak hour impacts or what the impacts to levels of service are presently at the Paterson Railway Crossing. MCQAG notes that lived experiences show that traffic currently backs up from the rail line crossing south to the Duke/Prince Street intersection during goods trains movements on any given day.
126. The DPIE AR at par 82 states that access during flooding events would only occur for flood rectification works, on that basis it is assumed that haulage traffic would be required to travel through the residential back streets of Prince, Main and William within Paterson Village. MCQAG notes that no assessment of that route has been made in relation to Traffic safety impacts, road noise impacts or pavement condition.
127. The DPIE AR has provided commentary in eleven paragraphs having regards to road safety. Behind social impacts and amenity impacts, road traffic safety is the one of the most significant issues with the Proposal.
128. The Panel would recall the near miss witnessed at the intersection of Tocal and Paterson Road Bolwarra Heights on the 17th of October 2022, where an empty southbound quarry truck emergency braked to avoid a rear end collision with a turning light vehicle. From this incident the Panel is reasonably aware that the route lacks sheltered turning bays at numerous intersections along the proposed haulage route as detailed below.
129. The ADA Traffic Impact Assessment (**TIA**) and the DPIE's AR concludes that *traffic associated with the Revised Project would have an acceptable impact upon the operation of the key intersections along the primary haul route and is not expected to have*

any adverse impacts on the safety of the road network. MCQAG raises strong objection to that assertion. The proposed hourly and daily scale of trucking from the Site will have completely unacceptable road safety outcomes and impacts along the proposed haulage route as detailed in this submission. The lived experiences confirm this with reports that include

- Side-swiped parked cars in Paterson (numerous events)
- Cracked windshields on parked and moving vehicles from class 9 quarry traffic (numerous events)
- Lost loads when class 9 quarry truck tail= gates have failed (on Gresford Road and within Paterson village)
- Convoying of trucks (numerous events)
- Illegal double parking on carriageways, in turning bays, on road shoulders, on private properties, across bus zones and private driveways
- Traversing of class 9 quarry trucks over double white lines through the activity centre of Paterson to provide clearance to pedestrians and open car doors

MCQAG committee will be happy to provide sworn statements and photographic evidence of the above incidents if it would assist the Panel. Furthermore the historical impacts of unlawful trucking are recorded in Attachment 5 – Complaint Records - EPA.

130. The ADA and TIA focus on a Drivers Code of Conduct (**DCC**) to manage and mitigate impacts associated with 40 trucks per hour and 280 trucks per day of movements. From the ADA, TIA and SIA it is apparent the DCC is requiring a number of voluntary requirements for drivers to follow, the DCC is calling for drivers to drive below the stated speed limits. We note that NSW Road Rule 125 states that a driver must not drive abnormally slow on a carriage way. We note that the DCC would be calling for the vehicles to not convoy, we note that the DCC would call for no movements through Paterson before 6:45am. Unfortunately these requirements are absolutely deficient and we rhetorically ask how does a class 9 vehicle ensure they are perfectly 90 seconds away from the preceding class 9 vehicle? The fact is it is not possible. We rhetorically ask what benefit does the 6:45am restriction on Paterson movements have when class 9 trucks can and still did transit through other sensitive urban locations prior to day light to “stack” in waiting bays adjacent to Tocal homestead?

131. MCQAG committee’s position is that having regard to the hierarchy of controls, relying on a document (the DCC) to manage High and Very High risks as detailed in the ADA SIA and our own SIA Peer Review, is a highly abnormal practice. Australian Standards Risk Management Guidelines⁹ sets out that:

You must always aim to eliminate the risk, which is the most effective control. If this is not reasonably practicable, you must minimise the risk by working through the other alternatives (substitution, engineering, admin Etc). Administrative controls are the least effective at minimising risk because they do not control the hazard at the source and rely on human behaviour and supervision. These control measures should only be used:

- to supplement higher level control measures (as a back-up)
- as a short-term interim measure until a more effective way of controlling the risk can be used, or

- when there are no other practical control measures available (as a last resort). in the hierarchy.

132. MCQAG strongly objects to the proposed mitigation of trucking impacts (amenity, road safety, pedestrian safety, Paterson Activity centre function and safety, noise, vibration, heritage) relying solely on the doubtful administrative control of the DCC. The DCC has proven to be inadequate and ineffective as far back as 2007 when RailCorp made an undertaking to utilize a DCC. We ask who will regulate compliance with this document, how often will compliance be conducted and how effective are the prescribed measures in even mitigating the risks posed? We also confirm that the founding director, controlling shareholder and former Managing Director of the Proponent advised residents in the July 2014 public meeting that Daracon could not control 3rd party quarry trucks on the road network that access the Site.

133. Furthermore the entire ADA, RTS and DIPE AR is silent on ex-bin sales. These are the type of sales where contractors arrive unannounced to pick up a load of product. The DPIE AR and the ADA have failed to prescribe or assess the likely impact of these sales. What is the anticipated quantity of ex bin sales per day, how does the Proponent intend to regulate the arrival of those trucks and drivers? Put simply they can't, and this is confirmed by the founding director of Daracon's public comment in July 2014 above.

134. The Proponent's representative is on record during the 17th October 2022 site inspection with the Panel discussion and the Proponent's definition of "local Project deliveries". Concerningly the Proponents definition is "Anyone wishing to buy product". Unfortunately this definition leaves the door wide open for many hundreds of truck movements per day along any local road adjoining or connected to the Site, a bypass in Singleton via Gresford? A Tillegra 2.0 dam via Dungog or a multi year subdivision in Wallalong via Paterson Road and Butterwick Road. Commissioners, no assessment of the likely impacts of such movements has been made and no draft conditions of consent are present to regulate or mitigate such events from occurring into the future under the DPIE AR.

135. We note and it was pointed out to the Panel that in the early 2000's a cyclist (and teacher at Tocal College) was killed on Tocal Rd near Tocal College after being hit by what we understand to be the dog- trailer of an early morning class 9 truck and dog. The fact that that has occurred, tragically, is a proven and specific example that increases in class 9 truck movements proposed by the ADA will most definitely increase the risk for such an occurrence to re- occur into the future.

136. We understand from our correspondence with Transport for NSW contained in Attachment 11 – TfNSW Correspondence, that in performing their assessment of the Proposal, TfNSW staff only focussed on Gresford/Dungog Road Intersection and Melbourne Street Maitland. The TfNSW Officer responsible confirmed that in relation to all other safety and network issues with the proposed route that the relevant authority in regards to those issues was **Dungog Shire Council and Maitland City Council.** Astonishingly DPIE in the

AR has down played and suggested the issues raised by local DSC and MCC have either been resolved or left as latent issues and are not considered material.

137. **We respectfully request that the Panel take fully the advice of DSC and MCC on this issue.**

138. The ADA & RTS have previously dismissed MCQAG's road safety issues raised in our 2016 submission. The RTS stated that they have only responded and focused on the safety concerns raised by the RMS as the road authority. MCQAG notes that the Proponent is required to respond and address all impacts and issues raised. It appears that the Proponent is choosing to "align" and make proposed changes to the road traffic network as it suites them. The Proponent has proposed to remove the car parking space from in front of the Post Office (at great disservice to the residents) because it is non-compliant with Ausroad standards; however numerous other non-compliances with Ausroad standards are being ignored by the Proponent as detailed below.

139. We have grave concerns for the road safety outcomes (based on lived experiences) if the proposed parameters in the ADA and AR are granted an approval. At the risk of repeating ourselves, we are forced to now set out key issues and concerns again below for the Panel.

Attachment 14 – Traffic and Road Safety Impacts - Station Street. As can be seen in the photos and as was observed by the Panel on their attendance to the Site, Station Street is a cul-de-sac residential street. No assessment has been made to the structural adequacy of the pavement for the proposed 31,000 truck movements per year, and limited assessment has been made to the Social Impacts and Noise impacts due to transport that would occur on this road and to residents. Given this street is a residential street, one upon which children play and residents walk, it is completely unacceptable between year one and year two that the proposed scale of operations and proposed change of use (from rail ballast to other products) suggested in the ADA could transit this route. The interaction of ~15,000 truck movements per year across the main Northern line at the Station St and Grace Ave intersection is also completely unacceptable, we note there are 10 local commuter train movements, 6 interstate XPT movements and numerous coal and freight train movements per day on the line.

Attachment 14 – Traffic and Road Safety Impacts – Gostwyck Bridge. As can be seen in the photos and as was observed by the Panel on their attendance along the route, this timber bridge is single lane. This section of carriage way must be brought up to Ausroad standards. As requested by Dungog Shire Council, Gostwyck Bridge must be duplicated to avoid unacceptable road safety outcomes that would result (and have resulted in past unlawful operations) of multiple hundreds of by directional movements over the bridge structure. If it is reasonably acceptable for Ardmore Park Quarry to be required to upgrade 23km of Jerrara Roadway to bring it into line with Ausroad Standards, it must be reasonably acceptable that as a new development proposal the Proponent must be expected to bring this small section of carriage way up to Ausroad standards (in terms of lane widths and by directional traffic flow capability).

Attachment 14 – Traffic and Road Safety Impacts – Gresford Road. As can be seen in the photos, the condition of Gresford Road is in a state of failure. The carriageway width does not meet Ausroad Standards. No assessment has been made on the structural adequacy of the roadway to carry the proposed magnitude of truck movements. Again, if it was reasonable and feasible for Multiquip Ardmore Quarry to upgrade 23km of Jerrara Road before their approval could be taken up, then it is reasonable to expect and request that the Proponent be required to remedy and upgrade this section of roadway.

Attachment 14 – Traffic and Road Safety Impacts – Church/King Street Intersection. This intersection requires a sheltered turning bay. This intersection has multiple hundreds of vehicles turns daily for parents accessing Paterson Primary School and Pre School. There are insufficient sight lines at this intersection. The Proponent has not adequately resolved this safety issue.

Attachment 13 – Activity Centre Impacts – Paterson Activity Centre Impacts. These photos show (as was pointed out to the Panel on their attendance on 17th October 2022) unacceptable interactions between pedestrians and other road users within the activity centre of Paterson. Class 9 vehicles are required to traverse double white lines to avoid parked cars, opening car doors and pedestrians entering and exiting their vehicles. The proposed removal of the parking space in front of the post office completely unacceptable because it serves as a key parking spot to enable elderly and less mobile residents to carry packages in and out of the Post Office. How many pedestrian movements are there in Paterson and how many customers frequent the local businesses on a daily basis? What are the times and frequencies of customers and visitors currently utilizing on street parking along the proposed haulage route? The DPIE AR and the TIA provides no insight and has made no assessment of the likely impacts to the activity centre function of Paterson.

Attachment 14 – Traffic and Road Safety Impacts– Duke/Prince Street Intersection - This intersection has safety issues, there are insufficient sight lines at this intersection. There is no sheltered turning bay, with multiple hundreds of turns of vehicles at this intersection by residents and patrons to the Paterson tavern. The Proponent has not adequately resolved this safety issue.

Attachment 14 – Traffic and Road Safety Impacts – Tocal Road Safety impacts – As can be seen in the photos the pavement surface is in a state of failure. No consideration has been given to pedestrian safety of vehicle access/egress into Tocal College.

Attachment 14 – Traffic and Road Safety Impacts – Paterson Road Cumulative Impacts. The photo shows the urban issues with Paterson Road and the cumulative impacts that will result when Brandy Hill Quarry takes up its new consents and also starts utilizing this carriage way. No consideration has been given to Bolwarra School safety nor Tilly’s Day-care safety issues.

Attachment 14 – Traffic and Road Safety Impacts Presents one of numerous school bus pick up / drop off zones where the interaction of Class 9 quarry trucks under the Proposal are completely unacceptable, the image shows Class 9 trucks

crossing double white lines into on coming traffic to over take school buses performing school drop offs and picks ups. We rhetorically ask why is it acceptable to propose mitigations for after school PM times but not before school AM times. We also rhetorically ask how many school bus routes are there along the haulage route? How many drop off / pick up locations are suitable and complying with Ausroad Standards, the answer to this is unknown and therefore the likely impacts to this baseline condition cannot be assessed or properly understood by the DIPE nor by readers of the AR.

140. **On the basis that the Proponent is unwilling or unable to develop further mitigations to improve the traffic safety outcomes (detailed by DSC, MCC and MCQAG above) on impacted residents then we respectfully submit that the Proposal is contrary to the public interest and that the development application for the Proposal should be determined by refusal of consent to the application.**

Biodiversity Impacts

141. The biodiversity assessment confirms the SSD6612 area embraces core Koala habitat. We can confirm this with sightings shown below in Attachment 12 – Biodiversity Impacts – Photos of Threatened Species Sightings The picture taken and included in this application were by locals during 2021 off Vogels Road which adjoins MCRailwayBQ.
142. Data by the Threatened Species Scientific Committee shows koala numbers on the NSW North Coast will decline by a further 50% over the next ten years to around 4000. This proposal will have a significant impact. The SSD6612 application refers to a management plan yet in the same document states the rehabilitation of the site will be for grazing rather than proactive position of enhancing koala and native flora and fauna habitat.
143. The area is also known by local residents as a good area for spotted quolls with a number of adjoining residents noting sightings in recent years. It is surprising they weren't found during the survey period. The Spotted-tailed Quoll's conservation status is listed as vulnerable in NSW and endangered under the Commonwealth legislation.
144. MCQAG members are concerned for the threatened species impacts that will occur if the ADA is granted an approval. Specifically, there is no mention of any proposed wildlife corridor connections between the Western and Eastern lands of the site and we note historical records of Koalas being found within the quarry extraction pit itself.
145. MCQAG notes that lot 6 has never been the subject of an environmental impact assessment or development consent that authorised clearing of native vegetation and habitat. We note that His honour Justice Basten (3) stated in Hunter Industrial Rental Equipment Pty Ltd v Dungog Shire Council [2019] NSWCA 147 at 121: *The trial judge was correct to infer from this material that the proposed*

development was limited to a quarry on lot 5, with an ancillary haul road crossing the south-eastern portion of lot 6 and the eastern portion of the panhandle of lot 5, in order to allow passage to the eastern land where the bulk of the rock was to be processed. An expansion of the quarry onto lot 6 had not been the subject of environmental assessment in the EIS...

146. The ADA is seeking authorization to clear and extract rock from Lot 6. MCQAG contends that no consideration has been given in the ADA or BIAS for the unlawfully cleared lands and threatened species removal that has occurred historically at the Site.

Heritage Impacts

147. Based on lived experiences and as submitted to the Panel in person by the President of Paterson Historical Society on the 17th October 2022 in Paterson, the proposed hourly and daily scale of trucking movements will have unacceptable impacts upon the heritage precinct of the historic Paterson village.
148. Mr Reed's request to Respond to Submissions Letter dated 2nd December 2016 specifically required the Proponent to assess impacts resulting from the number and frequency of trucks travelling through the Paterson heritage conservation area. Unfortunately, the author has focused its assessment on only two fronts, the first focus is on impact to heritage features in Paterson relating to changes in road and kerb and gutter design. The second approach of their assessment has focused only on a vibration impact assessment.
149. The summary of heritage impact concerns from the local community in table 6-7 completely miss represents the concerns and likely heritage impacts that members of the community have contested in their submissions.
150. It is not clear in the report who the author is nor is it clear what the author's qualifications are in order to provide structural engineering opinions in relation to vibration impacts to heritage buildings nor is it apparent what the author's qualifications are in regard to heritage impact assessments.
151. The report fails to address Mr Reed's letter. There has been no assessment on the impacts from the proposed number of hourly and daily truck movements through the Paterson HCA.
152. We draw attention to NSW Government Heritage Guidelines. A key aspect of that guideline inherent in the NSW Heritage Act and the Burra Charter are principles that are fundamental to planning the care of heritage items and places. The principles are that:
- there are places worth keeping because they enrich our lives by helping us to understand the past, by contributing to the richness of the present environment and because we expect them to be of value to future generations

- the cultural significance of a place is embodied in its fabric, its setting and its contents; in the associated documents; and in people’s memory and association with the place
- the cultural significance of a place, and other issues affecting its future, are best understood by a methodical process of collecting and analysing information before making decisions
- keeping accurate records about decisions and changes to a place helps in its care, management and interpretation.

153. No regard has been given to the above principles in making the heritage impact assessment. What impact will 40 trucks per hour and 280 trucks per day have on the cultural significance of the place embodied in its fabric and setting? In order to properly assess the possible impacts, the author should have properly describe the place and the present environment, the author has failed to do this. It then follows, What impact will the number and frequency of trucks have on the HCA? Will the use of the HCA be impacted or changed? Will the HCA be effectively divided in two by the proposed number and frequency of hourly and daily truck movements? What effect will that have on the significance and the fabric and richness of that place?

154. We request the Panel to consider the intangible impacts detailed above that the Proposal will have on the Heritage Precinct of Paterson Village in making its determination.

Blasting & Vibration Impacts

155. Once again, we have attached publicly available records of complaints in relation to the MCQ facility in Attachment 4 – Complaint Records. It is clear from these records that there is significant off-site impact to surrounding residents in regard to blasting.

156. As noted in the last two public meetings and within residents’ submissions from 2016, blasting impacts include shaking of crockery, cracking of walls and brick work, the noise of mortar falling down brick cavities immediately after each blasting event. Disturbance to horses and other pets and even the reported shaking off of a toilet cistern from a bathroom wall, have occurred.

157. The blasting impacts due to intensity variability also result in un-nerving anxiety imposed upon neighbouring residents who must wait throughout the day for quarry silence as pit operations are halted and then brace themselves, their pets and their households for the blast. Will it be a big one or a small one?

158. Relevantly we bring to the attention of the Panel lay witness evidence referenced in **in Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018]** (671) that: Ms [redacted] has been a resident of Martins Creek since before the 1990 development application was lodged by SRA. Ms [redacted] lodged an objection to the SSDA. (Evidence Book Vol 3 at pp. 1888-1889). She moved to the area some thirty years ago in pursuit of an

'idyllic country lifestyle'. She also noted that '...while the quarry was operational and run by RailCorp, the workload had minimum impact on our lives.' Ms [redacted] observed a marked change in the operations after 'Daracon' (i.e. the respondents) took over. She complains that 'previously the blasting resembled a faraway explosion it has now become so intense that the ferocity of the blast led me to believe an earthquake was rumbling up the road, shaking the house and rattling the windows. This is not something you quietly adapt to, it delivers the same instinctive fear every time.' She also complains about dust which she attributes to the quarry."

159. The experiences of residents do not correlate to the published blast monitoring data that indicates compliance with relevant criteria. One hypothesis is that the lack of buffer between the Site and residential dwellings is a contributing factor to magnification of blasting related impacts.

160. We note the Proponent claims to have completed a dilapidation survey on one impacted residence; yet the Proponent has not promised dilapidation surveys on all dwellings in Vacy and Martins Creek that are likely to be impacted by blast events at the Site.

161. We note that historically blast monitoring equipment has been located non-compliantly (in the shadow of structures) with sensor spikes incorrectly installed. We continue to query the validity of blast monitoring data collected at the Site.

162. We understand the current blasting guidelines do not assess or provide criteria for harmonic/resonant vibration in building structures during blasting events. MCQAG committee is aware of data, research and papers relating to this effect occurring in impacted receptors around quarries in Queensland. We believe this could be a plausible explanation for the difference between ground measured readings and residents' observations of impacts. If consent is to be granted to the ADA

163. Why hasn't the Proponent promised to install fixed sensors on dwelling structures to monitor and evaluate resonant vibration of dwellings during MCRailwayBQ blasting events? Furthermore that information should be made available for public to inspection.

Economic Impacts

164. MCQAG notes that the Proponent's EIA is absent any reference to SIA results. Furthermore, the EIA excludes any indirect costs that would be attributable to the impacts realized and imposed upon the local community. No enquiries have been made by the Proponent or the DPIE on the likely downturn in customer patronage or downturn in trade that objectors submit will occur in the activity centre of Paterson if the Proposal was granted an approval.
165. The Panel is in receipt of public submissions by experts in relation to land valuation, those submissions conclude that land values would deteriorate if an approval of the Proposal is granted. The likely impact to property values is informed by the comments of His Honour Justice Molesworth *the Court rhetorically asks, ought they be expected to tolerate unreasonable disturbance by objective standards? No real estate agent is going to say "don't move here because the truck traffic noise is really bad"*.
166. Furthermore, there is no costs attributed to the impacts of the development having regard to VLAMP triggers. The DPIE AR does not clearly incorporate into its assessment how it has considered and weighted the impacts associated with VLAMP triggers associated with the Proposal. What cost has been attributed to the VLAMP trigger at receptor no.25? What cost will be incurred by the loss of three generations of family at that address from the local community and what costs will be incurred by that family losing their small business good will and clientele when they can no longer live and service their clients within the local community.

Conclusion

167. We have set out above the concerns that our committee and membership have with the DIPE AR and the largely unchanged ADA. Based on our lived experiences of recent unlawful operations we have great concerns regarding the scale and magnitude of the proposed operations and the proposed method of transport of product by road from the site. We attach complaints records Attachment 4 – Complaint Records, Attachment 5 – Complaint Records - EPA, Attachment 6 – Impacted Resident's Affidavit, that shed light on just some of the impacts being incurred by residents during unlawful operations at a similar scale to what is now proposed in the ADA.
168. The Proponent has gone to great lengths in a 222-page Geological impact Assessment Report to detail and compare the resource at MCRailwayBQ. The conclusion of that report was that the properties of the MCRailwayBQ resource were favourable or better than other quarries in the local region. The reader is led to believe that this is a rare and sought-after resource in a region where supply is likely to diminish from other quarry pits. MCQAG committee submits

that the position taken on this resource contradicts the statements in other sections of the ADA where the Proponent claims it is not commercially feasible to transport more product by rail from the Site. The Proponent claims they will not be able to compete commercially with other more appropriately located quarries in the region. We rhetorically ask if the resource is so important and different to other local quarries why can't its customers be charged a small premium for access to that product via rail distribution centres or via bypass roads of impacted communities and along haulage routes that meet modern and expected Ausroad Standards?

169. The Proposal, as exhibited and now as assessed in the DPIE AR, is quite simply an incompatible development. In particular:

- a) the ADA currently incorporates unlawful operations in background environmental data where that data was acquired prior to the Proponent complying with lawful consent conditions;
- b) the ADA fails to address or properly assess and mitigate the amenity impacts;
- c) the ADA will result in unacceptable road safety outcomes, in particular, having regard to Gostwyck Single Lane timber bridge, the Activity Centre of Paterson and school bus pick up and drop off location along the proposed haulage route;
- d) the ADA will result in unacceptable impacts to our members who reside immediately around the Site in relation to the cumulative impacts of new industrial noise, blasting, air quality and rural amenity;
- e) the ADA fails to address all of the requests and details contained within the SEARs and Mr Reed's Letter requesting Response to Submissions dated 2nd December 2016;
- f) the lived experiences show, that the new emerging noise impacts from the development will result in unacceptable social impacts;
- g) the noise impact assessment contains numerous errors and inaccuracies that result in misleading assertions and an under estimate of the noise impacts being presented to the DPIE and Panel;
- h) numerous reasonable and feasible mitigations have either been ignored, omitted or 'slotted in without commitment' as a future aim or work in progress.
- i) there will be an unacceptable loss of significant threatened species and threatened species habitat;
- j) the economic impact assessment and local impact assessment make no provision for the indirect and direct costs of the Proposal on the impacted community and
- k) the SIA is grossly in error and in any case, the ADA parameters exhibited will result in unacceptable 'Very High' and 'Extreme' residual social impacts affecting many people across a wide area for up to 25 years duration. Conversely the proposed mitigations will not actually target or benefit those who will be directly affected by the Proposal if an approval was to be granted.

We note that the assessment process has been extraordinarily lengthy, and every opportunity has been extended to the proponent to address the real and pertinent issues relating to the Proposal. Never the less we respectfully submit that it is more than reasonably open for the Panel to refuse the application due to the

failure of the proponent to address in the ADA, SEARs and Response to Submissions Request particularly the matters addressed in this submission.

Finally, the evaluation provisions of s.4.15 of the Environmental Planning and Assessment Act 1979 are relevant to the consideration of the proposal and are to be taken into account by the consent authority-

(a) the provisions of—

(i) any environmental planning instrument (the Dungog LEP and State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

that apply to the land to which the development application relates

We would respectfully submit that when all the facts and opinions are weighed by the Commission then, having regard to those statutory provisions and particularly the public interest, SSDA 6612 should not receive consent. We set out below grounds for refusal noting that the Proponent can still carry out the existing extractive industry as authorized under development consent DA 171/90/79 granted in 7th March 1991.

Grounds for Refusal

- a) The operation of a general construction aggregates quarry in the proposed location, utilizing the primary haulage route 1, that transects and impacts upon lands within R5 and RU5 zones of Dungog Shire Council Local Environment Plan 2014, is in direct contravention of each zone's objectives.
- b) Inadequate consideration has been given in the EIS to the environmental assessment of alternative transport routes including for local deliveries, the risk evaluation of options and associated impacts.
- c) The predicted noise impacts due to industrial noise at the Site has been underestimated, as such the likely noise impacts from the development have the potential to be far higher than has been currently predicted.
- d) Absent the usual buffer zones afforded extractive industries, the Proposal would cause intensification of noise, air and vibration impacts to surrounding receptors that will contribute cumulatively to adverse social impacts.
- e) the predicted heavy vehicle movements associated with the Proposal would result in unacceptable amenity and social impacts for the residents along the proposed transport route, including Martins Creek, Paterson, Tocal, Bolwarra Heights and East Maitland.
- f) The predicted heavy vehicle movements associated with the Proposal cannot be accommodated without unacceptable risk to road users given the current serviceability of the proposed transport route, the single lane bridges, the distance to state arterial infrastructure and the existing activity centre function within the village of Paterson.
- g) The Proposal will have significant negative social impacts on people's way of life; community; access to and use of infrastructure, services and facilities; culture; heritage; health and wellbeing; surroundings; and fears and aspirations. The Project will cause distributive inequity, both within the current generation and between the current and future generations.
- h) The Proposal is not in the public interest

References

1. **AJA, CJ Bathurst Beacle P Tobias.** *Warkworth Mining Ltd v Bulga Milbrodale Progress Association Inc.* 105, s.l. : Court of Appeal Supreme Court New South Wales, 2013.
2. **AJ, Molesworth.** *Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018]* NSWLEC 153. 153, s.l. : Land and Environment Court New South Wales, 2018.
3. **JA, Basten.** *Hunter Industrial Rental Equipment Pty Ltd v Dungog Shire Council [2019]* NSWCA 147. 147, s.l. : Court of Appeal New South Wales, 2019.
4. **221107 Martins Creek Quarry Public Meeting Transcripit Day 1. 221107 Martins Creek Quarry Public Meeting Transcripit Day 1.** s.l. : VIQ Solutions Pty Ltd.
5. **TRANSCRIPTIONS, APT. APPLICANT MEETING - MARTINS CREEK QUARRY PROJECT (SSD-6612).** s.l. : TRANSCRIPTIONS, APT, 2022.
6. **—. DEPARTMENT MEETING - MARTINS CREEK QUARRY PROJECT (SSD-6612).** s.l. : APT TRANSCRIPTIONS, 2022.
7. **LTD, VIQ SOLUTIONS AUSTRALIA PTY. PUBLIC MEETING - MARTINS CREEK QUARRY PROJECT (SSD-6612).** 2022.
8. **Ltd, VIQ Solutions Australia Pty. INDEPENDENT PLANNING COMMISSION Public Meeting Day 2.** 2022.

Attachment 1 – Visit Dungog Horse Shoe trail

FOREST ADVENTURE 117km

East Gresford
Allynbrook
Eccleston
Boot Hill
Upper Allyn
Salisbury
Dungog

MOUNTAIN ADVENTURE 56km

Dungog
Bandon Grove
Chichester Dam
Telegherry Forest Park
Frying Pan Creek
Main Creek
for Fosterton Loop add 31km



ALLYNBROOK

Featuring the 1845 St Mary's on Allyn Church and cemetery overlooking the Allyn River... an idyllic stop.

CHICHESTER DAM

A must visit spot on the Chichester River with picnic facilities.

BANDON GROVE

On the road to Chichester Dam you pass through here with an old school house, church, community hall and picnic area on the Williams River.

ECCLESTON

On the way to Upper Allyn from Eccleston stop off at Boot Hill, an anonymous but truly public artwork of approximately 1,000 shoes that has a great sense of fun and freedom.

FOSTERTON LOOP

Starting just out of Dungog you will see historic homesteads together with beautiful farming country. There is a great picnic spot at Fosterton Bridge on the Williams River.



FRYING PAN CREEK

Popular camping and picnic area at the end of Main Creek Road on the Telegherry River. Includes Coachwood Camping Area.

LOSTOCK

The site of lostock dam and nearby camping area.

SALISBURY

You can spend your day making your way to the edge of the Chichester State Forest passing historical churches and buildings. Nearby is the National Parks and Wildlife Service Blue Gum Loop Walk.

TELEGHERRY FOREST PARK

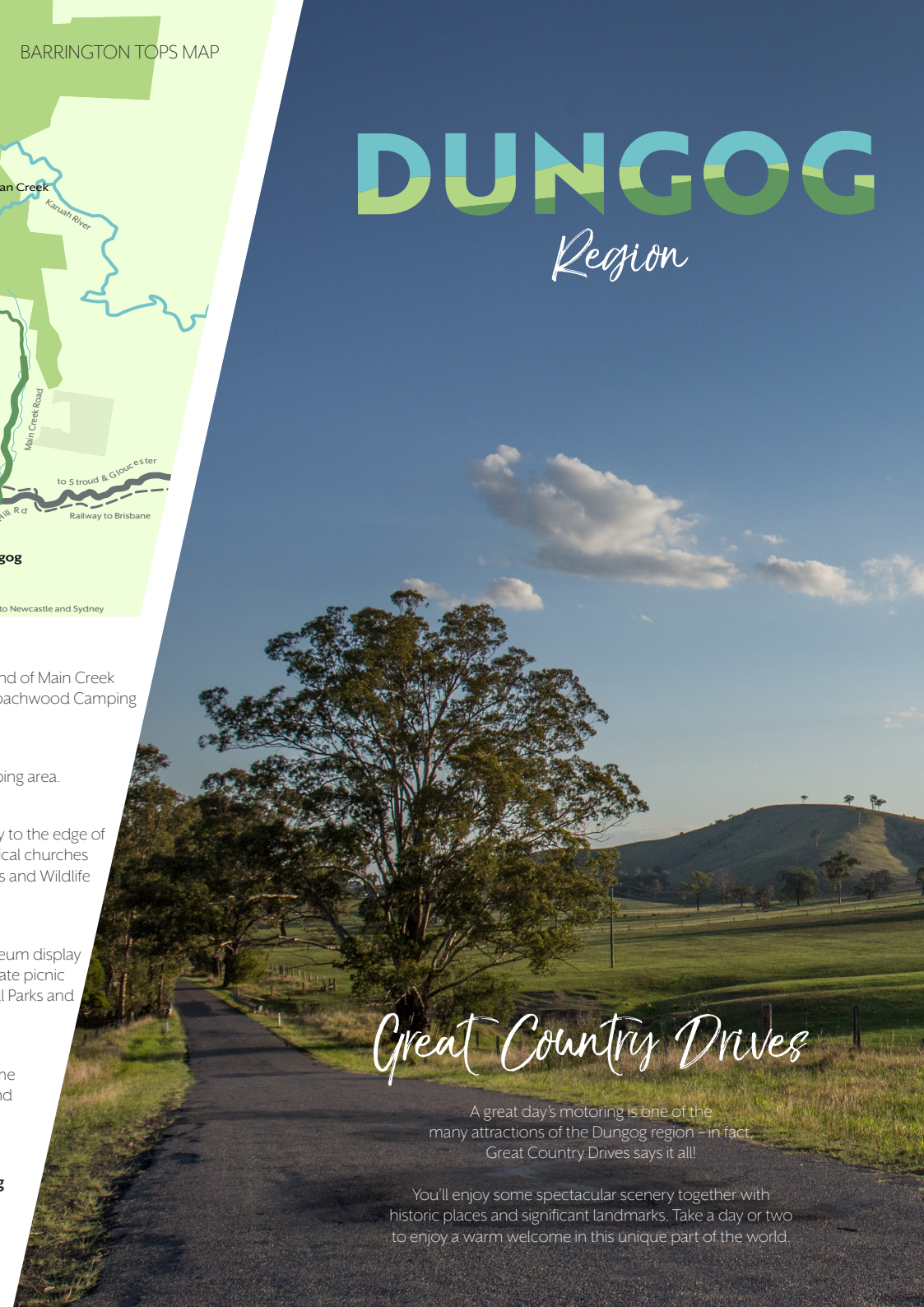
This forest park features an open-air museum display of historical logging machinery and separate picnic and camping areas. Nearby is the National Parks and Wildlife Service Jerusalem Creek Walk.

UPPER ALLYN

The Upper Allyn village was once the home of sawmill workers and now has picnic and camping areas nearby.

**For more information call the Dungog Shire Visitor Information Centre
02 4992 2212
or check visitdungog.com.au**

DUNGOG Region



Great Country Drives

A great day's motoring is one of the many attractions of the Dungog region - in fact Great Country Drives says it all!

You'll enjoy some spectacular scenery together with historic places and significant landmarks. Take a day or two to enjoy a warm welcome in this unique part of the world.

A breath of fresh air

COUNTRY DRIVES

ALISON

Australian test cricketer, Doug Walters, attended primary school here. A great drive with great views.

CLARENCE TOWN

Named around 1800, after the Duke of Clarence, the ocean going paddle steamer William IV was built here in 1831. An important part of the region's economy in days gone by as the last river port on the Williams River.



DUNGOG

First settled by timber cutters in the early 1800s, today it is the largest town in the Shire, with lots of reasons to stop and stay and a must visit destination on your country drive. Dungog is the venue for a number of events throughout the year focussing on arts and culture, mountain bikes, cars and engines, and showcasing country life.

GLEN WILLIAM

a wide valley north east of Clarence Town. The focus of the community are Glen William Public School and St Thomas Anglican Church.



VACY

In days gone by it was a private town and the half way stop over between Paterson and Gresford. Today it still has a primary school, general store and a very welcoming pub and is the home of the Vacy Village Country Carnival

WALLAROBBA

Famous for the Wallarobba Hall where many community events take place. Try and coordinate your visit to coincide with an event – good times are guaranteed



GRESFORD & EAST GRESFORD

Settled by Europeans in the 1840s, including Dr Henry Lindeman of winemaking fame. The area boasts a number of camping sites and is the gateway to the Chichester State Forest. On Easter Saturday the annual Billy Cart Derby is held in East Gresford.

MARTINS CREEK

Martins Creek was once the home of workers employed in the nearby gravel quarry. Today Martins Creek retains a primary school, railway station and Memorial Hall.



PATERSON

Settled in the early 1800s, it has a stunning collection of historical buildings and a railway museum. Nestled on the banks of the Paterson River it is a "must stop" place to spend quality time, such as having a picnic at Tucker Park. Paterson is the home of the New Years Eve Festival and various car and bike shows. You will also find many great fishing spots all along the Paterson River.

TOTAL

Just south of Paterson is the Tocal Visitor Centre, which was built to provide a facility for visitors to understand and learn more about Tocal Homestead, Tocal College and the property.

TORRYBURN

Along the Allyn River south of East Gresford is the area that inspired Dorothea Mackellar's iconic poem "My Country".

HORSESHOE TRAIL 71km

Dungog, Clarence Town, Paterson, Vacy, Torryburn, East Gresford/Gresford

COUNTRY WANDER 56km

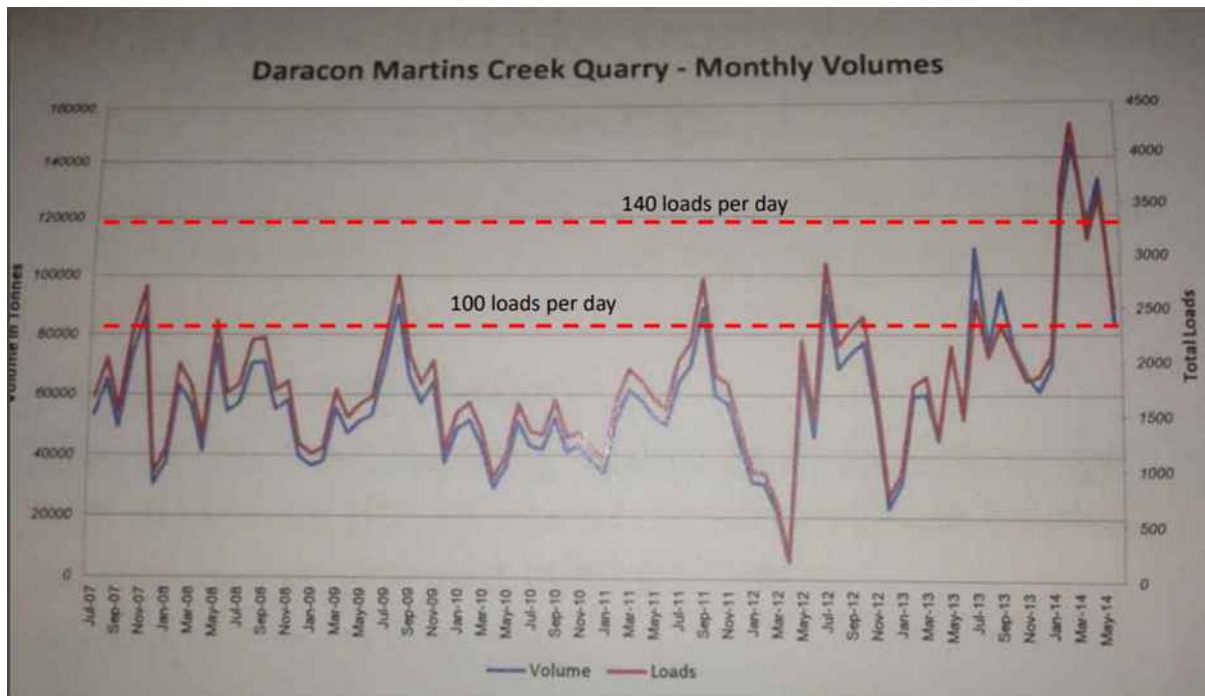
Paterson, Vacy, Martins Creek, Wallarobba, Glen William, Clarence Town



DUNGOG

Region

Attachment 2 – Monthly Historical Truck Loads vs the Proposal



Attachment 3 – EPL Analysis – Equivalent Scaled Facilities in NSW

Location Name	Premise Address	Suburb	Postcode	Fee-Based Activity	ScaleLow Range	ScaleHigh Range	Route Type	Dist to State Arterial Infrastructure (km)	Arterial route	Route through Village / Residential Area	Approx distance to nearest receptors (km)	Residential area name	Bypass
BORAL DUNMORE QUARRY	PRINCES HIGHWAY	DUNMORE	2529	Crushing, grinding or sepa	500,000	2,000,000	Private Road	0.2	Princess Highway	no	2	Dunmore	no
HOLCOM ALBION PARK QUARRY	WOOLLYBUTT DRIVE	ALBION PARK RAIL	2527	Crushing, grinding or sepa	500,000	2,000,000	Public Road	1.5	Princess Highway	no	1	Albion Park	no
TERALBA QUARRY	RHONDDA ROAD	TERALBA	2284	Crushing, grinding or sepa	500,000	2,000,000	Public Road	6	M1	no	1	Terlaba	no
LOVEDALE QUARRY	ALLANDALE ROAD	MAITLAND	2320	Crushing, grinding or sepa	500,000	2,000,000	Private Road	0.05	M15	no	2	Lovedale	no
COOMA ROAD QUARRY	COOMA ROAD	QUEANBEYAN	2620	Crushing, grinding or sepa	500,000	2,000,000	Public Road	8	B23	no	1	Jerrabomberra	no
HANSON CONSTRUCTION MATERIALS PT	OFF SEAHAM ROAD	SEAHAM	2324	Crushing, grinding or sepa	500,000	2,000,000	Public Road	12.4	A1	no	1	Seaham	yes
BORAL PEATS RIDGE QUARRY	BUSHHELLS ROAD	PEATS RIDGE	2250	Crushing, grinding or sepa	500,000	2,000,000	Public Road	14	M1	no	1	Peats Ridge	no
HANSON CONSTRUCTION MATERIALS PT	557 GEORGE DOWNES DRIVE	KULNURA	2250	Crushing, grinding or sepa	500,000	2,000,000	Public Road	13.6	M1	no	0.5	Central Mangrove	no
SEAHAM QUARRY	139 ITALIA ROAD	BALICKERA	2324	Crushing, grinding or sepa	500,000	2,000,000	Public Road	1.5	M1	no	1	Italia Rd	no
HANSON CONSTRUCTION MATERIALS PT	Williamsdale Road	WILLIAMSDALE	2620	Crushing, grinding or sepa	500,000	2,000,000	Public Road	1.4	Monaro Highway	no	1	Briarlea	no
YARRABEE ROAD QUARRY	Lot 1 DP 710232	COOPERABUNG	2441	Crushing, grinding or sepa	500,000	2,000,000	Public Road	1.2	Pacific Highway	no	2	Cooperabung	no
KARUAH EAST QUARRY	Pacific Highway	KARUAH	2324	Crushing, grinding or sepa	500,000	2,000,000	Public Road	0.2	Pacific Highway	no	1	Karuah	no
BUNTINGS PIT	BRICKELLA ROAD	WOODBURN	2472	Crushing, grinding or sepa	500,000	2,000,000	Public Road	1	Caslon Coraki Rd	no	1	Coraki	yes
Brownlow Hill Quarry	Brownlow Hill Loop Road	BROWNLOW HILL	2570	Crushing, grinding or sepa	500,000	2,000,000	Public Road	14	Northem Drive	no	0.4	Camden	no
BORAL EMU PLAINS QUARRY	RAILWAY STREET	EMU PLAINS	2750	Crushing, grinding or sepa	2,000,000		Public Road	0.6	Great Western Hi	no	0.5	Emu Plains	no
Lynwood Quarry	278 Stoney Creek Road	MARULAN	2579	Crushing, grinding or sepa	2,000,000		Private Road	2.2	Hume Highway	no	1	Marulan	yes
							average:	4.9		average:	1.1		

Attachment 4 – Complaint Records – RailCorp

From: Gill, Owen
Sent: Wednesday, 22 August 2007 8:40 AM
To: Randall, Belinda
Subject: RE: FW: Martins Creek - Triple A application and public commitments from last week

Belinda - may be useful - ring me if you need more, OG

Meeting notes - residents' meeting 16 August, Paterson

1. There were 2 people who asked to be contacted specifically this week:

- re. endangered species: Kathy Isherwood, lot 7 Merchants Rd, Martins Creek, 493 88391

- hasn't received any information from us, including the survey, and would like to: Maxeen Langlois, 381 Vogeles Rd, Martins Creek, 493 85067

2. Major complaints we received at the meeting were:

a. trucks and the dust, noise, and operating hours of the trucks. Generally the people at the meeting said the truck drivers are not observing any standards regarding load safety, operating hours, speeding, and convoying. There was also widespread concern about the number of trucks

b. the quality of our complaints system, namely that we don't appear to follow-up complaints, that we don't provide clear responses to people who have made complaints about trucks, noise, or dust. Overall, low confidence in our complaints procedures and our willingness to receive and respond to complaints

c. quality of our communication - namely that we provide information sporadically, omit large areas of the surrounding countryside when we run surveys or undertake mailbox drops (i.e. we service only Martins Creek and Paterson). Suggested we need to supply more information, do so more regularly, and to a greater number of households. Several people at the meeting said they were not included in the recent survey we conducted.

3. Our undertakings to the meeting were:

a. review the traffic management plan for the trucks and advise community of proposed changes

b. review and improve the complaints systems and advise the community of improvements

c. review communications with a view to providing more information, more regularly, and to a wider population

d. establish a community reference group (CRG) that includes residents, RailCorp, the local council, and businesses as a forum for the residents to raise issues with RailCorp

From: Randall, Belinda
Sent: Tuesday, 21 August 2007 6:01 PM
To: Gill, Owen
Subject: Accepted: FW: Martins Creek - Triple A application and public commitments from last week
When: Wednesday, 22 August 2007 2:00 PM-3:00 PM (GMT+10:00) Canberra, Melbourne, Sydney.
Where: 477 Pitt St _ Owen Henry's floor

Attachment 5 – Complaint Records - EPA

Incident Date/Time	Notification No.	Call Taken	Call Type	GIPA677 Buttai Gravel Pty Ltd Sept 2012-Feb2016	Incident Location	Caller Name	Involved Party	Suburb	LGA
11/11/2015 02:10:00 PM	I15045-2015	11/11/2015 02:23:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY	Fairly big blast from BUTTAI GRAVEL PTY LTD EPL#1378 MARTINS CREEK QUARRY, STATION STREET that shook the windows and items on shelves. Caller stated much bigger compared to the last couple of blasts that went off last week	BUTTAI GRAVEL PTY LTD EPL#1378 MARTINS CREEK QUARRY STATION STREET		BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNGOG
11/11/2015 01:55:00 PM	I15046-2015	11/11/2015 01:58:00 PM	300 NOISE/VIBRATION - 301 MINE - Particulates/dust	Powerful blast & huge dense cloud of dust caused by Martins Creek Quarry, Station St, Martins Creek. The blast happened today 11/11/15 at say 13:55, caller said it went all up for 10-15 seconds. It started with a excessive rumble and vibration from the ground up and went up their S. 74 house with car ports underneath, went VOOM and then a powerful and loud explosion blast, the whole house shudders, pictures and lights moved. Caller was in the kitchen and her husband was in the lounge room, caller said this blast is the worst one and said the recent blasts are getting progressively worst and moving closer and are getting bigger and bigger and more powerful, S. 74 Caller said there was a huge dense light brown clay colour cloud of dust at the site resulting from the blast-caller said you could not see the walls of the quarry through the trees around the site, there are some strong winds which would have dispersed the dust as caller could see the walls of the quarry through the trees. Caller said even their kitty cat would respond to the blasts and be startled.	Powerful blast & huge dense cloud of dust caused by Martins Creek Quarry, Station St, Martins Creek.		BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNGOG
Section 74									
06/11/2015 02:15:00 PM	I14880-2015	06/11/2015 02:29:00 PM	300 NOISE/VIBRATION - 301 MINE	Huge blast occurred from MARTINS CREEK QUARRY Station Street Martins Creek. Caller said the whole house shook violently. Caller is very distressed.	MARTINS CREEK QUARRY Station Street Martins Creek		BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNGOG
14/10/2015 12:30:00 PM	I13878-2015	14/10/2015 12:51:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY - Noise/vibration	The caller, S. 74 was affected by noise/vibration from a blast at the quarry today at about 12:30, which caused the house to shake. The caller notes that there are cracks in the home believed to be due to blasting.	Buttai Gravel MARTINS CREEK QUARRY, noise impact to resident of Vacy		BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNGOG
14/10/2015 12:33:00 PM	I13873-2015	14/10/2015 12:37:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY - Noise/vibration	The caller was affected by significant vibration associated with a blast at the quarry today. The caller indicates that the blast itself was relatively mild, but the after effects - the falling rock, caused the house to shake.	Buttai Gravel MARTINS CREEK QUARRY, noise impact to local resident		BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNGOG
Section 74									
17/09/2015 12:30:00 PM	I12717-2015	17/09/2015 12:42:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Noise from blast at Buttai Gravel (Martins Creek Quarry) EPL 1378, Station Street Martins Creek. The noise was much louder than blasts have been recently, and a very long noise. The caller didn't feel any vibration.	Buttai Gravel EPL 1378, Station Street Martins Creek.		BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNGOG

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17/09/2015 12:29:00 PM	I12718- 2015	17/09/2015 12:41:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY	Caller affected by noise and vibration from a blast at the quarry today. Caller received notification of blast late yesterday afternoon. The caller indicated that the noise and vibration seemed to be greater than normal compared to other blasts. The home shook, windows rattled and the vibration was clearly discernible to the people within the home. Weather is overcast t present.	Buttai Gravel MARTINS CREEK QUARRY	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOGG
I11340- 2015	18/08/2015 06:09:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY	Report emailed to info@environment on 18/8/15 at 6:09pm: Complainant has lived in Martins Creek for the past S. 74 Complainant I believes that blasting regularly carried out by the operators of the quarry (Daracon) is causing damage to their house. Cracks in walls and damage to window fittings are the main cause of concern. S. 74 S. 74 S. 74 S. 74 S. 74 S. 74 S. 74 Complainant would appreciate advice as to what we can do. Is compensation available so I can repair the damage? Can the blasting be reduced? Can you send someone to monitor the blasting and its effects? (email attached)	MARTINS CREEK QUARRY, STATION STREET, MARTINS CREEK	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOGG	
26/06/2015 12:00:00 AM	I08909- 2015	01/07/2015 11:08:00 AM	300 NOISE/VIBRATION - 305 WASTE FACILITY - N/A	Buttai Gravel Pty Ltd (Daracon), Station Street, Martins Creek. Caller is reporting of extremely loud blast from the mine last Friday (26/06/15) afternoon and that the noise was progressive. Caller said company did send the flyer regarding the blast, but this noise was louder than previously experienced. Caller wants EPA to investigate this noise incident and whether the company met its licence condition.	Buttai Gravel Pty Ltd (Daracon), Station Street, Martins Creek 2420	Section 74 BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOGG
29/06/2015 01:10:00 PM	I08812- 2015	29/06/2015 04:59:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Windows rattled today; like a quarry blast. Very slight noise aud ble in the background; but caller was not advised of any blast. If this was due to a blast they should have been notified. It was unusual, and may have been caused by something else. Can EPA advise, please.	Vibration in caller's house: from an unannounced blast. Martins Creek Quarry (but not sure).		VACY	DUNOGG
26/06/2015 01:40:00 AM	I08687- 2015	26/06/2015 02:07:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY - N/A	Martins Creek Quarry, Station Street, Martins Creek. EPL: 1378. Caller is reporting of a large explosion at the mine at around 1.40 pm this afternoon which shook caller's house. S. 74	Martins Creek Quarry, Station Street, Martins Creek 2420. EPL: 1378	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOGG
26/06/2015 01:40:00 PM	I08684- 2015	26/06/2015 01:51:00 PM	300 NOISE/VIBRATION - 301 MINE	Huge loud blast caused by Martins Creek Quarry, Station Street, Martins Creek. There was a very loud blast from the quarry that shook the whole house, windows, shed, the animals went berserk and callers wife ran out of the house thinking it was the Newcastle earthquake. Caller said they have not experienced a huge blast like it for a very long time that it felt like the side of the mountain was falling down. Caller said the blast happened approximately 13:40 today 26/6/15. Please contact caller.	Huge loud blast caused by Martins Creek Quarry, Station Street, Martins Creek.	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOGG

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105289-2015	15/04/2015 02:31:00 PM	100 AIR PARTICULATES - 102 WASTE FACILITY - N/A	Martins Creek Quarry, Station Street, Martins Creek. EPL: 1378. Caller is reporting of dusts being emitted from trucks leaving the quarry from 6 am till 6 pm, Monday to Friday and sometimes on Saturdays. Caller said nothing has been done to control the dust.	Martins Creek Quarry, Station Street, Martins Creek 2420. EPL: 1378	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
05/03/2015 05:45:00 AM	I03146-2015 05/03/2015 11:41:00 AM	300 NOISE/VIBRATION - 305 WASTE FACILITY - Noise/vibration	Caller referred to EPA by Council. The caller raises a concern that the Martins Creek quarry is sometimes commencing operation prior to 6am. The caller has noticed it on a number of days in recent weeks but didn't note exactly which days. It was audible this morning before 6am. The noise that is audible to the caller is described as truck movements and the sound of gravel loading (like a "shooosh"). The caller also mentions that their house shakes when the quarry undertakes blasting.	Martins Creek Quarry, noise impact to nearby resident	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
03/02/2015 02:10:00 PM	I01460-2015 03/02/2015 02:31:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Overpressure from blast at 2.10pm from Martins Creek Quarry; volume 'same as usual' but the shaking of windows in the caller's home after the blast seemed to last significantly longer than usual. Only seconds, but still noticeably longer than usual.	Martins Creek Quarry; Station St - EPL 1378, VACY. Overpressure affected caller's home at Wakaya Cl, Vacy.	BUTTAI GRAVEL PTY LTD	VACY	DUNOG
31/10/2014 01:37:00 PM	I15909-2014 31/10/2014 01:57:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Loud blast from: Martins Creek Quarry, Station Street, Martins Creek. Blast happened today 31/10/14 at 13:37, caller was inside the house, he said the house & shelves vibrated.	Loud blast from: Martins Creek Quarry, Station Street, Martins Creek, NSW 2420.	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
31/10/2014 01:45:00 PM	I15908-2014 31/10/2014 01:54:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Loud blasting from Martins Creek Quarry. S. 74 and it shook the house badly.	Martins Creek Quarry. Martins Creek.	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
07/10/2014 06:30:00 AM	I14699-2014 09/10/2014 10:25:00 AM	300 NOISE/VIBRATION - 303 INDUSTRIAL - N/A	Report received by email to info@environment on 7/10/14 at 07:20. Complainant wishes to lodge a complaint about noise from large machinery working at Martins Creek Quarry. The noise woke the complainant at 06:30 on 7/10/14. S. 74 and the sound of the heavy machinery is audible if the complainant's windows are open. During the warmer months the complainant prefer to sleep with windows and doors open. Complainant is aware of many issues relating to this Quarry, but was under the impression that they were operating under certain guidelines that restricted the times within which they could operate their machinery. Complainant thinks that 06:30 is not a reasonable time to commence operations given the number of residents that live within hearing range of the Quarry. This is a semi-rural / residential / bush land area and the noise is offensive and intrusive at the best of times, whereas being woken by it at 06:30 is unacceptable. Email is attached in this report.	Martins Creek Quarry (Buttai Gravel), Station St, Martins Creek	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
08/10/2014 01:50:00 PM	I14662-2014 08/10/2014 02:16:00 PM	300 NOISE/VIBRATION - 303 INDUSTRIAL	Loud blast caused by: Martins Creek Quarry, Station St, Martins Creek. Caller said the blast happened today 8/10/14 approximately 13:50, and said it was very loud, he was running a generator near the garage and heard the loud blast over the top of the generator noise, caller had to stop and step out and look at the direction of the quarry to see what's happened. Caller said the blast is the loudest he has ever heard from the quarry, it seems like it was a surface blast for it to be that loud, not underground.	Loud blast caused by: Martins Creek Quarry, Station St, Martins Creek, NSW 2420.	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG

Section 74

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08/10/2014 01:45:00 PM	I14657- 2014	08/10/2014 01:51:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY	The caller was affected by a blast today at the quarry, at approximately 13:45. The blast was loud and shook the caller's house. The sound and vibration continued for a little longer than they usually do.	Martins Creek Quarry, noise and vibration impac to resident of Vacy	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
05/09/2014 01:20:00 PM	I13143- 2014	05/09/2014 02:40:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Noise and some vibration from a blast at the quarry which went off around 1:20pm today. The noise was louder and lasted longer than usual. There was some vibration as well.	Martins Creek Quarry EP 1378, Station Street Martins Creek	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
05/09/2014 01:23:00 PM	I13139- 2014	05/09/2014 01:48:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Noise and vibration from Martins Creek Quarry. Caller notes that a blast was let off today at 1:23pm. The vibration shook her house and opened up a crack wider in an internal wall. Glasses in the cupboard shook and pictures moved on the wall.	Martins Creek Quarry EP 1378, Station Street Martins Creek	Section 74 BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
05/09/2014 01:22:00 PM	I13135- 2014	05/09/2014 01:37:00 PM	300 NOISE/VIBRATION - 301 MINE	Loud blast at: Martins Creek Quarry, Station St, Martins Creek. Caller said the quarry called them and said the blast will happen at 1:30pm today, however it happened earlier and it was a loud blast at 1:22pm today. Caller said it was a fairly substantial bigger blast and lasted for a few seconds more longer, the blast shook the house windows. Caller said its raining and damp outside.	Loud blast at: Martins Creek Quarry, Station St, Martins Creek, NSW 2420	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
05/09/2014 01:25:00 AM	I13132- 2014	05/09/2014 01:35:00 PM	300 NOISE/VIBRATION - 301 MINE - N/A	Buttai Gravel , Martins Creek NSW. EPL- 1378. Caller is reporting of noise and vibration from extremely large blast from the mine at 1.25 pm today. It shook caller's entire house. Caller said there are cracks on the ceiling.	Buttai Gravel , Martins Creek NSW 2420. EPL- 1378	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG

Release by EPA under GIPA677 / EPA270

I11986- 2014	12/08/2014 06:13:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY	<p>Report emailed to Daracon and copied to info@environment on 12/8/13 at 6:13pm: Complainants are experiencing excessive blasting from the Martins Creek Quarry S. 74</p> <p>S. 74 and have never had problems with the quarry until the last 12-18 months. In that time their house is showing signs of damage from explosions that shake their house, with vibrations coming up through the floor and rattling windows. Consequently, they now have significant cracks throughout their house in the gyprock, cornices, pavers around the edge of their S. 74 and cracking of mortar in outer brickwork to the extent that some of the mortar has even fallen out. They are also dealing with an increase in noise pollution and dust, especially with a southerly wind blowing. S. 74</p> <p>S. 74 This is going to have a huge impact on the value of their homes and quality of life. They are also very concerned regarding the wildlife in this area and don't believe they are being taken into account. In the 17 years they have been here, they have seen quite a few echidnas, possums, kangaroos, wedge-tail eagles and many other native birds and reptiles. Most worrying is that there are koalas in this area. They had a young koala access their property as recent as late last year. They have legitimate concerns for their future here given Daracons' intentions to expand threefold and operate 24/7. They would like to know what measures will be taken to ensure that their house is not going to be damaged further and that they can continue to enjoy living here in what had always been a peaceful environment. (email attached)</p>	Daracon (Martins Creek Quarry), Station St, Martins Creek	Daracon	MARTINS CREEK	DUNGOG
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Section 74

I11915- 2014	07/08/2014 09:22:00 AM	300 NOISE/VIBRATION - 305 WASTE FACILITY	<p>Report emailed to info@environment on 7/8/14 at 9:22am: Complainant emailed concerns to Daracon and copied info@environment on 7/8/14 at 9:22am: Complainant advising they have several cracks in their plaster, only appearing in the last 18 months. S. 74</p> <p>S. 74 Daracon stated at the public meeting that they had received very few complaints so here is another. When complainant first moved to Vacy they could not hear or see the quarry from where they live but now with extra blasts they have noticed cracks in their plaster which are becoming more prominent. When a blast happens they can feel the vibration through their body, china rattles and the house vibrates which no doubt will cause the cracks as a result. Filling cracks and repainting will only be a temporary solution until the next blast and the cracks will open up again. Increased noise from crushing, blasting and loading along with dust has become so uncomfortable that they need to keep their windows and doors closed but can only muffle out to a certain degree. This was never the case before. Complainant asks for the name, type, specifications, age and location of Daracon's dust, noise and blasting monitors. Also asks for notification on when Daracon will be blasting and readouts from their monitors to demonstrate that Daracon is meeting regulatory conditions. (email attached)</p>	Daracon- Martins Creek Quarry- Station St, Martin Creek	Daracon	MARTINS CREEK	DUNGOG
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06/08/2014 01:49:00 AM	I11687- 2014	06/08/2014 02:01:00 PM	300 NOISE/VIBRATION - 301 MINE - N/A	BUTTAI GRAVEL PTY LTD, Martins Creek NSW 2040. EPL # 1378. Caller is reporting of noise and vibration from the blast at the quarry. Caller was outside near clothes line and could feel the vibration through her body. The blast happened at approximately 1.49 pm today. Caller said the blast is happening almost every week. Caller can see cracks inside the house.	BUTTAI GRAVEL PTY LTD, Martins Creek NSW 2040. EPL # 1378	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
06/08/2014 12:00:00 AM	I11681- 2014	06/08/2014 01:59:00 PM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Large blast at 1.45pm today; significantly louder than usual. Caused animals distress on caller's property.	Martins Creek Quarry: EPL 1378	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
25/07/2014 12:29:00 PM	I11113- 2014	25/07/2014 12:52:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY - Noise/vibration	The caller was affected by a blast at the quarry at about 12:29, it caused the caller's house to shake. Windows rattled and vibrations were felt through the caller's body, the blast was also audible. S. 74	Martins Creek Quarry, vibration impact to resident in Vacy	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
I09041- 2014	02/06/2014 07:59:00 PM	100 AIR PARTICULATES - 102 WASTE FACILITY - Noise/vibration	Report emailed to info@environment on 2/6/14 at 19:59pm: Complainant lives near Martins Creek quarry, and is concerned about the dust and noise they are making. They say the dust is being monitored. But complainants gutter is always full of dirt these days as they clean them often; Complainant uses tank water for the house. Complainant asks if EPA monitor the dust and noise from the quarry. They don't like to think that they are breathing in that dust all day, and some days it's so noisy you can't go outside. Complainant would like to know how they can get a report on dust and noise from the quarry and asks if the quarry is doing anything about it. (email attached)	BUTTAI GRAVEL PTY LTD, MARTINS CREEK QUARRY, Station St , MARTINS CREEK- EPL 1378	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG	Section 74
02/06/2014 01:40:00 PM	I08810- 2014	02/06/2014 02:43:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY - N/A	Excessive vibrations from a blast at BUTTAI GRAVEL PTY LTD EPL#1378 MARTINS CREEK QUARRY STATION STREET MARTINS CREEK causing glasswear in cupboards to rattle and clash together. Caller very concerned about the possibility of more cracks in the family home as caller already has one crack.	BUTTAI GRAVEL PTY LTD EPL#1378 MARTINS CREEK QUARRY STATION STREET MARTINS CREEK	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
02/06/2014 01:41:00 PM	I08809- 2014	02/06/2014 02:36:00 PM	300 NOISE/VIBRATION - 303 INDUSTRIAL	Very Loud blast from the quarry. Caller was inside their house when the blast happened, said the blast/noise vibrated through their body and caller could hear the noise through the window. S. 74	7 Wakaya Close, VACY, NSW, 2421	BUTTAI GRAVEL PTY LTD	VACY	DUNOG
02/06/2014 01:40:00 PM	I08806- 2014	02/06/2014 02:27:00 PM	300 NOISE/VIBRATION - 305 WASTE FACILITY - N/A	Excessive vibrations due to a blast at BUTTAI GRAVEL PTY LTD MARTINS CREEK QUARRY Station St Martins Creek - EPL 1378	BUTTAI GRAVEL PTY LTD MARTINS CREEK QUARRY Station St Martins Creek - EPL 1378	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG

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02/06/2014 02:00:00 PM	I08804- 2014	02/06/2014 02:23:00 PM	300 NOISE/VIBRATION - 301 MINE	Excessive blast from MARTINS CREEK QUARRY Station St Martins Creek. The blast caused massive vibration which shook the whole house and all china dishes rattled in the cupboard. Aall neighbours came out to see what the noise was. Caller says the blasting was like an earthquake.	MARTINS CREEK QUARRY Station St Martins Creek	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOGG
29/04/2014 06:00:00 PM	I08555- 2014	28/05/2014 04:35:00 PM	300 NOISE/VIBRATION - 303 INDUSTRIAL - Particulates/dust	Report received by email to info@environment on 26/5/14. In summary the complainant attached a 'drop box' link of video footage of the Buttai Gravel/Martins Creek Quarry operator breaching licence conditions across multiple dates. Item 1 - IMG0421.MOV - filmed 29th April 2014 shot at 18:00 onwards showing crusher and conveyors continuing to run after 18:00 and loader movements onsite outside the approved hours of operations per L6.2. Item 2 - IMG0433.MOV - filmed 30th April 2014 shot at 18:00 showing crushers continuing to operate after 18:00 and vehicle and loader movements on site outside approved hours. Item 3 - IMG0450.MOV - filmed 14th May 2014 shot at 18:00 onwards showing crusher continuing to operate and vehicle movement onsite after hours. Item 4 - IMG0466.JPEG - Photo shot on 17th May 2014 showing significant dust plumes coming from crushing operations on the western lots of the quarry (lot 5 & 6). Item 5 - IMG0471.MOV - filmed 21st May 2014 shot at 19:08 onwards, records from 03:12mins onwards maintenance occurring on the crushers with audible rattle guns. The repeated audible cracking sound throughout the video is some type of pressure relief valve occurring from the cement hoppers. From the footage it appears for items 1,2,3 & 5 they are breaching condition L6.2 of their licence (at least definitely where the crusher is still running and where they are using rattle guns for maintenance). From the photo in item 4 the operator appears to be in breach of condition O3.1 - there doesn't appear to be any dust suppression systems on their conveyor, crushers or stock piles. Complainant thinks air pollution limits are monitored via the high volume air sampler recording averages. Is this correct or does EPA have ability to query / enforce O3.1 also? Complainant has footage on a USB stick if required but requests that this footage is not divulged to any third parties. Original email with drop box link is attached in this report.	BUTTAI GRAVEL (Martin Creek Quarry), STATION STREET, MARTINS CREEK - EPL 1378	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOGG
I08492- 2014	28/05/2014 08:55:00 AM	400 WATER - 407 MINE	Caller believes Martins Creek Quarry has previously blocked off local creek as the creek was very dry last year (caller cannot remember exact date or month). The creek always has water in it. The creek now has water but the caller's animals are sick with cancer and caller suggests the creek water is contaminated from the mine.	MARTINS CREEK QUARRY Station St Martins Creek	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOGG	
28/04/2014 06:00:00 AM	I06886- 2014	28/04/2014 04:14:00 PM	300 NOISE/VIBRATION - 301 MINE	Loud machinery noise coming from Martins Creek Quarry Station St Martins Creek. Caller says the noise started at 06:00 and has progressing loudly as the afternoon approached where caller says the noise is unbearable now.	Martins Creek Quarry Station St Martins Creek	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOGG

Section 74

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I05252-2014	26/03/2014 01:49:00 PM	1300 OTHER - 1301 EPA LICENSED - N/A	Report emailed to info@environment on 26/3/14 at 13:49: In summary complainant has a number of grave concerns that relate to the quarry operations and associated transport activities of the extraction and cumulative environmental impact of these works. A number of these concerns complainant states are outright breaches of the licensees operating conditions. In the second instance a number of these concerns are subjective cumulative impacts not adequately addressed or controlled within the licences current conditions. (see email attached)	Buttai Gravel Pty Ltd (MARTINS CREEK QUARRY), Station St, Martins Creek: EPL 1378	BUTTAI GRAVEL PTY LTD EPL#1378	MARTINS CREEK	DUNOG
26/02/2014 12:00:00 AM	I03033-2014 26/02/2014 10:07:00 AM	300 NOISE/VIBRATION - 305 WASTE FACILITY - Particulates/dust Noise/vibration	Caller affected by early morning noise from the quarry, trucks are parked in the yard overnight, caller hears them start driving out of the yard to be loaded from about 5:30-5:40am, the trucks can then leave the quarry loaded at about six, sometimes a little before 6am. Licence conditions suggest that noise should not be affecting resident prior to 6am. Caller also affected by excessive dust from the road near the quarry, associated with trucks on the road. The premises have indicated that they can't water down the road because it makes it muddy, they also don't seem to water down the truck before they leave. The cloud of dust is visible from a long distance away, the dust generally seems worse recently.	Buttia gravel, Station Street Martins Creek	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
19/12/2013 08:30:00 PM	I20402-2013 20/12/2013 08:33:00 AM	300 NOISE/VIBRATION - 301 MINE - Noise/vibration	Quarry has been working late virtually every night this week. Finishing time on the western side is 5pm and the eastern side is 6am-6pm. Caller can hear the crushers and the reversing alarms as late as 8.30pm or 8.45pm. Employees cars wake caller as they start arriving at 4.45am-5am and the trucks start up at 6am on site.	BUTTAI GRAVEL PTY LTD - ELR 1378 Martins Creek Quarry, Station Street, Martins Creek	Section 74 BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
09/11/2013 07:45:00 AM	I18534-2013 09/11/2013 08:02:00 AM	100 AIR PARTICULATES - 102 WASTE FACILITY - N/A	After hours call. Large amount of dust in air coming from the Daracon Quarry (Buttai Gravel), Station St and Grace Avenue, Martins Creek on 09/11/13 at 07:45. There is dust over the valley from their crusher. (A/hrs reference 31557)	Buttai Gravel (Daracon), Station St, Martins Creek EPL 1378	BUTTAI GRAVEL PTY LTD	MARTINS CREEK	DUNOG
22/10/2013 07:00:00 PM	I17694-2013 23/10/2013 08:55:00 AM	300 NOISE/VIBRATION - 301 MINE	Noise from trucks driving up Station St to the Martins Creek quarry last night at 19:00. caller says the the truck are not suppose to drive up Station St after 17:00. Caller also said they started work at the quarry at 06:30	Martins Creek Quarry Station St	Daracon	MARTINS CREEK	DUNOG
09/07/2013 04:00:00 PM	I11119-2013 09/07/2013 06:36:00 PM	300 NOISE/VIBRATION - 302 RAIL - Noise/vibration	AFTER HOURS. Caller advised there are trains idling past 19:00pm and goes on into the evening. The noise went from the afternoon until 2:00am. Ongoing issue . [A/HRS REF:# 24537]	Daracon, Martins Creek	Daracon	MARTINS CREEK	DUNOG

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Reference	Type	CallDate	CallerName	Suburb	Council	InciDate	InciTim	IncidentLocation	GIPA 677 Buttai Gravel Pty Ltd Sept 1996 - August 2012
<u>21856</u>	341	17/May/1999		MARTINS CREEK	DUNGOG	17/May/1999	10:05	RSA Quarry, Station St (owned by State Rail)	Noise from trucks driving to quarry, caller believes they are operating outside acceptable hours. Caller believes normal operating hours are 7am to 4pm, but trucks are arriving earlier, one at 2.30am recently, another this morning was at 3.50am, another one at 5am. Caller says "improvements" are being made at the quarry at the moment but he believes they are working outside limited hours. Caller wants to know what the official operating hours are. Could EPA inspector pls ring caller to discuss.
<u>23589</u>	300	12/Aug/1999		MARTINS CREEK	DUNGOG	11/Aug/1999	16:00	MARTINS CREEK QUARRY, TOCAL RD NEAR TARCOL SCHOOL	MARTINS CREEK QUARRY TRUCKS LEAVE QUARRY NOT USING TARPS TO COVER LOADS. DUST & ROCKS FLYING OFF TRUCKS - ONE CHIPPED WINDSCREEN. EPA SIGN SAYS COMPANY SHOULD BE USING TARPS.
<u>41855</u>	341	04/May/2001	S. 74	MARTINS CREEK	DUNGOG			State Rail Quarry	State Rail Quarry, Martins Creek has been blasting for ballast for railways. Caller says the blasting is causing cracks in house. Caller has been advised by a bricklayer recently that the cracks in the house is caused by the blasting. The bricklayer also brought a consultant along and the consultant verbally confirmed this. This problem has ongoing for last 2 years and the caller has to repeatedly having to keep repairing the cracks. The last blasting occurred 23/4/2001 and as a result there is extensive cracking inside and exterior of the house.
<u>43405</u>	300	26/Jun/2001		MARTINS CREEK	DUNGOG	26/Jun/2001	15:30	Metromix quarry - Station Street	Metromix quarry allow their transport trucks to operate with uncovered loads. As a result caller says the dust in the area is unbelievable. Some days there are sixty to seventy trucks driving past - all of them uncovered. The verandah is permanently covered with gravel dust. This problem has been going on for years but seems much worse lately. Also the trucks start work at 05.30 in the morning - this is a couple of hours earlier than allowed and they are very noisy. Caller has complained to the quarry managers but she believes that they don't care about the local residents opinions on this. They also seem to be excavating much closer to callers residence than caller was originally advised. Caller believes they are almost regulating themselves as there never seems to be any checks on the premises etc and feels that an EPA inspector needs to be made aware of the problem.

<u>44498</u>	300	07/Aug/2001	PATERSON	DUNGOG	07/Aug/2001	10:00	Martin's Creek Quarry -	<p>30 Truck movements a day past my caller's home which create untenable amounts of dust preventing caller from opening doors and windows.</p> <p>S. 74</p> <p>S. 74</p> <p>S. 74</p> <p>Caller is requesting that the watering not only be on a regular basis but that it is extended because despite the short stretch of tar out the front of her home - the majority of truck drivers have no concern for the well being of the residents and mostly drive at top speeds (some hit 80km on the stretch). Also not all trucks have their loads covered and dust will migrate from the material as they fly past but her chief concern is the billows of dust from untarred road. Caller says that the quarry has been 'extracting a good living' for many years and although it is possible for the quarry to put another road into the site which doesn't affect the residents amenity - they haven't done so. Caller says that tarring the full stretch (which is mainly subject to heavy truck movements from the quarry) is another option which would at least address the dust from the road problem. Can EPA please investigate?</p>
<u>54879</u>	300	15/Jul/2002	MARTINS CREEK	DUNGOG	12/Jul/2002	20:00	MARTINS CREEK QUARRY, STATION RD	<p>TRUCKS FROM MARTINS CREEK QUARRY DRIVING PAST AT 8PM AT NIGHT CREATING A GREAT DEAL OF DUST AND NOISE. NOT TREATING THE ROAD TO PREVENT THIS DUST AND DRIVING VERY FAST.</p> <p>There is dust coming from the Martins Creek Quarry over the towns of Paterson and Martins creek. The dust is a large haze over the towns and has been present for the last few days. The dust is very bad. It is catching in callers throat and their eyes are puffy. Callers home is full of dust. Yesterday was particularly unbearable. Caller lives quite a distance from the quarry and caller is concerned for the</p> <p>S. 74</p> <p>S. 74</p> <p>Caller has been putting up with this for years, but have never complained. Now they have had enough and want the EPA do do something about it. Caller was told there is no dust suppression at the quarry at all. There was also a loud blast yesterday afternoon which rocked the callers home.</p>
<u>67495</u>	300	19/Sep/2003	MARTINS CREEK	DUNGOG	19/Sep/2003		Martins Creek Quarry (Licence 1378)	

S. 74

<u>71789</u>	341	23/Feb/2004		MARTINS CREEK	DUNGOG	22/Feb/2004	5:45	Martins Creek Quarry	<p>Caller reports that the quarry was working on Sunday. Trucks arrived at .5.45am & began leaving at 6am. Caller feels they finished at about 13.45hrs. Caller is approx 1/2k from the site. Caller asks what are their approved work hours? Trucks arrive at midnight regularly & travelling at about 90kph in order to be the first truck out in the morning. Is this allowed?</p>
<u>71853</u>	341	24/Feb/2004		MARTINS CREEK	DUNGOG	24/Feb/2004		RIC Quarry, Douglas St	<p>Noise from the RIC quarry at Martins Creek. The quarry operates from 6am every morning and trucks from the quarry are there at 5am. 15 -20 trucks will line up, in an attempt to be the first into the quarry. Sometimes they park at the quarry in the middle of the night and drivers sleep in their trucks. Last Sunday they were working from 6am as usual. Two weeks ago they were working at 10pm on a Sunday. Could an EPA officer please phone caller back to explain their legal hours of operation.</p>
<u>71881</u>	341	25/Feb/2004	S. 74	MARTINS CREEK	DUNGOG	25/Feb/2004		Martins Creek Quarry Licence # 1378	<p>Caller reports that the quarry started operations at 5am on Sunday (22/02/04). Truck were passing at high speed to access the quarry. The noise was very intrusive.</p>
<u>75454</u>	341	21/Jun/2004		MARTINS CREEK	DUNGOG	21/Jun/2004		Martins Creek Quarry (State Rail and Metromix)	<p>Noise and dust from trucks arriving and leaving Martins Creek Quarry. This morning trucks arrived at 5:15am, they then sat at the gates with the engines running. Sunday morning a truck arrived at 6:15. This is an ongoing issue. Trucks have been leaving the site as late as 5:45pm. Caller would like to discuss this issue with an operations officer.</p>
<u>82765</u>	341	17/Mar/2005		MARTINS CREEK	DUNGOG	17/Mar/2005	6:00	Martins Creek Quarry	<p>Noise from trucks arriving early hours at Martins Creek Quarry. Caller says the licence allows the quarry to operate from 06:00-18:00. The trucks are arriving at 05:15. Caller had complained last year and the trucks stopped for awhile but now are starting early again. Caller is also querying why the mine is allowed to operate at 06:00 when other mines in the area start at 07:00.</p>
<u>84782</u>	341	02/Jun/2005		MARTINS CREEK	DUNGOG	02/Jun/2005	5:10	Martin's Creek Quarry - enroute along Patterson Road	<p>Noise of heavy B-double trucks passing caller's home from 5.10am onwards for a 6am start at the mine. There is money allocated to upgrade the road but it has been 8 months since caller was told it is seemingly underway, yet nothing has been done. Caller asks if it is possible to have a db reading done?</p>

<u>93540</u>	341	20/Jun/2006	MARTINS CREEK	DUNGOG	20/Jun/2006	12:50	Railcorp/Martins creek quarry	Noise/vibrations from quarrying: Caller reports that two explosions from the quarry caused house to shake violently, a tile fell off the bathroom wall, windows rattling very hard also. Caller is not normally home during working hours but had noticed a similar event about a month ago. Referred to EPA by council. Caller would appreciate a telephone call to discuss the matter.
<u>101058</u>	390	24/Jul/2007	MARTINS CREEK	DUNGOG	24/Jul/2007	13:43	Martins Creek Quarry (owned by Daracon)	Water in Martins Creek, passing through S. 74 looks muddy. Caller is concerned about water quality, as S. 74 S. 74. Caller believes mud is coming from mine. A neighbour has told her this, although she cannot see a point where the muddy water enters the creek.
<u>102217</u>	341	21/Sep/2007	MARTINS CREEK	DUNGOG	21/Sep/2007	13:52	Martins Creek Quarry lic 1378	2 very loud blasts occurred yesterday at Martins Creek. Caller would like feedback if there is any monitoring occurring on this quarry site as it is very close to the village area.
<u>102923</u>	300	29/Oct/2007	S. 74 MARTINS CREEK	DUNGOG	29/Oct/2007	11:30	Martins Creek Quarry	Railway ballast quarry is causing excessive amounts of dust when they fill up the pugmill.
<u>104769</u>	340	08/Feb/2008	PATERSON	DUNGOG	08/Feb/2008	13:31	Martins Creek Quarry	Caller advised there was a blast from Martins Creek Quarry that shook the house and rattled the windows.
<u>104957</u>	341	18/Feb/2008	MARTINS CREEK	DUNGOG	08/Feb/2008	13:30	Martins Creek Quarry (Railcorp operation), Douglas St	Explosion at Martins Creek Quarry (EPL 1378) operated by Railcorp on Friday February 8th at 13:30. House shook and callers know it has shaken when blasts have gone off previously when callers have been at home. Caller has contacted the Quarry previously and was told that if their house shakes or shows cracking it is not built to an appropriate Australian Standard - generally Quarry staff treat local complainants with contempt. Caller is located approx S. 74 rom the quarry. Closer neighbours get dust as well as shaken houses.
<u>106141</u>	341	17/Apr/2008	MARTINS CREEK	DUNGOG	17/Apr/2008	14:04	Martins Creek Quarry	Blast from Martins Creek Quarry, vibration felt while caller was out in paddock.

<u>109440</u>	341	10/Oct/2008		MARTINS CREEK	DUNGOG	02/Oct/2008	14:15	Martins Creek Quarry (Railcorp)	Caller reports that this afternoon (10/10/08) there was a large blast at the Martins Creek (Railcorp owned) Quarry which was very loud, however last Thursday, 2/10/08 at 14:15 a much stronger blast shook the caller's house and sent a strong unpleasant vibration right through her body. The caller is concerned that there may be more of these very strong blasts when no one is at home to record them and what damage this may be causing to her house. Can the presumed onsite monitoring undertaken at the Quarry show what size blasts are occurring and when? Secondly the caller is concerned about recent extensive land clearing on the quarry site and at a meeting with Railcorp, Council and DECC on 16/8/08 there was a comment that a full environmental impact statement had not been completed. Has the EIS been completed and is it comprehensive? The caller is seeing a lot of wildlife moving into the general area recently and assumes that the Quarry land clearing is destroying habitat. Thirdly at that meeting feedback was promised to residents however none has been forthcoming.
<u>114627</u>	341	01/Jul/2009	S. 74	MARTINS CREEK	DUNGOG	01/Jul/2009	12:50	Martins Creek Quarry,	Caller reporting blast in the quarry. Windows in the house rattled and caller felt it through her body. This was a much louder/more intense blast than usual.
<u>121910</u>	341	22/Jun/2010		MARTINS CREEK	DUNGOG	22/Jun/2010	12:55	Martins Creek Quarry- Lic 1378	Caller advised there was a loud blast today from Martins Creek Quarry @ 12:55pm that shook the windows and could hear them rattle, Complainant felt the vibrations through their body and is on a concrete slab.
<u>121912</u>	341	22/Jun/2010		MARTINS CREEK	DUNGOG	22/Jun/2010	13:00	Martins Creek Quarry	Very loud blast coming from Martins Creek Quarry which caused house to shake. They have been blasting every week. Caller would like feedback if they can blast and caller is worried about the magnitude of the blasts.
<u>123886</u>	341	28/Sep/2010		MARTINS CREEK	DUNGOG	28/Sep/2010	15:12	Martins Creek Quarry	Excessive vibrations from a blast at Martins Creek Quarry at Martins Creek. Caller said there was also noise associated with the blast but vibrations are the main issue.

<u>126395</u>	321	01/Feb/2011	MARTINS CREEK	DUNGOG	01/Feb/2011		RailCorp owned rock quarry next to Martins Creek Village	Potential breach of Native Vegetation Act: clearing of about 5 hectares of vegetation at a rock quarry at Martins Creek, possibly owned by RailCorp. Clearing has been ongoing and needs to be urgently looked at by EPRG as there is no way to know how much more clearing will be carried out. This is visible right across the valley and caller has observed the clearing from S. 74 away.
			S. 74					
<u>127171</u>	341	07/Mar/2011	MARTINS CREEK	DUNGOG	07/Mar/2011	12:40	Martins Creek Quarry	Blast about 15 minutes ago: so loud it drowned out caller's radio and she felt the vibration through her whole body. Much louder than usual.
<u>127173</u>	341	07/Mar/2011	MARTINS CREEK	DUNGOG	07/Mar/2011	12:40	Martins Creek Quarry	Blast coming from Martins Creek Quarry which caused the house to shake.

MCQ CCC Meeting November 2014

- There were 8 complaints received in total in October. 7 related to blasting, 4 direct to the quarry and 3 via EPA. All results were within limits for these blasts
- 1 complaint was for noise at 6.30am. Investigation showed nothing out of the ordinary happened during this time period.

MCQ CCC Meeting December 2014

- 3 complaints re trucking – debris on road in Port Stephens Council area, truck complaints Bolwarra and Dungog Road

MCQ CCC Meeting February 2015

- 1 reported incident – Daracon trucks regarding speed limit in Station Street exceeding 20km per hour
- Truck running out of fuel in Paterson The driver made an effort to roll the truck off the road to the safety of the road shoulder. However, during this the motor shut down resulting in the truck becoming immobile and blocking both lanes for a short time. Daracon immediately notified relevant authorities and attended the scene and in conjunction with the authorities to put in place temporary traffic management. To alleviate congestion at this time, Daracon ordered a halt to truck movements to and from the quarry. Daracon has written to all sub-contractors to remind them of their obligations and to try to avoid a similar situation in the future.

MCQ CCC Meeting April 2015

- Blasting – complaint 3/2/15 via EPA – monitor results within consent limits
- Blasting – complaint 13/2 – excessive noise & vibration - monitor results within consent limits
- Trucking – 5/2 – Grace Ave – 1 piece of ballast rock on driveway, cleaned
- Trucking – 14/2 – (see attachment 4) J McNally forwarded enquiry; Daracon response;
- Trucking – 2/3 – 2 complaints rocks on road, contacted Council, sweeper deployed; tailgate faulty – driver no longer employed
- Trucking – 5/3 – Faulty grain chute, picked material Station St, cleaned up – no further action
- Trucking – 11/3 – Oil sump – 500m small oil line, absorbent placed – no further action
- Trucking – 26/3 – Ex bin truck popped tail gate while driving; reported to council, Daracon cleaned up initial material, and driver returned to clean up remainder
- Hanson – met with Hanson and agreed to share traffic data for cumulative assessment

MCQ CCC Meeting May 2015 (outside hours emergency flood operations)

- Summary of complaints during emergency works
 - 9 related to trucking (out of normal hours, truck speed)
 - 1 related to quarry operation
 - 1 related to any additional water use

MCQ CCC Meeting July 2015

6/7 - Complaint re trucks exceeding voluntary speed restrictions - Bolwarra Heights – Daracon provided response noting both were ex-bin trucks

MCQ CCC Meeting September 2015

Reports received of trucks travelling in excess of 20km in Station Street

Action – Drivers spoken to regarding the 20km voluntary speed limit in place in Station Street:

20th August

Compliant received of truck driver driving aggressively – no certain details provided, unable to identify truck

24th August

Complaint from truck driver regarding driving behaviour of truck driver – Daracon investigated with driver no longer welcome at quarry

24th August

Complaint received truck in Station Street not having cover over trailer. Driver indicated that his cover was on. Daracon followed up and the company owner provided toolbox and written advice to drivers.

26th August

EPA indicated there was a complaint with regards to blasting impacts on house in Merchants Road. Unable to follow up as no details provided as per EPA procedure. All results were well within the limit.

MCQ CCC Meeting October 2015

September – one complaint – truck ashing out a window, with no further details.

MCQ CCC Meeting June 2016

18th January – truck speed in Station St

20th January – truck speed in Station Street

29th January – not receiving notification of blast

4th Feb – truck speed in Station St

23rd February – stone flicked up off road and caused damage to windscreen

17th Feb – truck speed in Station St

3rd March - truck Speed in Station St

8th April – truck too close to car at Bolwarra road works

17th June – blasting compliant

Attachment 6 – Impacted Resident’s Affidavit

AFFIDAVIT OF [REDACTED]
DATED 13/11/2015

COURT DETAILS

Court Land and Environment Court of New South Wales
Class 4
Case number 15/40287

TITLE OF PROCEEDINGS

Applicant **DUNGOG SHIRE COUNCIL**
First respondent **HUNTER INDUSTRIAL RENTAL EQUIPMENT PTY LIMITED**
Number of respondents 3

FILING DETAILS

Filed for **DUNGOG SHIRE COUNCIL, applicant**
Legal representative [REDACTED]
Mallik Rees Lawyers
Legal representative reference PCN: 4050 Ref: RM:312296
Contact name and telephone [REDACTED]
Contact email [REDACTED]

AFFIDAVIT

Name: [REDACTED]

Address: [REDACTED] Paterson

Occupation: [REDACTED]

Date: 13/11/ 2015

I affirm:

1. I believe that the information contained in this affidavit is true.
2. I purchased my house at [REDACTED] Paterson (hereinafter referred to as "my house") with my wife in January 2010 and have lived here since that time.
3. My house fronts [REDACTED] Road, where [REDACTED] Road comes into Paterson it is called [REDACTED] Street.
4. [REDACTED] Street is two lanes wide with parking allowed on each side.
5. My house, at its closest boundary, is approximately 3.9 metres from the carriageway off [REDACTED] Street on the eastern boundary.
6. I made the decision to move to Paterson for its country lifestyle and ambience.
7. When I first moved to Paterson the quarry truck movements fluctuated.
8. I remember the Martins Creek Quarry going silent sometime in 2010 which I believe it was because RailCorp had stopped production for a period of time as they had reached their yearly production limit.
9. In about April or May 2014 I noticed that the intensity of truck movements heading towards the quarry had increased dramatically.
10. I sometimes work from Newcastle and would leave for work at about 5:15am, the drive from my house to Maitland is approximately fifteen minutes and I could count in excess of 25 quarry trucks passing me heading towards the Martins Creek Quarry.
11. When I worked from home I would be woken from the vibration and noise of trucks heading towards the quarry from 5:30am.
12. During the period of April to September 2014 it was not unusual for me to get multiple phone calls from my then fiancé, who worked mostly from home during this time, sounding emotionally distressed saying words to the effect of:

"I'm going around the bend because of the truck noise"

[REDACTED]

[REDACTED]

Deponent

Witness

"I can't concentrate because of the truck noise"

"I can't talk to people on the phone because of the truck noise".

13. During this time both of us became very distressed and stressed.
14. The truck movements on a Saturday were generally as heavy as the truck movements during the week. I would say that there would be anywhere from thirty to forty trucks movements associated with the quarry every hour.
15. My father lived across the road from me and when I would go to visit him I would have to take extra care when crossing the road because of the amount of trucks travelling on the road.
16. In about July or August 2014 I installed a security camera at my property so that it faced the road to allow me to count the amount of truck movements per day. Exhibited before me and marked [REDACTED] is an external hard drive which shows the truck movements on 15 September 2014 and 3 November 2015.
17. On 15 September 2014 I counted a total of 339 truck movements in both directions ranging from 18 trucks in the fifteen minute period leading up to 6am to 40 truck movements between 2pm and 3pm. A schedule of truck movements and time stamp on video is annexed hereto and marked with the letter "A".
18. On 3 November 2015 I counted 415 truck movements in both directions ranging from 19 trucks in the fifteen minute period leading up to 6am to 64 truck movements between 2pm and 3pm. A schedule of truck movements and time stamp on video is annexed hereto and marked with the letter "B".
19. From my observations it is my belief that the trucks travelling North are empty trucks heading to the Martins Creek Quarry to pick up product and the trucks travelling South are trucks leaving the Martins Creek Quarry taking away the product.

[REDACTED]

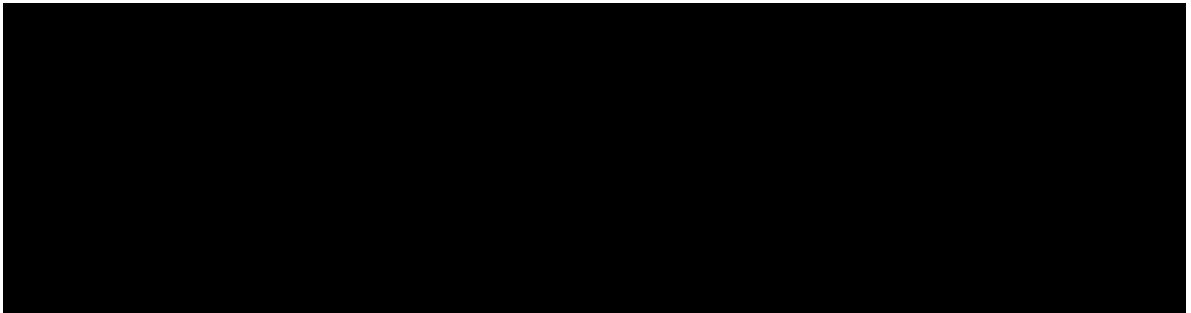
Deponent

[REDACTED]

Witness

20. When I have guests over I have to apologise in advance for the noise of the trucks and it is not uncommon to have to stop mid conversation to wait for the trucks to drive past because you cannot hear the person that you are talking with. I also apologise for the fact that they will be woken up some time from 5:30am onwards in the morning.
21. I work 12 hour days Monday to Friday and on Saturday I would like to sleep in, this is not possible because the trucks wake you up from 5:30am, the vibration of the empty trucks travelling past my house is such that I can feel the bed wobble and I can feel the vibration in my teeth.
22. I am unable to sit outside and enjoy having a coffee, eating breakfast or reading the paper because of the noise of the trucks as they travel past.

23.



24. While it is true that there are other trucks that travel along Maitland Road, I would say that one milk truck may drive along the road a day and maybe about 6 trucks carting poultry, while I can still feel some vibration from these trucks it is not to the intensity of multiple hundreds of trucks travelling to the Quarry.
25. On 31 July 2014 I attended a public meeting at Paterson School of Arts Hall, the purpose of the meeting was so people in the community could vent their concerns to Daracon. I recall David Mingay, who I know to be a Director of the First and Second Respondent, during his address to the meeting say words to the effect of:

"We won a once in a lifetime contract to supply the Hexham Relief Rail Project. We didn't think that we would win the job but we won it."

"If you don't like it [the trucks and other impacts associated with the quarry] then move"

In regards to the driving behaviour and condition of trucks accessing Martins Creek Quarry *"We have no control of our subcontractors and 3rd party trucks that cart rock from the quarry"*

26. My father passed away in January 2015 and I was gifted his house. During the April storm event Martins Creek Quarry operated 24 hours a day. The noise and vibration from the trucks was so intense over that period I relocated to my father's house. I could

Deponent

Witness

still hear the trucks but was not as intense as living at my house during that period of time.

AFFIRMED at Cessnock.

Signature of deponent

Name of witness

Address of witness

Capacity of witness

Justice of the peace / Solicitor / Barrister / Commissioner for affidavits / Notary public

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent
- 2 I have confirmed the deponent's identity using the following identification document:

current driver licence

Identification document relied on (may be original or certified copy)

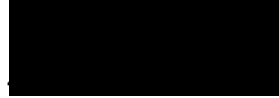
Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7

“A”

**This and the following 11 pages is the annexure marked “A” referred to in
the Affidavit of [REDACTED] made this 13th
day November 2015**

Before me



Solicitor/Justice of the Peace

Date	15/09/2014				Address	
Total North Bound	170					
Total South Bound	169					
Total Movements	339					
Maximum hourly Freq	40					
AVI File Name	Date Stamp	Time Stamp	North Bound	South Bound	Type	Hourly Sub Total
01_20140915054102.avi	15/09/2014	5:42:59	1		truck and dog	
01_20140915054102.avi	15/09/2014	5:43:06	1		truck and dog	
01_20140915054102.avi	15/09/2014	5:43:13	1		truck and dog	
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01_20140915054102.avi	15/09/2014	5:52:18	1		truck and dog	
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01_20140915055959.avi	15/09/2014	6:11:12	1		cement bulker	
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01_20140915055959.avi	15/09/2014	6:16:56	1		truck and dog	
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01_20140915095959.avi	15/09/2014	10:58:51		1	truck and dog	
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01_20140915115959.avi	15/09/2014	12:58:12		1	truck and dog	
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01_20140915125959.avi	15/09/2014	13:55:53	1		truck and dog	
01_20140915125959.avi	15/09/2014	13:58:12		1	truck and dog	22
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01_20140915135959.avi	15/09/2014	14:16:55		1	truck and dog	
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01_20140915135959.avi	15/09/2014	14:54:00	1		truck and dog	
01_20140915135959.avi	15/09/2014	14:54:31	1		truck and dog	
01_20140915135959.avi	15/09/2014	14:54:45	1		truck and dog	
01_20140915135959.avi	15/09/2014	14:56:01	1		truck and dog	
01_20140915135959.avi	15/09/2014	14:56:14		1	truck and dog	
01_20140915135959.avi	15/09/2014	14:56:18		1	truck and dog	
01_20140915135959.avi	15/09/2014	14:56:21	1		truck and dog	
01_20140915135959.avi	15/09/2014	14:56:30		1	truck and dog	
01_20140915135959.avi	15/09/2014	14:59:45		1	truck and dog	40
01_20140915145959.avi	15/09/2014	15:02:04	1		truck and dog	
01_20140915145959.avi	15/09/2014	15:06:03		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:07:52	1		truck and dog	
01_20140915145959.avi	15/09/2014	15:13:37		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:14:04		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:14:48		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:14:48		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:15:32	1		truck and dog	
01_20140915145959.avi	15/09/2014	15:18:18	1		truck and dog	
01_20140915145959.avi	15/09/2014	15:18:47		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:20:02		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:23:57		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:24:08		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:26:41	1		truck and dog	
01_20140915145959.avi	15/09/2014	15:28:05		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:30:12		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:32:40		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:33:53		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:35:35		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:38:14		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:40:45		1	truck and dog	

01_20140915145959.avi	15/09/2014	15:41:01		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:42:57		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:43:47		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:45:32		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:45:59		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:47:40		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:48:25		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:50:44		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:51:32		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:51:40		1	truck and dog	
01_20140915145959.avi	15/09/2014	15:51:51	1		truck and dog	32
01_20140915155959.avi	15/09/2014	16:02:17		1	truck and dog	
01_20140915155959.avi	15/09/2014	16:07:23	1		truck and dog	
01_20140915155959.avi	15/09/2014	16:11:48	1		truck and dog	
01_20140915162517.avi	15/09/2014	16:29:39		1	truck and dog	
01_20140915162517.avi	15/09/2014	16:51:32	1		truck and dog	
01_20140915175959.avi	15/09/2014	17:02:24		1	truck and dog	6
Total			170	169		

“B”

**This and the following 13 pages is the annexure marked “B” referred to in
the Affidavit of [REDACTED] made this 13th
day November 2015**

Before me

[REDACTED]

Solicitor/Justice of the Peace

Date	3/11/2015	Address				
Total North Bound	200					
Total South Bound	215					
Total Movements	415					
Maximum hourly Freq	64					
AVI File Name	Date Stamp	Time Stamp	North Bound	South Bound	Type	Hourly Sub total
01_20151103045959.avi	3/11/2015	5:46:24	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:46:31	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:47:03	1		cement bulker	
01_20151103045959.avi	3/11/2015	5:49:01	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:12	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:20	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:29	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:33	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:41	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:48	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:49:53	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:50:07	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:50:12	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:50:15	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:50:27	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:54:38	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:57:14	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:57:38	1		truck and dog	
01_20151103045959.avi	3/11/2015	5:57:43	1		truck and dog	19
01_20151103055959.avi	3/11/2015	6:00:11	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:00:14	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:02:08	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:04:21	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:04:30	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:08:15	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:09:13	1		truck and dog	

01_20151103055959.avi	3/11/2015	6:11:52	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:13:44	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:16:43	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:17:02	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:17:21	1		cement bulker	
01_20151103055959.avi	3/11/2015	6:17:24	1		cement bulker	
01_20151103055959.avi	3/11/2015	6:17:50	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:18:09	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:19:44	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:21:13	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:22:50		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:25:05		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:27:05		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:27:40		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:29:20	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:30:37		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:32:19		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:34:13		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:37:11		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:38:12		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:39:41		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:40:55		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:42:44		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:44:40		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:46:09		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:46:17	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:48:36		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:48:41		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:53:07	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:54:35		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:56:59	1		truck and dog	
01_20151103055959.avi	3/11/2015	6:59:15		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:59:23		1	truck and dog	

01_20151103055959.avi	3/11/2015	6:59:33		1	truck and dog	
01_20151103055959.avi	3/11/2015	6:59:36		1	truck and dog	42
01_20151103065959.avi	3/11/2015	7:01:38		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:02:40		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:04:19		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:05:05		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:06:54		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:07:42	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:11:36		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:12:56	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:13:24		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:13:59		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:17:27		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:17:34		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:19:08		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:19:10	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:19:16	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:20:00		1	cement bulker	
01_20151103065959.avi	3/11/2015	7:21:14	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:24:00	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:24:54		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:25:15		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:27:15		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:28:00		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:28:51		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:29:02		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:31:13		1	cement bulker	
01_20151103065959.avi	3/11/2015	7:31:29		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:31:45		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:34:33		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:34:44		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:39:28		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:40:09		1	truck and dog	

01_20151103065959.avi	3/11/2015	7:40:14		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:41:20		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:43:38		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:43:55	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:45:05	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:45:09	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:45:12	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:46:06		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:46:45		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:47:07	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:47:39		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:49:29		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:51:33		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:53:44	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:55:32		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:57:41		1	truck and dog	
01_20151103065959.avi	3/11/2015	7:59:10	1		truck and dog	
01_20151103065959.avi	3/11/2015	7:59:40		1	truck and dog	49
01_20151103080001.avi	3/11/2015	8:01:38		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:02:56	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:12:09		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:12:33		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:13:50	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:17:26	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:18:03		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:19:08	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:19:55	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:20:02		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:20:04		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:20:17	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:20:33	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:20:59		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:22:31		1	truck and dog	

01_20151103080001.avi	3/11/2015	8:23:44	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:28:04		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:30:09	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:32:20		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:33:14	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:37:45	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:37:55	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:38:28	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:43:12		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:43:19		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:47:32		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:50:34		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:51:16	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:51:27		1	truck and dog	
01_20151103080001.avi	3/11/2015	8:53:12	1		truck and dog	
01_20151103080001.avi	3/11/2015	8:58:10		1	truck and dog	31
01_20151103085959.avi	3/11/2015	9:00:07		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:02:11		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:06:14	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:12:45		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:13:12		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:13:45		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:13:59		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:14:52		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:15:18	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:15:20	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:17:07	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:17:14	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:18:40	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:22:10		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:23:53	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:23:59	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:24:07	1		truck and dog	

01_20151103085959.avi	3/11/2015	9:24:09	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:24:44	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:24:48		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:27:08		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:28:45		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:29:14	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:29:16	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:35:47	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:38:08		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:41:00	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:41:04	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:41:09	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:41:17	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:41:25	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:41:36	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:42:27	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:44:53	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:45:10	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:53:00		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:54:50		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:55:00		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:55:39	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:56:55		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:57:27	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:59:30		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:59:33		1	truck and dog	
01_20151103085959.avi	3/11/2015	9:59:35	1		truck and dog	
01_20151103085959.avi	3/11/2015	9:59:30	1		truck and dog	45
01_20151103100000.avi	3/11/2015	10:00:26		1	truck and dog	
01_20151103100000.avi	3/11/2015	10:01:09	1		truck and dog	
01_20151103100000.avi	3/11/2015	10:01:20	1		truck and dog	
01_20151103100000.avi	3/11/2015	10:01:28	1		truck and dog	
01_20151103100000.avi	3/11/2015	10:02:47	1		truck and dog	

01_20151103100000.avi	3/11/2015	10:02:52		1	truck and dog	
01_20151103100000.avi	3/11/2015	10:04:59	1		truck and dog	
01_20151103100000.avi	3/11/2015	10:05:08		1	truck and dog	
01_20151103100000.avi	3/11/2015	10:06:50	1		truck and dog	
01_20151103100000.avi	3/11/2015	10:07:06	1		truck and dog	
01_20151103100000.avi	3/11/2015	10:08:07		1	truck and dog	
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Total			200	215		

AFFIDAVIT OF [REDACTED] —
25 November 2016

COURT DETAILS

Court Land & Environment Court
Class 4
Case number 149935 of 2016

TITLE OF PROCEEDINGS

Applicant **Dungog Shire Council**

First respondent **Hunter Industrial Rental Equipment Pty Ltd**
Second respondent **Buttai Gravel Pty Ltd**
Number of respondents (if more than two) 3

FILING DETAILS

Filed for **Dungog Shire Council Applicant**
Legal representative **Robin Peter Mallik Coutts Mallik Rees Lawyers**
Legal representative reference **RM:MJC:20160650**
Contact name and telephone **Robin Peter Mallik 0249901266**
Contact email **rob@couttsmallikrees.com.au**

AFFIDAVIT

Name [REDACTED]
 Address [REDACTED] Paterson
 Occupation Self-employed
 Date 25 November 2016

I affirm:

1. I affirmed a previous affidavit in these proceedings on 17 November 2015 and I reiterate the matters contained in that affidavit
2. I have seen the Environmental Impact Statement lodged with the State Significant Development Application and I have made submissions against the proposed expansion of the Martins Creek Quarry (hereinafter referred to as 'the Quarry'). A copy of my submissions which I lodged with the Department of Planning on 23 November 2016 is annexed hereto and marked with the letter "A".
3. I have read the proposed interim Environmental Management Study, being Schedule 1 of the Notice of Motion filed on 11 November 2016 and headed 'Interim Environmental Management Plan – Martins Creek Quarry' and am extremely concerned at the proposal of the quarry operator that the management plan be used to control the quarry activities in the interim. I'm concerned that paragraph 2 of the proposed Interim Environmental Management Study provides that there be no more than 150 laden trucks to be dispatched from the Quarry in one calendar day, this represents at least 300 truck movements per calendar day and ignores the additional truck movements generated by the processing of quarry material on site such as cement. The cumulative impact of these truck movements will seriously disrupt mine and my family's life as set out in my Affidavit of 17 November 2015.
4. I am concerned at the suggestion that there will be no more than 40 laden trucks dispatched from the Quarry in any one hour period. This means that there is a possibility of generating up to 90 truck movements per hour as set out in the EIS at page 42 of the Traffic and Assessment Report.
5. On Thursday and Friday, the 17th and 18th November 2016 I noticed a large increase of truck movements on the road adjoining my house which I believe was caused by a ramp up of activities at the Quarry.
6. The truck movements commence past my house at 5:50am Monday to Saturday. I can almost set my watch for this time. The trucks coming past my house at this time every morning wakes my family up which includes myself, my Wife and my 9 and 16

 JP 182684



year old daughters. On Sunday's the Quarry is not operating and there are no trucks waking us at 5:50am, the day is absolute bliss.

7. I work from home and I must use my phone as video conferencing is an essential tool in my business. On occasions on the Thursday and Friday, referred to in paragraph 6 above, I noticed a number of trucks bunched together in a convoy and when they went past my house the amount of noise generated caused me to not be able to carry out a conversation on my phone and I would have to suspend the conversation until the trucks has passed. On Friday, 18th November 2016, it was particularly bad and I had to suspend 3 video conferences while the convoy of trucks passed my house. I became so annoyed that I recall looking out my office window at 2:45pm and counting 1 truck and dog travelling South and 5 truck and dog travelling north during a period of 40 seconds.
8. The thought of this type of activity continuing indefinitely in the future causes me great concern. It is not fair on me or my family to have to put up with this indefinitely while the State Significant Development is being considered.
9. I am aware that these proceedings have been going on for some time and there have been numerous adjournments. Each time I hear about an adjournment I become frustrated and I continually lose confidence with the court system. Each adjournment seems like it will be the last and then another adjournment is granted and they are not adjournments for short periods of time. If the proceedings are adjourned again for an indefinite time it will allow Daracon to continue with business as usual and means that my day to day life will continually be disrupted.
10. On numerous occasions and in particular at a meeting with Daracon on 15 April 2015, I complained to Daracon about the early start time of the trucks. The response from Daracon has been consistent, they supply concrete aggregates and road bases which need to be on site by 7am.

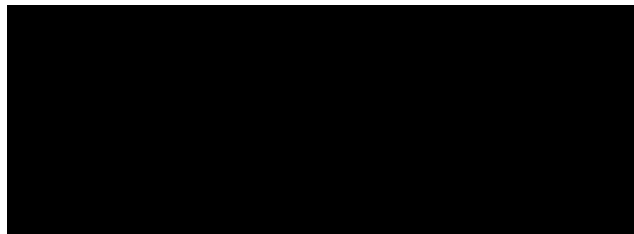
AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness



And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent. *[OR, delete whichever option is inapplicable]*
 I ~~did not see the face of the deponent~~ because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- 2 I have known the deponent for at least 12 months. *[OR, delete whichever option is inapplicable]*
 I ~~have confirmed the deponent's identity using the following identification document:~~



may be original or certified copy)²

Signature of witness

25/11/16

Note: The deponent and witness

see UCPR 35.7B.

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[² " Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/ip%20handbook%202014.pdf>]

AFFIDAVIT OF [REDACTED]
DATED 13/11/ 2015

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	4
Case number	15/40287

TITLE OF PROCEEDINGS

Applicant	DUNGOG SHIRE COUNCIL
First respondent	HUNTER INDUSTRIAL RENTAL EQUIPMENT PTY LIMITED
Number of respondents	3

FILING DETAILS

Filed for	DUNGOG SHIRE COUNCIL , applicant
Legal representative	Robin Mallik Mallik Rees Lawyers
Legal representative reference	PCN: 4050 Ref: RM:312296
Contact name and telephone	Robin Mallik Tel. 02 4990 1266
Contact email	rob@mallikrees.com.au

AFFIDAVIT

Name: [REDACTED]

Address: [REDACTED] Paterson

Occupation: Teacher

Date: 13/11/2015

I affirm:

1. I believe that the information contained in this affidavit is true.
2. I have lived at my home at [REDACTED] Paterson since I purchased it with my Wife in 1988. I have lived there continuously since 1988 with my Wife and my three children, who are now adults. I presently live at my home with my Wife and one adult child.
3. My house is located on [REDACTED]
[REDACTED] My house is 100 metres from the CBD and would be no more than ten metres from the road pavement.
4. When I first moved to Paterson in 1988 I noticed that a large amount of quarry material was transported by rail. On average there would have been one train per day. I knew when the trains were carrying quarry material because of the shape of the wagon, which was wooden and triangular in shape.
5. When I moved to Paterson in 1988 there were very few trucks travelling along the roads, I would only see semi-trailers and smaller tip trucks and I would estimate that there would be ten to fifteen truck movements per day maximum.
6. When I first moved to Paterson in 1988 the Martins Creek Quarry was only open from 7am to 4pm and therefore the truck movements were restricted to that time ("the first period").
7. During the first period I was working and the truck movements had very little impact on me.
8. During the first period the truck movements were even less on a Saturday than during the week and there were no truck movements at all Saturday afternoons or Sundays. The amenity was not greatly affected as a result.
9. There would be the occasional dairy truck, cattle trucks more so on a Monday and Sunday to take cattle to the Maitland saleyards and chicken trucks. The trucks carrying poultry travelled in spurts as they are on a cycle and the intensity would vary,

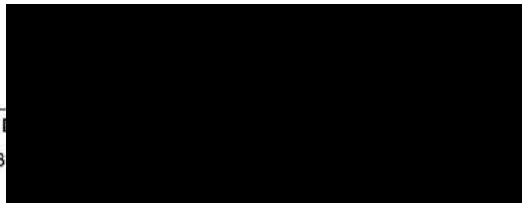
[REDACTED]
Deponent

3122961226897.doc

[REDACTED]
Witness

approximately every two to three weeks you would notice five or six chook trucks travelling past, other than that it was normal traffic.

10. I did not notice any great change in truck traffic patterns until about fifteen years ago when traffic movements from the quarry increased. The traffic increased gradually but noticeably and the style of trucks changed to Rigid Tipper and Dolly Trailers that were aluminium and rattled more.
11. By the end of 2013 there was a sporadic increase in truck movements, there would be a spurt of four days where there would be approximately 100 truck movements. The truck movements would then diminish to 40-60 truck movements per day.
12. Gradually I started to notice that the starting time for quarry trucks to go past my house was earlier and earlier until in 2014 empty trucks started going past my house as early as 5am. As the trucks were a lot noisier I was woken up by them travelling past my house.
13. The large increase in truck movements in 2014 and trucks going past my house earlier affected me in that I was always woken up by trucks and was forced to be out of bed by 6:30am or earlier. As we were early risers this did have some impact on my sleep, although it was not great.
14. In 2014 I found that the noise impacted my daily life drastically and especially over the last couple of years when it has impacted on my life dramatically.
15. I found that gradually over time the quarry truck traffic movements increased later and later from the original ceasing time of 4pm to in 2014 not ceasing till after 6pm. It is usual for trucks to go past our house between 4pm and 6pm on a regular basis.
16. When truck movements ceased at 4pm the noise of the trucks did not have an exceptional impact on me because I was working and my Wife was working part-time and my children were at school so by the time traffic movements stopped our nightly activities commenced.
17. After 2013 quarry truck traffic intensity increased and quarry truck traffic movements increased and have had a dramatic impact on my lifestyle.
18. I am now semi-retired and spend a lot more time at home. My Wife works afternoon shift and is at home through the day and she likes to sleep in the day and the truck movements disturb her sleep.





Witness

19. When I refer to noise I refer not only to body noise but engine noise and compression brakes.
20. The topography of my house means that the trucks decelerate and brake to get around the bend and accelerate to get up the hill. The intensity of the noise is extremely disturbing.
21. Since the dramatic increase in truck movements in early 2014 we have not been able to listen to television and we have had to move the television into another room so that there was some diminishing of the truck noise, but we still need the volume up to hear. When I am having a telephone conversation I need to go into another room as the conversation becomes difficult because of the noise.
22. We no longer invite friends or relatives over through the week because the noise makes conversations extremely difficult.
23. My house has a large wrap a round verandah that we use to use frequently. The verandah is now a no-go zone because of the noise.
24. The sunroom closest to the roadside has a dining table that is used for breakfast and lunch, this room is no longer used because of the noise.
25. We have re-arranged our living room so that we have another room to go to midweek in an attempt to minimise noise. The room at the back of the house is as far as we can get away from the noise.
26. We have moved our sleeping area upstairs and as far away from the road as possible.
27. We restrict our visitors who stay overnight to Saturday night otherwise they would not be able to sleep and visitors become highly agitated because of the noise. We find people not use to staying in our house describe the experience of being woken up by the quarry trucks as startling and that being woken up by the quarry trucks is an explosive wake up.
28. My Wife and I enjoy gardening but it isn't as tranquil and peaceful as it use to be. We have created a native woodland toward the rear of the house with a seat but it is not unusual for us to decide the truck noise is too great and so we have to retreat into the house to get away from it.
29. The truck movements particularly increased in January/February 2014. There were hundreds and hundreds of quarry truck movements every day. In my estimation the truck movements from January to June/July 2014 were as much as 80 to 100 per hour. The sound and disturbance drove me crazy. The trucks would travel in large convoys consisting of eight to ten trucks at a time. The trucks would be moving fairly quickly so

the bouncing of trucks was even louder. It was so bad that we considered selling our home but realised that we would not be able to sell as no-one would want to purchase our home with that quarry truck noise.

30. The noise was incessant, we had disturbed sleep and I found my Wife became short tempered as she was woken at an early time and she became more irritable. A large part of enjoying my home was taken from me.
31. From June/July 2014 the traffic activities abated somewhat, I was still woken at 5:45am each morning and I was still highly disturbed.
32. At present I estimate approximately 120 truck movements per day, this number does still vary.
33. Since about 2013 I noticed that the quarry traffic seems to have generated a large amount of dust. The dust is sticky and very difficult to remove. I have to use a shampooer and high pressure hose to clean the verandah. The dust covers all external furniture, verandah and it clogs my insect screens so much so that I don't bother to clean the screens I now replace them. I believe that the dust is generated by the new product that is being transported by the trucks. I notice at least once a day a cement truck. I have been shown photograph #23 in Exhibit JT-1 to the affidavit of Jacqueline Tupper and the cement truck that I have seen heading towards the Martins Creek Quarry is identical to the cement truck shown in that photograph.
34. Because of the topography of my house I can see into the trucks. When I first moved to my house in 1988 the majority of the trucks carried railway ballast. Gradually I have seen over a period of time that it is no longer majority railway ballast but also other products of gravel of varying sizes and dust. When the covers are not correctly used or are ripped I can see into bins and can clearly see the contents and it is my belief that the dust that is generated is a new product that is being produced by the quarry and being transported.
35. From my observation it is my belief that the empty trucks travelling in North are heading to the Martins Creek Quarry to collect product and the trucks travelling South are heading from the Quarry loaded with product.
36. As a result of the intensity of traffic it has made it difficult to enter and exit my property and this became particularly bad in 2014. We have now changed our habit of driving into the driveway and we now pull over near the park to let all truck movements pass and then only pull out on the road when it is clear to go into our driveway.

Depo

Witness

37. Coming out of my driveway now compared to 1995 is different. I now have to wait at least twice to three times as long to exit my driveway because of the truck movements. I find that the trucks travelling from the South coming through are empty and travel rapidly and at a quicker speed and as they accelerate to get up the hill next to my house there is very little margin for error and truck movements from the North are full trucks and are travelling slower and has traffic built up behind them and I have to wait longer to exit.
38. Since there are no pedestrian crossings in Paterson, and with the increase of quarry truck movements, it makes me concerned and fearful about crossing the street and I only cross the main street near the butcher shop where there is sufficient sight distance. In 2014 it was not unusual to have to wait a few minutes to cross the street.
39. At the peak of quarry truck movements in 2014 I considered I was taking my life into my own hands when crossing the street. I use to ride a push bike to the shops or for recreation purposes along Prince Street and the main road but I deemed this an unsafe activity because of the intense truck traffic. My Wife and I use to walk regularly on Prince Street and the main road, which has no formal footpaths, but we don't do that anymore as it is unsafe to do so because of the number of trucks travelling on the road.
40. Formerly I enjoyed living in Paterson and in my home. My enjoyment of these amenities has been extremely lessened because of the intense quarry truck movements.
41. My daughter arrived home from being overseas for over a year in September. When she first heard the trucks coming past the house in the morning she said to me words to the effect of *"Holy Shit, I woke up and had to put ear plugs in straight away."* My daughter brought a friend to stay and they both told me that they had to sleep with ear plugs in because of the noise of the trucks coming past the house.
42. I purchased a noise monitor to monitor the noise levels of the quarry trucks as they travel past my house. The range of noise levels is between 70 to 75 decibels.

[REDACTED]

[REDACTED]
Witness

43. Prior to December 2013 I didn't notice any problems with my house. However since then, especially during the intense period January to June/July 2014, I noticed that cracks started appearing in my house. I am aware that my house was exposed to extensive vibration during the period of January to June/July 2014 because of the intense quarry truck movements. I have noticed that when laden trucks go past my house the windows rattle and I can feel vibration on the floor, especially when trucks use their compression brakes:

AFFIRMED at Cessnock

Signature of deponent

Name of witness

Address of witness

Capacity of witness

Solicitor
Justice of the peace / Solicitor / Barrister / Commissioner for affidavits / Notary public

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 # I saw the face of the deponent. [OR, delete whichever option is inapplicable]
I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- 2 # I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
I have confirmed the deponent's identity using the following identification document:

Drivers Licence

Id [redacted] be original or certified copy)²

Signature of witness

Note: The deponent and witness must be present together at the time of the affidavit. See UCPR 35.7

¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit."

Attachment 7 – Video Evidence – Trucking Impacts

<https://www.youtube.com/watch?v=KAt3WP5arEg>

Attachment 8 – Air Quality Impacts

Dust emissions from Lot 1 processing equipment



Dust emissions from Lot 5/6 mobile crushing equipment, dust plumes moving South East over Martins Creek Village



Attachment 9 – Noise Impact Assessment Peer Review

3 November 2022
Ref: J0232-03-R1

Martins Creek Quarry Action Group
P.O. Box 128
PATERSON NSW 2421

Attn: Mr James Ashton

Dear James,

**RE: SUBMISSION TO THE INDEPENDENT PLANNING COMMISSION FOR THE
MARTINS CREEK QUARRY EXTENSION PROJECT**

This report has been prepared to assist the Martins Creek Quarry Action Group (MCQAG) to prepare a submission to the Independent Planning Commission (IPC) as part of the IPC's review of the Martins Creek Quarry Extension Project (the project). The focus of this report is to inform the IPC of the unacceptable errors and omissions in the acoustic report prepared by Umwelt Australia Pty Ltd (Umwelt). As a result of these errors, the Amended Development Application should not have passed an adequacy review, does not adequately address the SEARS and should not be accepted by the IPC.

The figures on the following two pages, for Year 20 as an example, show some of the misleading errors in Umwelt's acoustic assessment. The original source figure, as included in Umwelt's report, seems to indicate noise from quarry equipment operating in various areas of the West Pit has been considered in the noise assessment. In fact, noise from West Pit quarry equipment has only been considered:

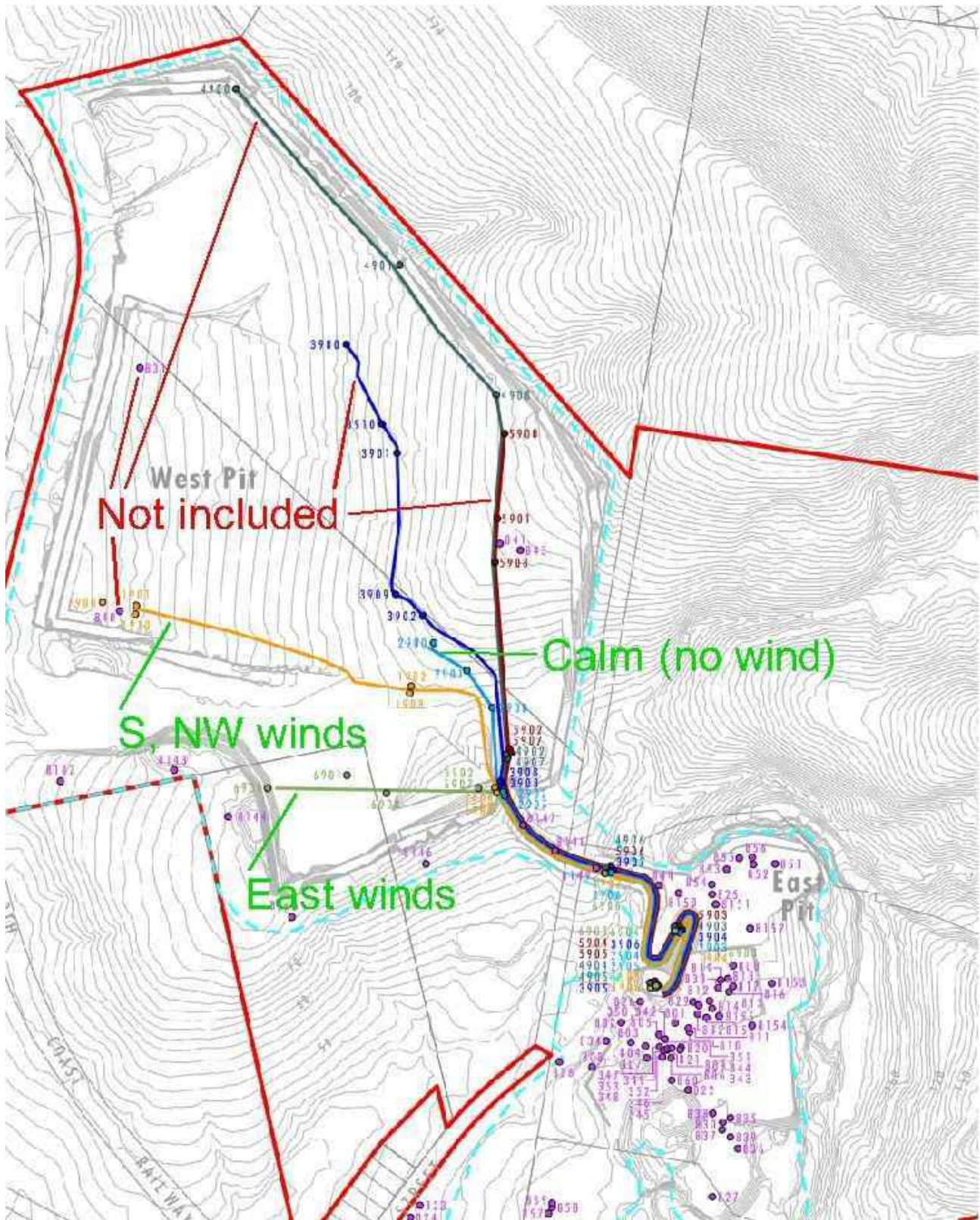
- In the south-eastern corner of the West Pit, remote from residences, under calm (no wind) conditions;
- In the far southern section of the West Pit, with the loader well shielded from residences by the pit walls, under east wind conditions; and
- In the southern half of the West Pit, relatively remote from residences, with the loader again shielded from closest residence behind a large earth wall under north-west and south wind conditions.

Despite the original source location figure showing equipment operating in the northern half of the West Pit, these sources were actually omitted from Umwelt's noise model results.

The IPC would normally review the original figures and conclude equipment operating in various areas of the West Pit has been considered. However, predicted noise levels from the noise model do not include equipment operating close to most residences, therefore the IPC will be significantly misled by these figures and, by extension, by the entire acoustic report.

Other assessed years are no better. Modelled equipment operating locations are far from most residences, which understates predicted noise levels, and all figures showing modelled source locations include equipment that is not actually modelled.

Consultants have an obligation to the Department of Planning and Environment, to the IPC and to the community to correctly assess and report on the environmental impacts of a proposed development. At least in the acoustic assessment, Umwelt has failed. The result of this failure, if the project is approved by the IPC based on erroneous data, will be noise levels significantly over the predicted levels at most residences.



Extract from Figure A4.5, Year 20 Noise Model, Noise Source Locations (in ADA Appendix D Noise Assessment)

The dark blue and dark green haul truck routes are 'switched off' in the noise model, therefore the northern two-thirds of the West Pit does not include any modelled noise sources. The sand washing plant (source 831 near the western pit boundary) is similarly not operating.

Including these sources in the figure, but not in the noise model, is misleading to the Department, the IPC and the community. Not considering any sources operating in most of the West Pit makes the predicted noise levels useless.

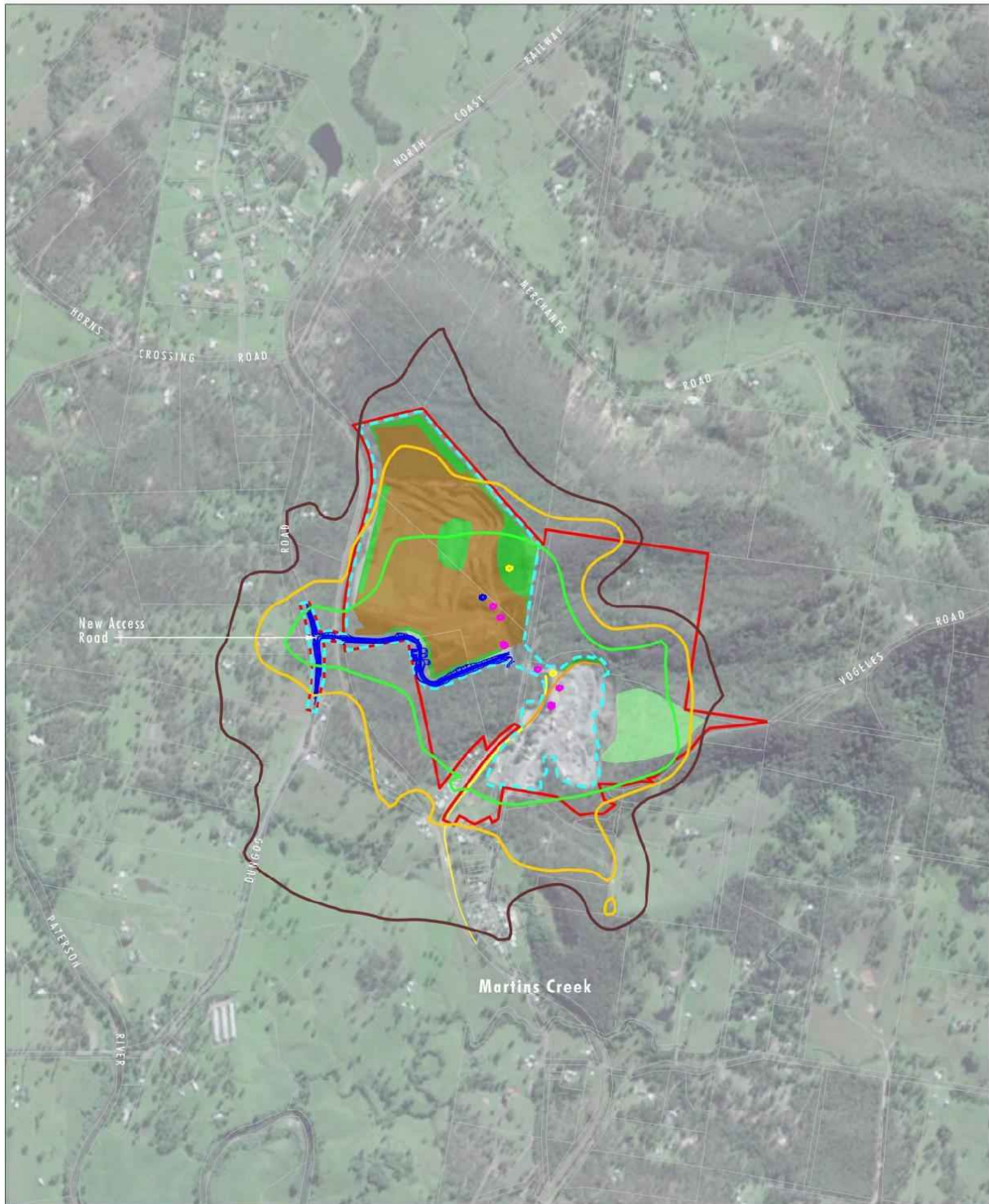


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km
 1:20,000

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_175.dgn
 20201113 15:39

Actual modelled pit sources (Table A4.5):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x0.7 in West Pit

FIGURE A6.21

Conceptual Quarry Plan Year 20
 Predicted Noise Level
 Calm Neutral

A large number of figures are appended to this report, showing:

- Marked up source location figures for all assessed years (2, 6, 10, 15, 20), similar to and including the source location figure on Page 2 above, and
- Marked up noise contour figures showing the location of modelled equipment according to the tables in Umwelt’s acoustic assessment, similar to and including the noise contour figure on page 3 above.

HISTORY OF THIS ISSUE

The MCQAG’s submission to the Department of Planning and Environment in 2021 included a description of these issues, however figures illustrating the issues were not submitted at that time. The magnitude and importance of Umwelt’s errors was therefore not appreciated by the Department.

Appendix 8 of Umwelt’s Submissions Report, prepared in November 2021, included a response to our previous submission pointing out these errors. Umwelt’s response was, in essence:

- Representative examples are included, rather than all assessed scenarios;
- The noise contours show the mitigated noise levels; and
- The other non-modelled truck paths were included in the before-mitigation noise model to determine appropriate noise mitigation measures.

There are a number of problems with this response that Umwelt has simply ignored. The major problem is the presented noise model results include restricted operating locations under all weather conditions, including calm (no wind) conditions. This implies most of the West Pit cannot be extracted under any weather conditions. As a minimum, the acoustic assessment must at least demonstrate West Pit extraction can proceed under ‘normal’ (no wind) weather conditions. Until this is completed to the IPC’s satisfaction, the IPC is being asked to approve a quarry development with unknown and unreported noise impacts at residences.

Umwelt’s previous response to the issue included the statement *to establish the achievable noise levels, the [noise policy] calls for an assessment of all feasible and reasonable noise control measures*. While this statement is true, the following steps are also required:

- Umwelt’s client (Daracon) must be made aware of the noise mitigation measures and consequent limitations on quarry operating parameters. As the mitigation measures in the noise assessment do not include rock extraction from over half of the West Pit, Daracon would not reasonably accept such measures; and
- The mitigation measures must be clearly detailed in the noise assessment to permit the consent authority (the IPC) to determine appropriate conditions of approval.

As Umwelt has considered noise mitigation measures to include only extract material from the southern one-third of the West Pit, the above two steps are clearly important to Daracon and the IPC.

OTHER ACOUSTIC ISSUES

A number of other, less important but not trivial, issues were described in our previous response. Umwelt generally waved these issues away as unimportant, or claimed the issues did not exist and the submitter was misinformed. Umwelt repeatedly stating that the noise impact assessment was prepared to the requirements of the Noise Policy for Industry and the SEARS does not make those statements true.

For example, the ADA states the sand washing plant is expected to operate in the West Pit. This plant has not been included in the noise model for any year or set of weather conditions. When this issue was raised, Umwelt responded with:

The discussion on the probabilistic modelling approach in Appendix 8 provides an example of how a stepwise control strategy could result in the shut down of the sand wash plant to reduce noise

emissions from the West Pit. The modelled scenarios provided in Appendix 4 include shutting down the sand wash plant as a part of the primary noise control options.

The fact that the sand wash plant was shut down in all weather conditions, as a noise mitigation strategy, indicates the plant produces too much noise to operate in the West Pit. At no point did Umwelt demonstrate the sand wash plant could operate without exceeding noise criteria at residences. Yet the IPC is expected to approve the sand wash plant operating in the West Pit without any information on noise levels associated with this plant.

Rather than repeat all of the previous issues that Umwelt failed to adequately respond to, the IPC is asked to refer to our previous submission which was appended to the MCQAG's previous submission. The IPC is asked to reject the entire acoustic assessment and require it to be redone in a competent manner.

DEPARTMENT OF PLANNING AND ENVIRONMENT'S ASSESSMENT REPORT

Paragraph 159 of the Department's Assessment Report prepared in October 2022 concludes the Department considers the noise impacts of the Project are acceptable. However, the Department is unlikely to have reached that conclusion if the errors and misleading information within the noise impact assessment were understood.

Umwelt has successfully misled the Department. It is very important, to the MCQAG and the community, that the IPC is not similarly misled.

CONCLUSION

This report demonstrates Umwelt's acoustic report does not present a competent assessment of the Martins Creek Quarry Project, should not have been included in the Amended Development Application and should not have been considered adequate for acceptance by the Department. The IPC is asked to reject the entire report and require it to be redone in a competent and comprehensive manner.

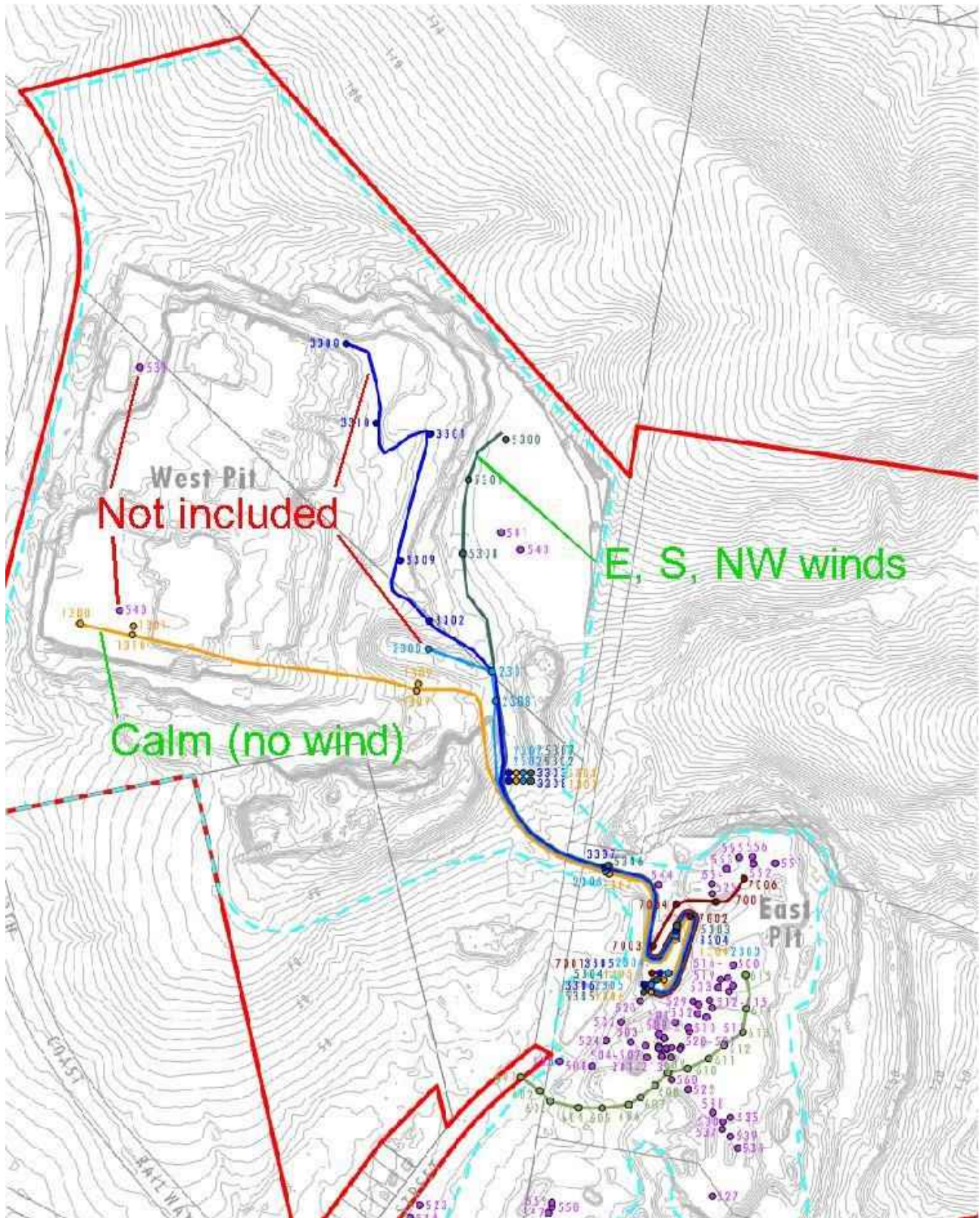
Please contact the undersigned for any further information or discussion.

Yours faithfully,



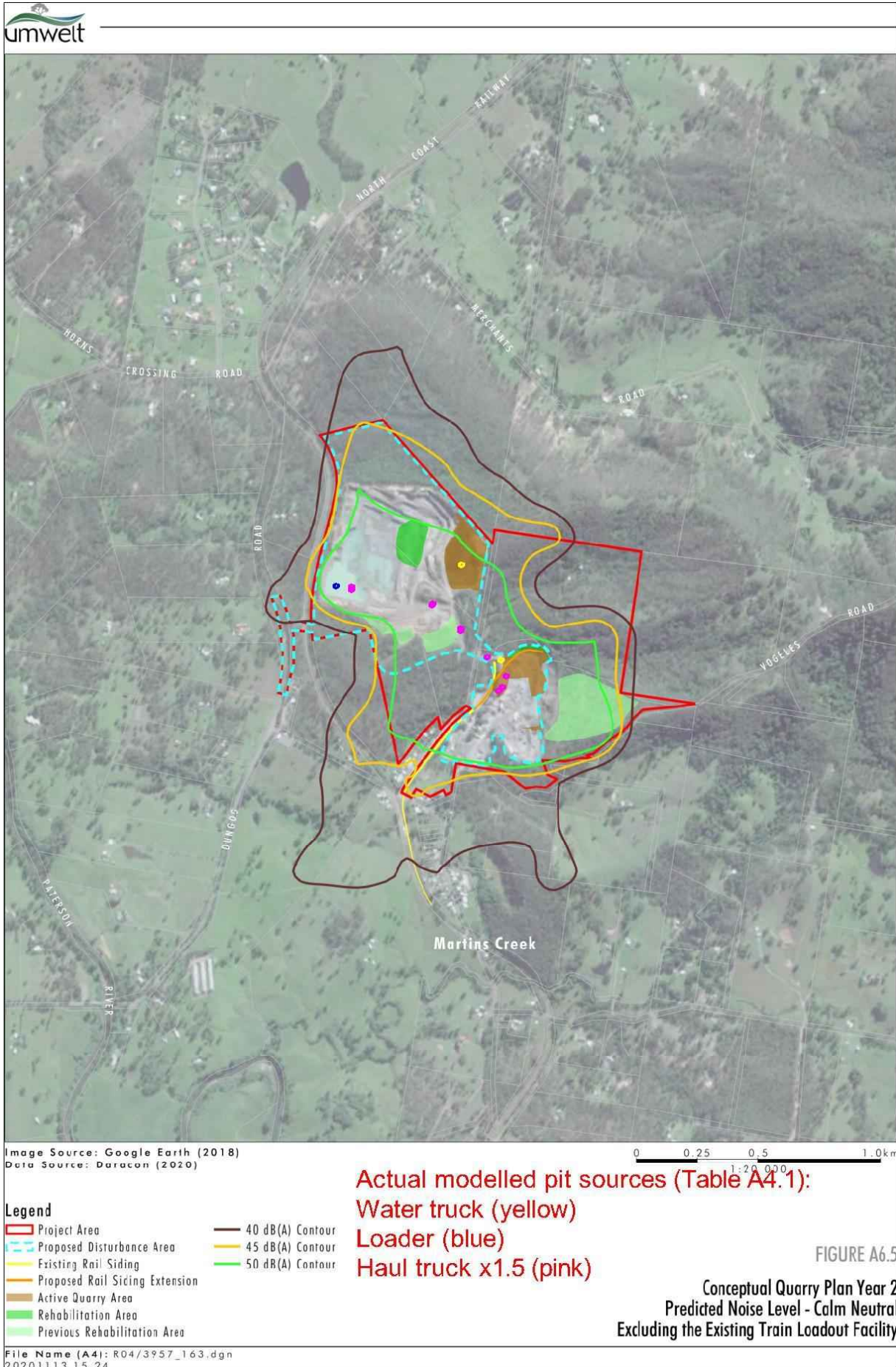
MARK BRIDGES BE (Mech) (Hons) MAAS
Principal Consultant

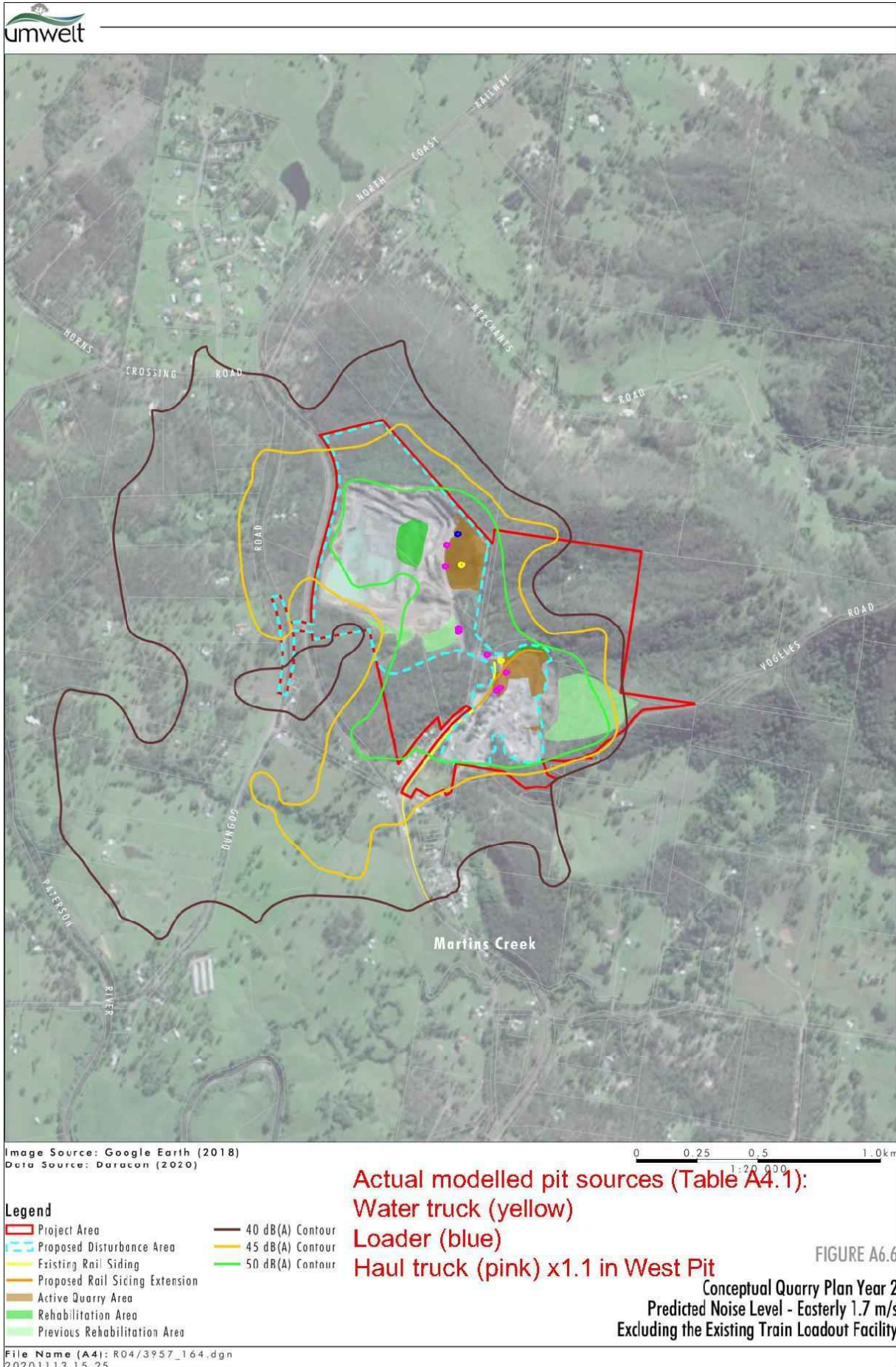
YEAR 2

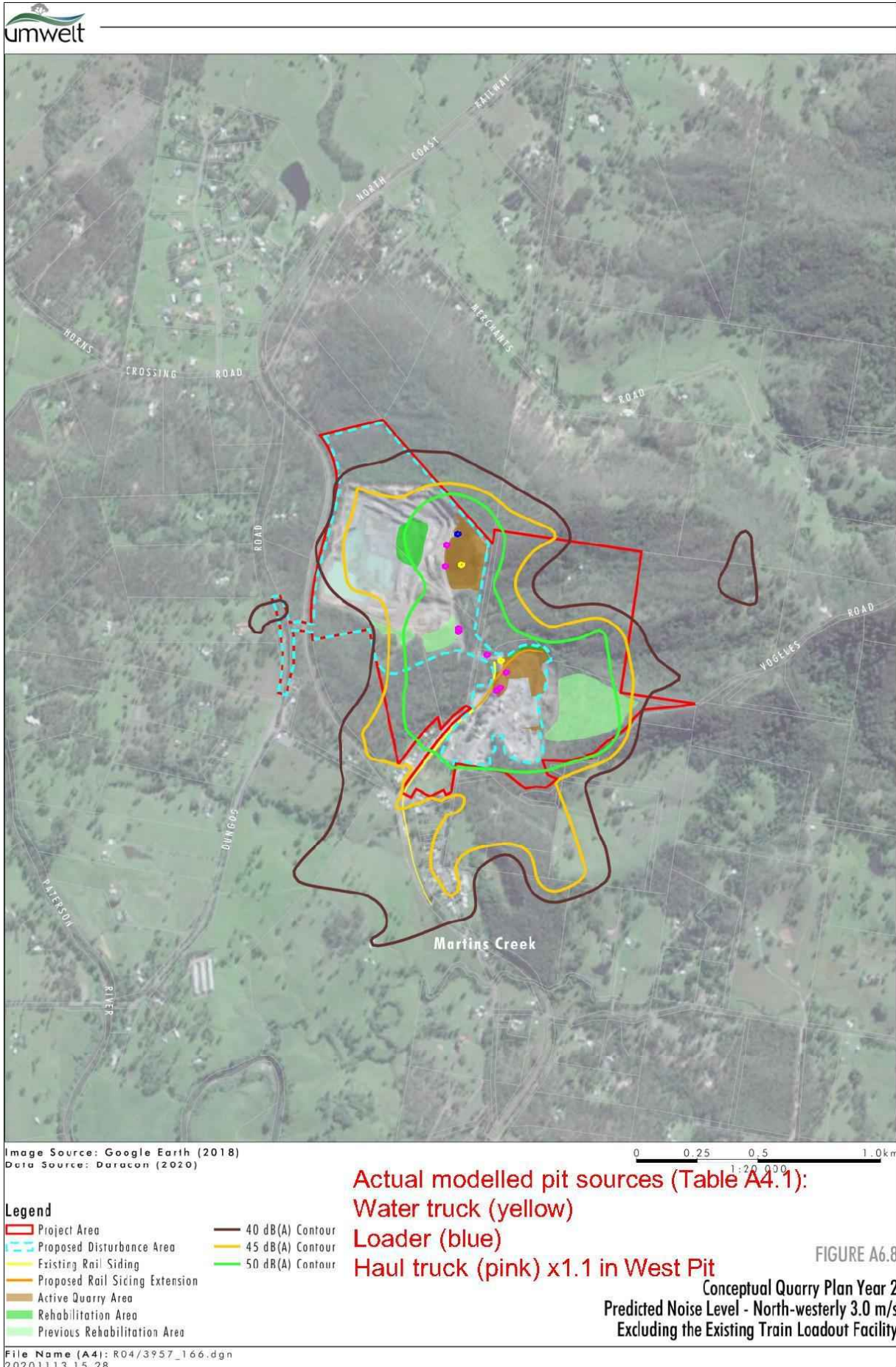


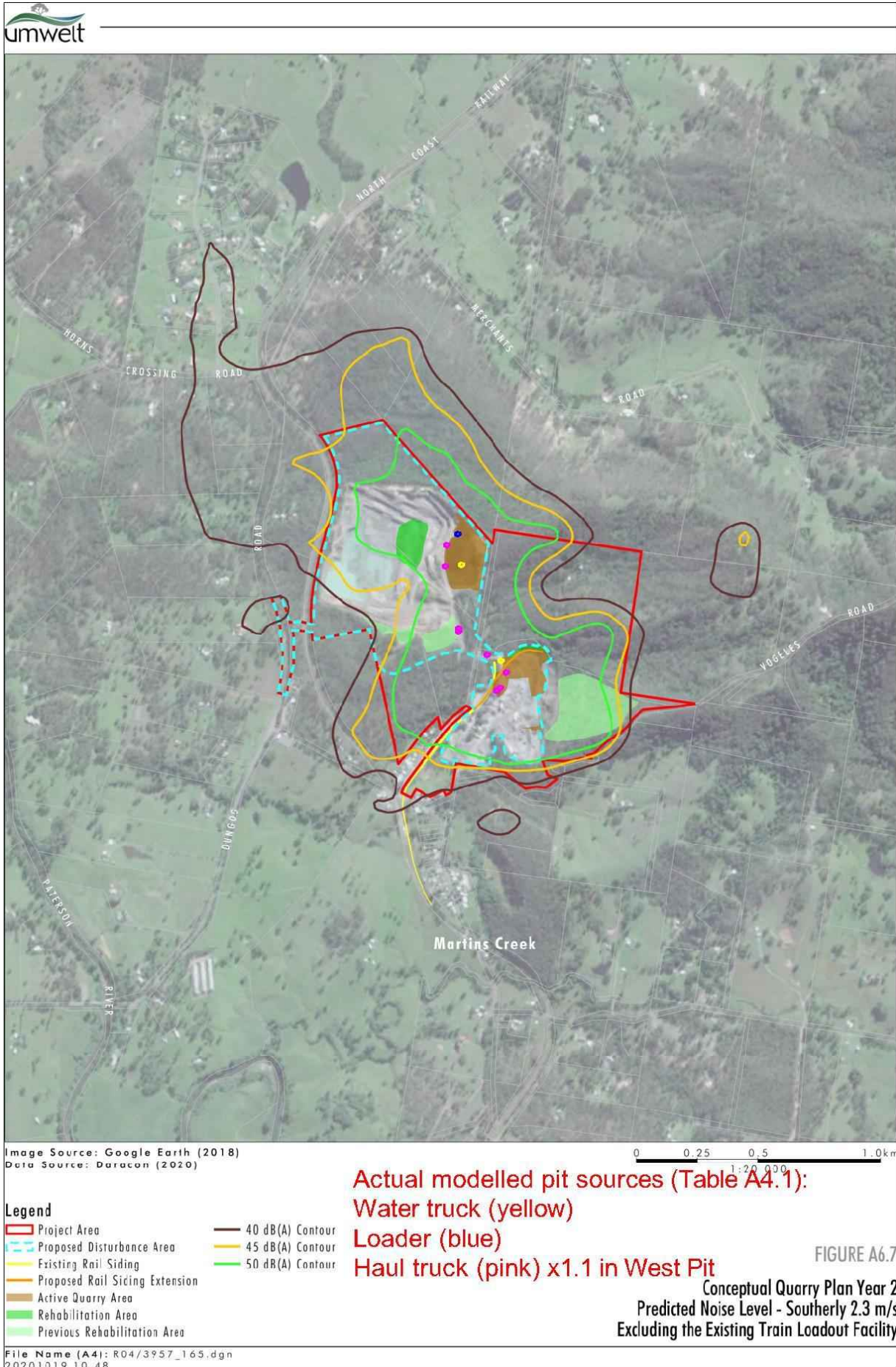
Extract from Figure A4.1, Year 2 Noise Model, Noise Source Locations (in ADA Appendix D Noise Assessment)

The dark blue truck path shown in this figure, which implies noise from the loader and trucks operating in this area was considered in the noise assessment, were not actually included in the noise model. Other sources including the sand plant near the north-west corner of the West Pit were also omitted from the noise model.

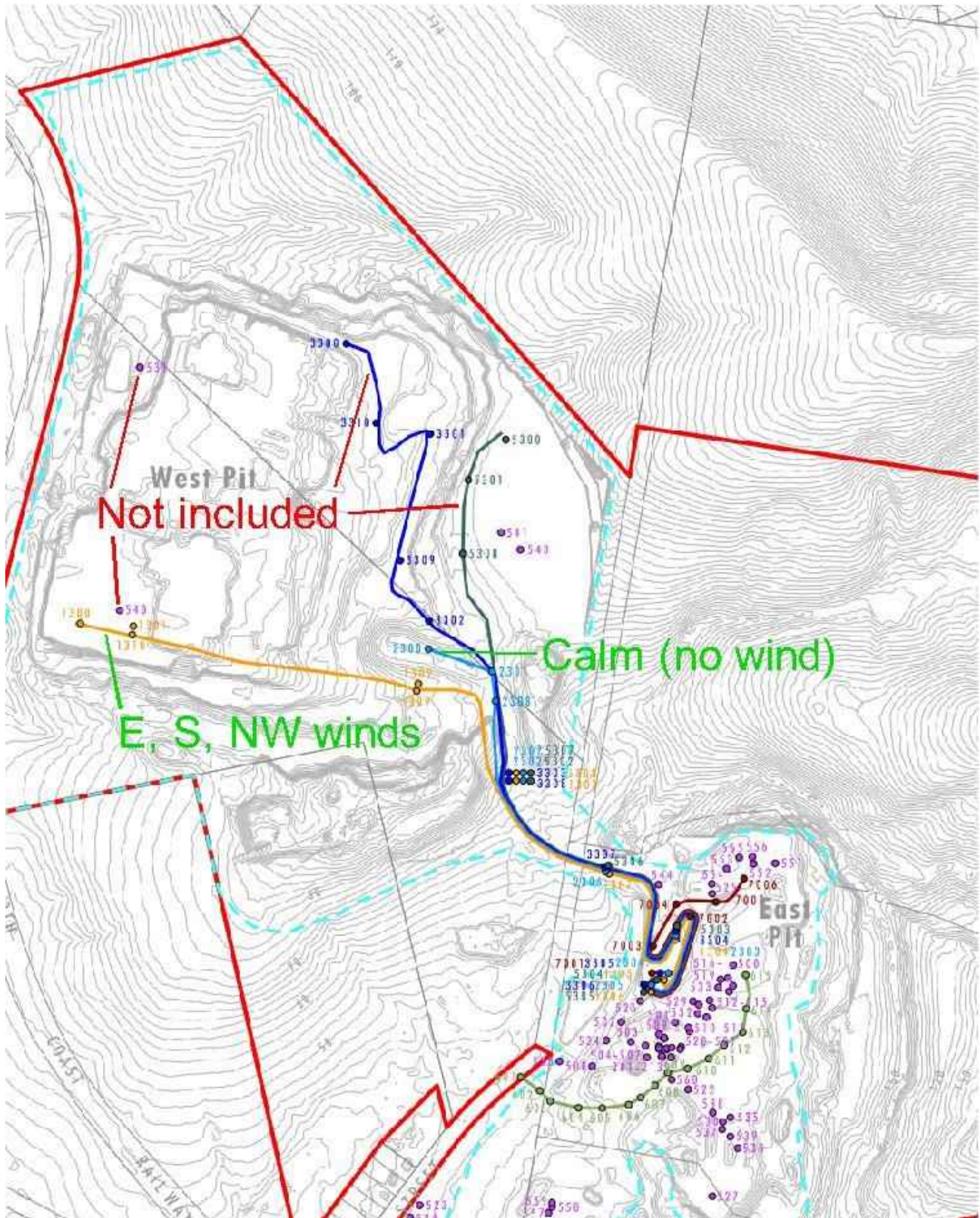








YEAR 6



Extract from Figure A4.2, Year 6 Noise Model, Noise Source Locations (in ADA Appendix D Noise Assessment)
Only the light blue and yellow truck paths were included in the noise model, in the southern section of the West Pit. All other truck paths and loader operating locations were actually excluded despite being shown in the figure.

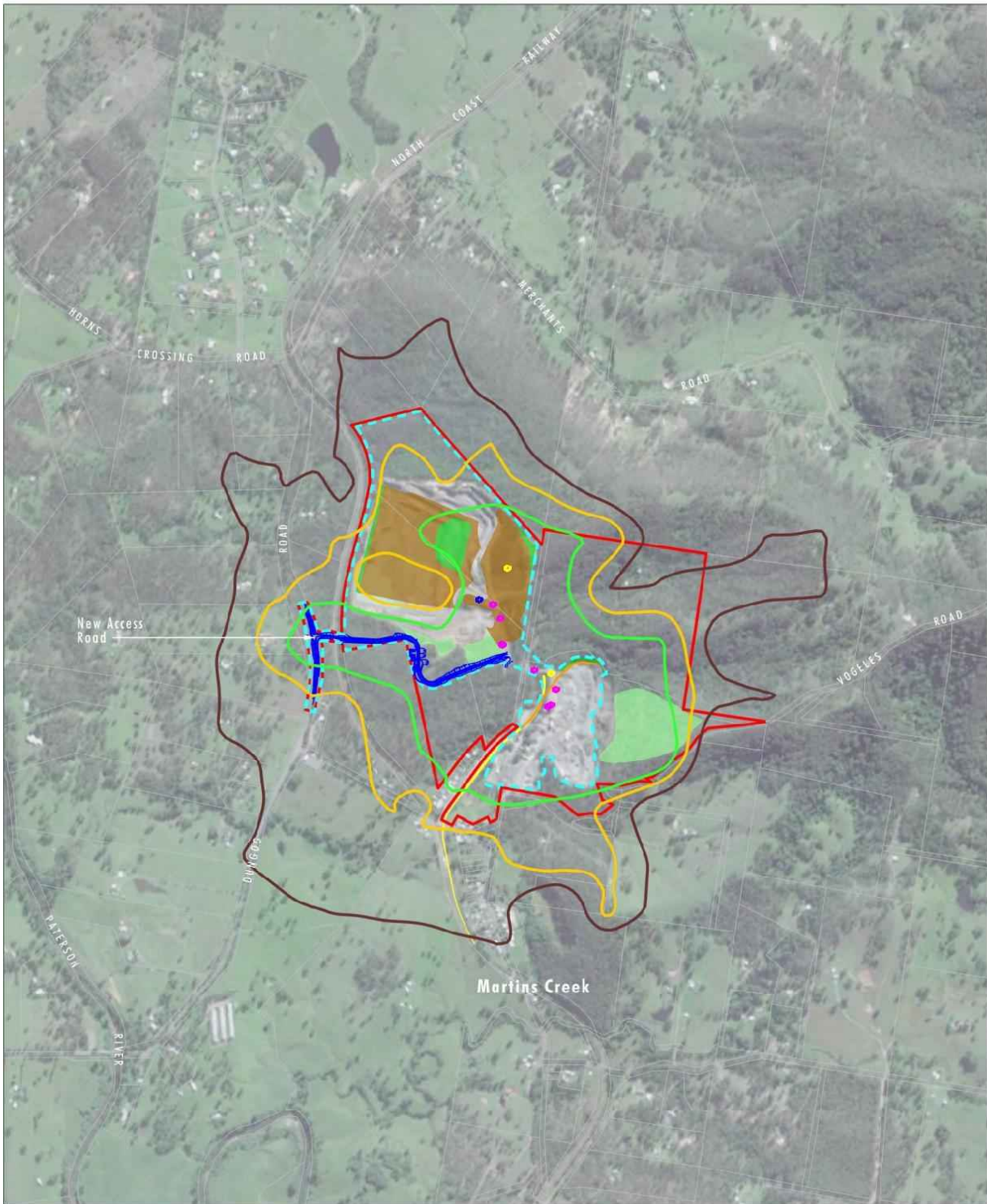


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km
 1:20 000

Legend

- ▭ Project Area
- ▭ Proposed Disturbance Area
- ▭ Existing Rail Siding
- ▭ Proposed Rail Siding Extension
- ▭ Active Quarry Area
- ▭ Rehabilitation Area
- ▭ Previous Rehabilitation Area
- ▬ New Access Road
- ▬ 40 dB(A) Contour
- ▬ 45 dB(A) Contour
- ▬ 50 dB(A) Contour

Actual modelled sources:
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x0.75 in West Pit

FIGURE A6.9

Conceptual Quarry Plan Year 6
 Predicted Noise Level
 Calm Neutral

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 20201113 15:29

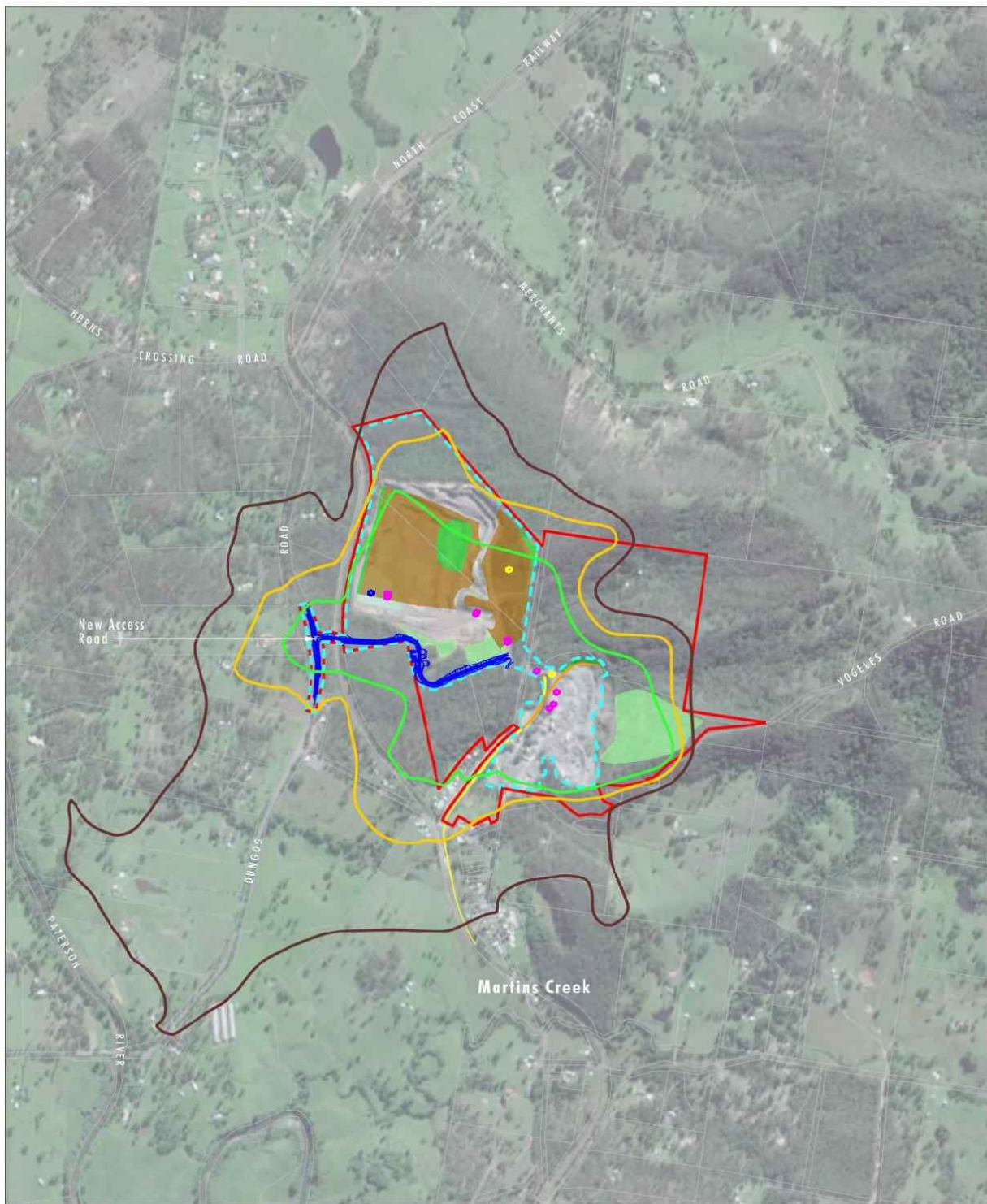


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km
 1:20 000

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

Actual modelled sources:
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.3 in West Pit

FIGURE A6.10

Conceptual Quarry Plan Year 6
 Predicted Noise Level
 Easterly 1.7 m/s

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 20201113 15:30

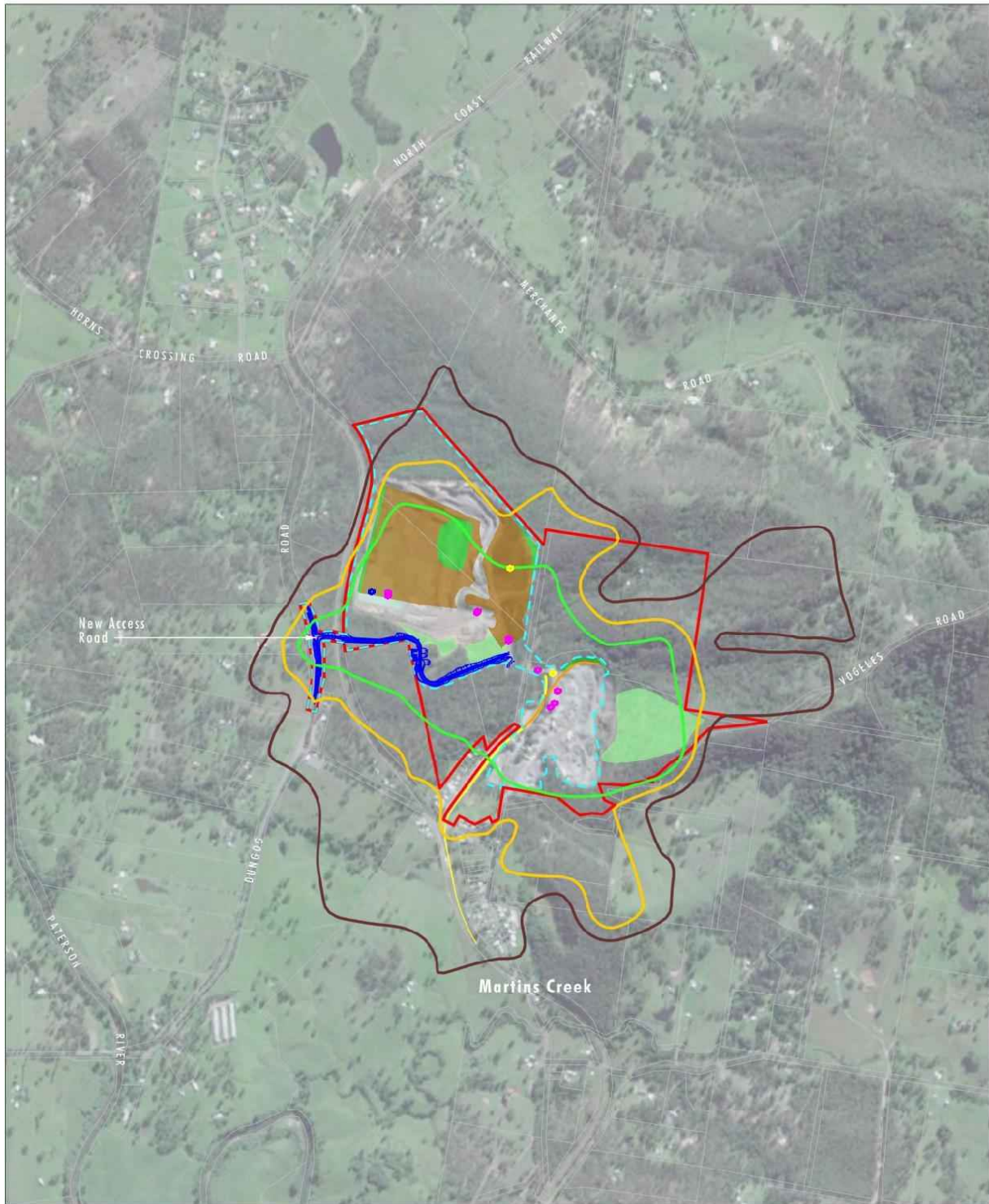


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_170.dgn
 20201113 15:33

Actual modelled sources (Table A4.2):
 Water truck (yellow) - north source incorrect
 Loader (blue)
 Haul truck (pink) x1.3 in West Pit

FIGURE A6.12

Conceptual Quarry Plan Year 6
 Predicted Noise Level
 North-westerly 3.0 m/s

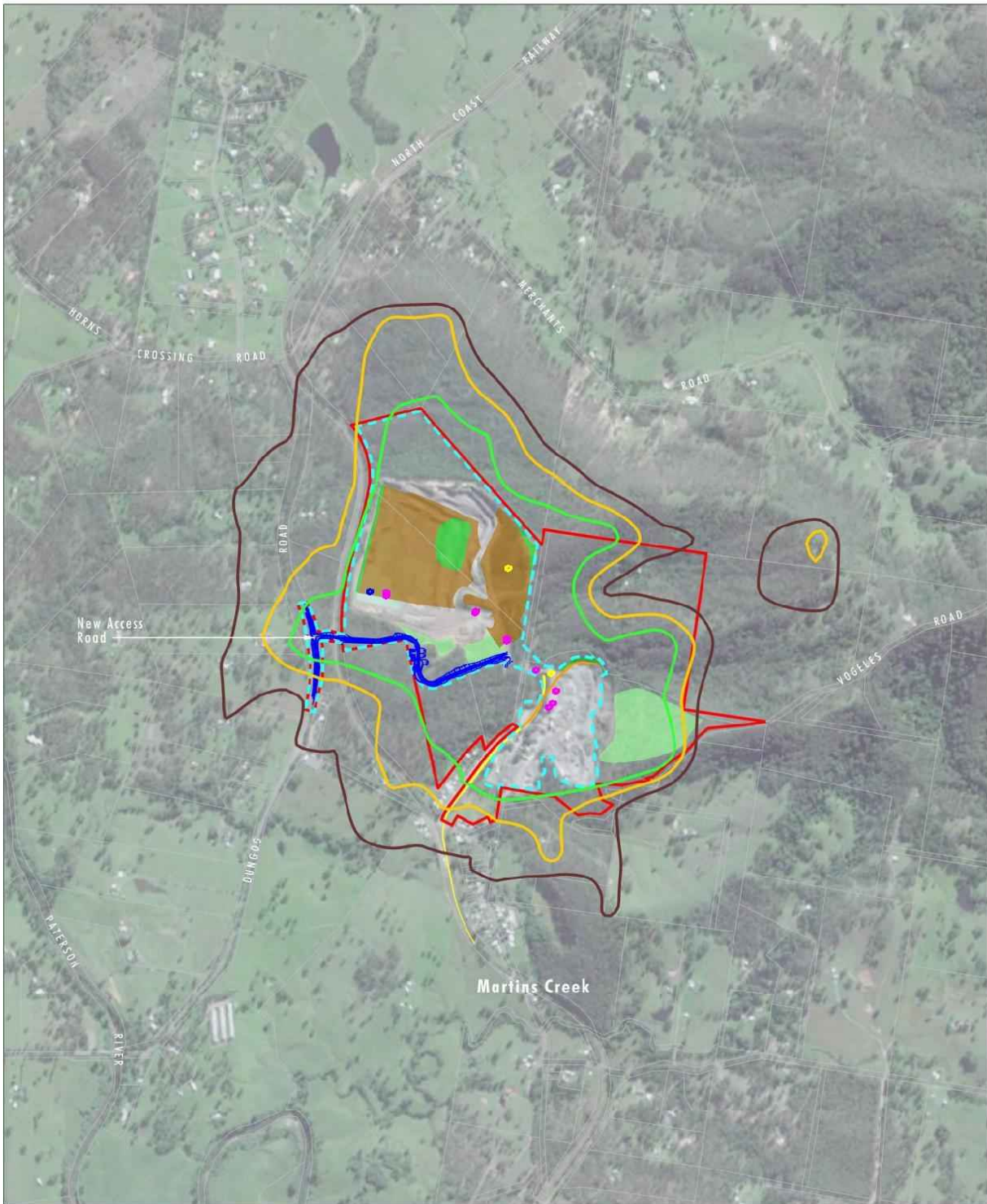


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

Legend

- | | |
|---|---|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

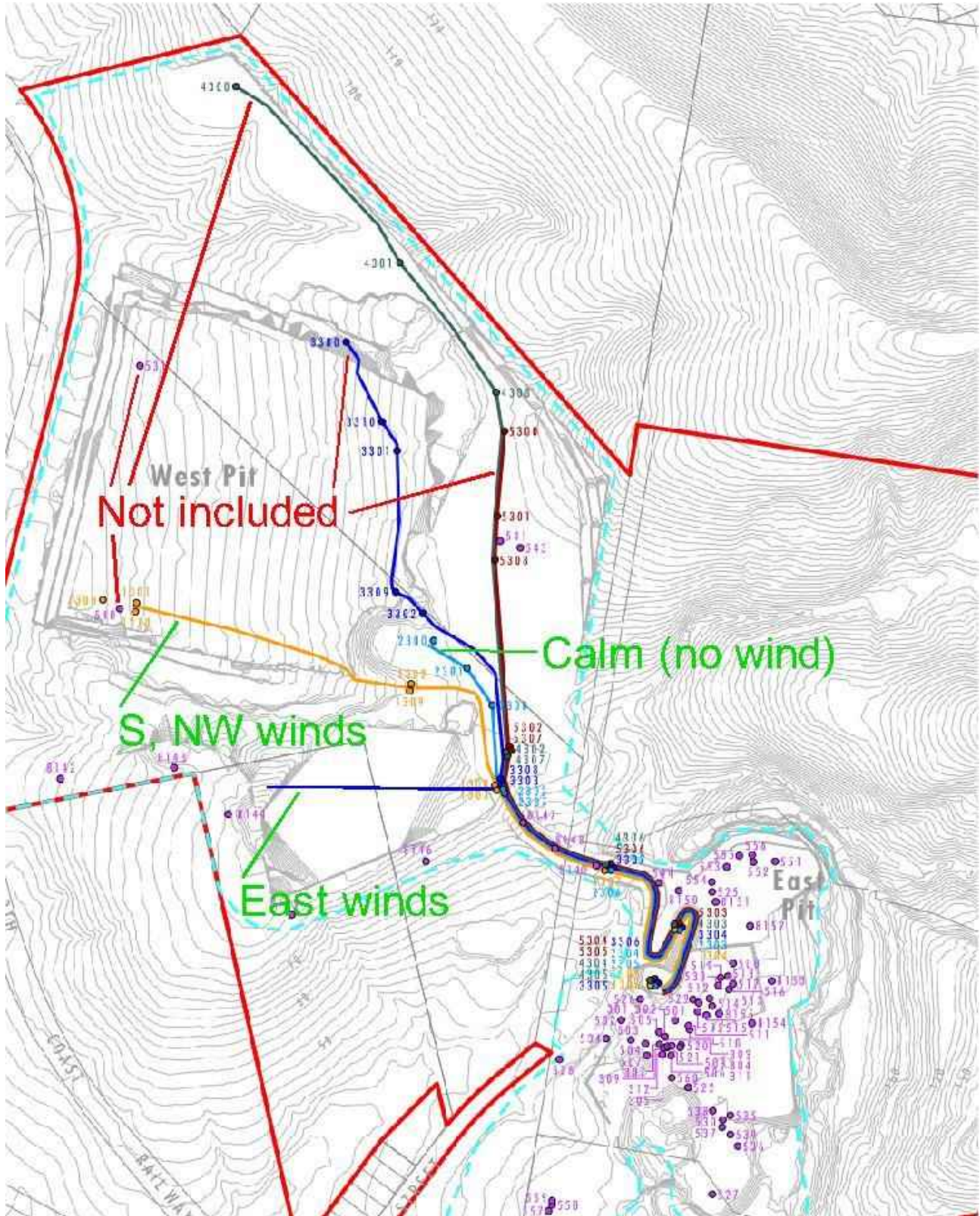
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Actual modelled sources:
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.3 in West Pit

FIGURE A6.11

Conceptual Quarry Plan Year 6
 Predicted Noise Level
 Southerly 2.3 m/s

YEAR 10



Extract from Figure A4.3, Year 10 Noise Model, Noise Source Locations (in ADA Appendix D Noise Assessment)

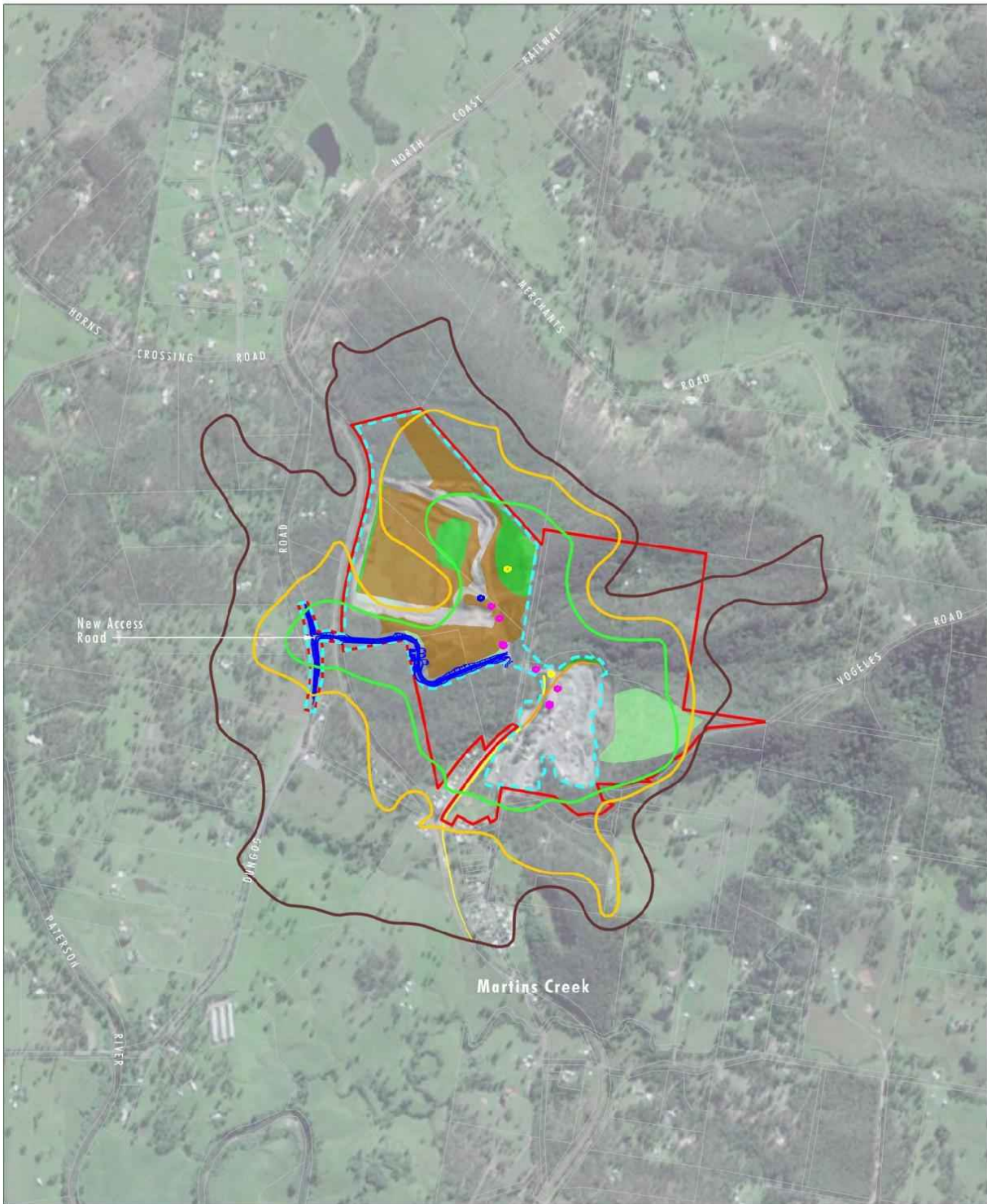


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km
 1:20,000

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_148.dgn
 20201113 14:53

Actual modelled pit sources (Table A4.3):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x0.35 in West Pit

FIGURE A6.13

Conceptual Quarry Plan Year 10
 Predicted Noise Level
 Calm Neutral

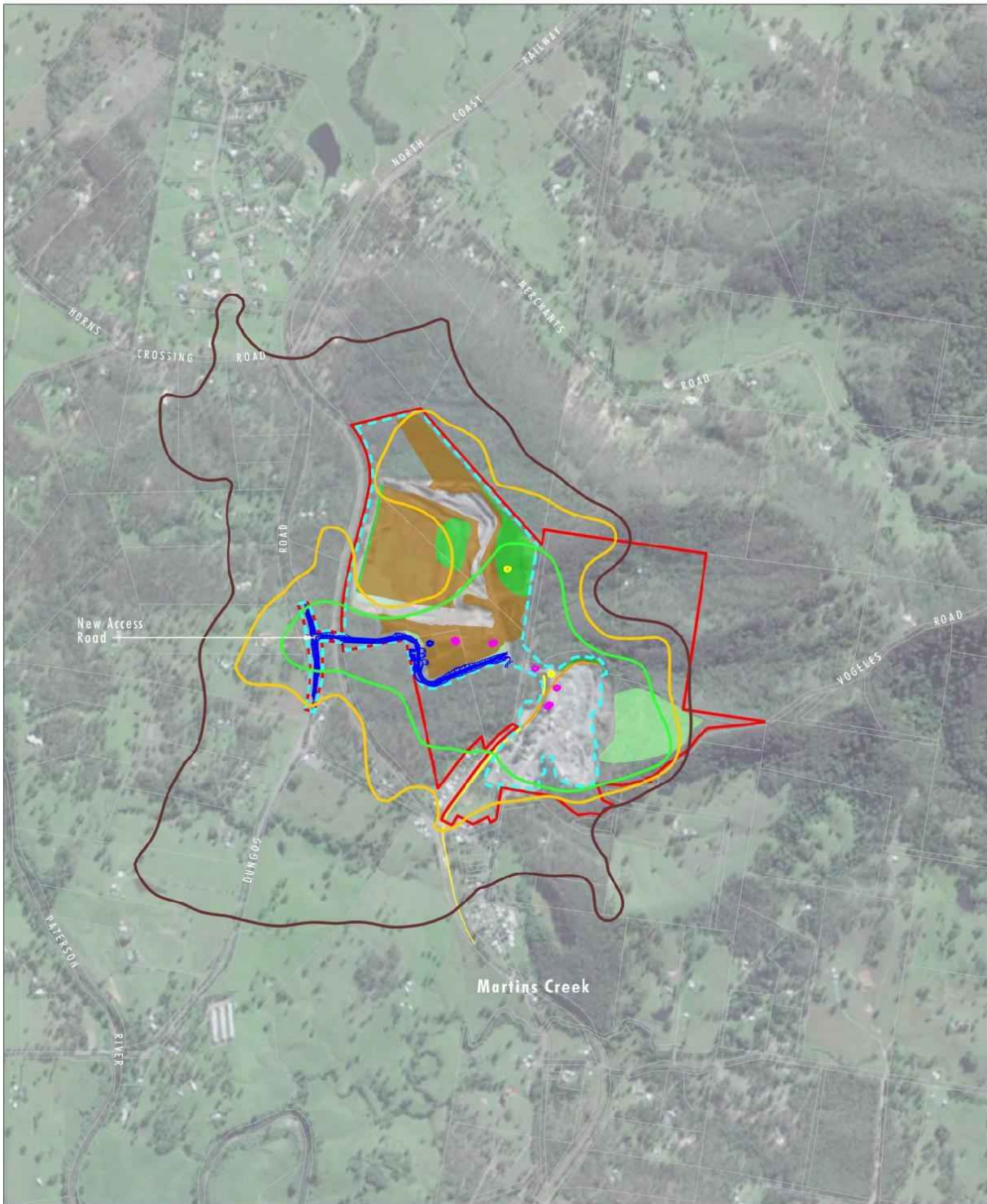


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km

Legend

- | | |
|--|---|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_149.dgn
 20201113 14:57

Actual modelled pit sources (Table A4.3):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.1 in West Pit

FIGURE A6.14

Conceptual Quarry Plan Year 10
 Predicted Noise Level
 Easterly 1.7 m/s

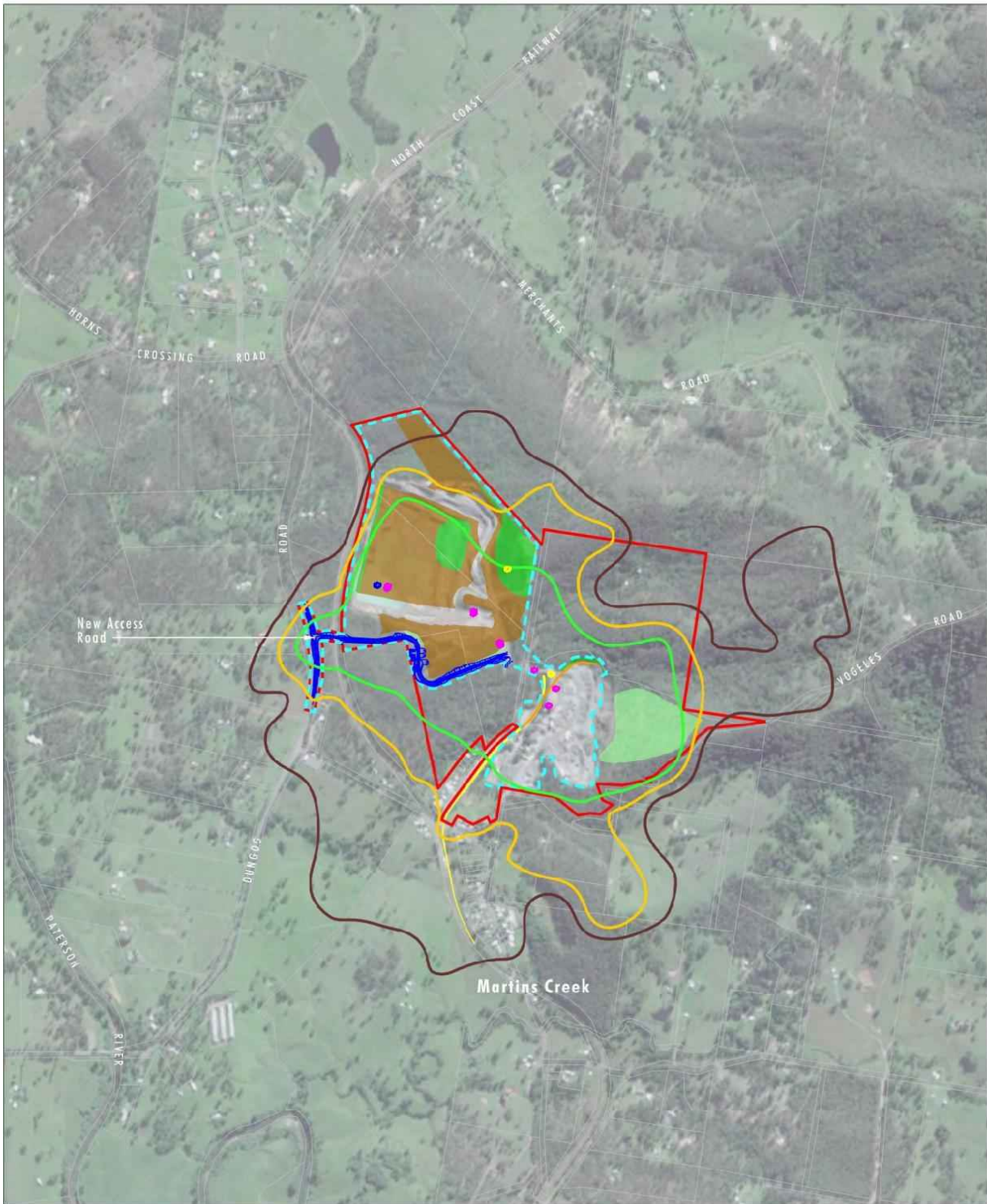


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_151.dgn
 20201113 15.01

Actual modelled pit sources (Table A4.3):
 Water truck (yellow) - north source incorrect
 Loader (blue)
 Haul truck (pink) x0.75 in West Pit

FIGURE A6.16

Conceptual Quarry Plan Year 10
 Predicted Noise Level
 North-westerly 3.0 m/s

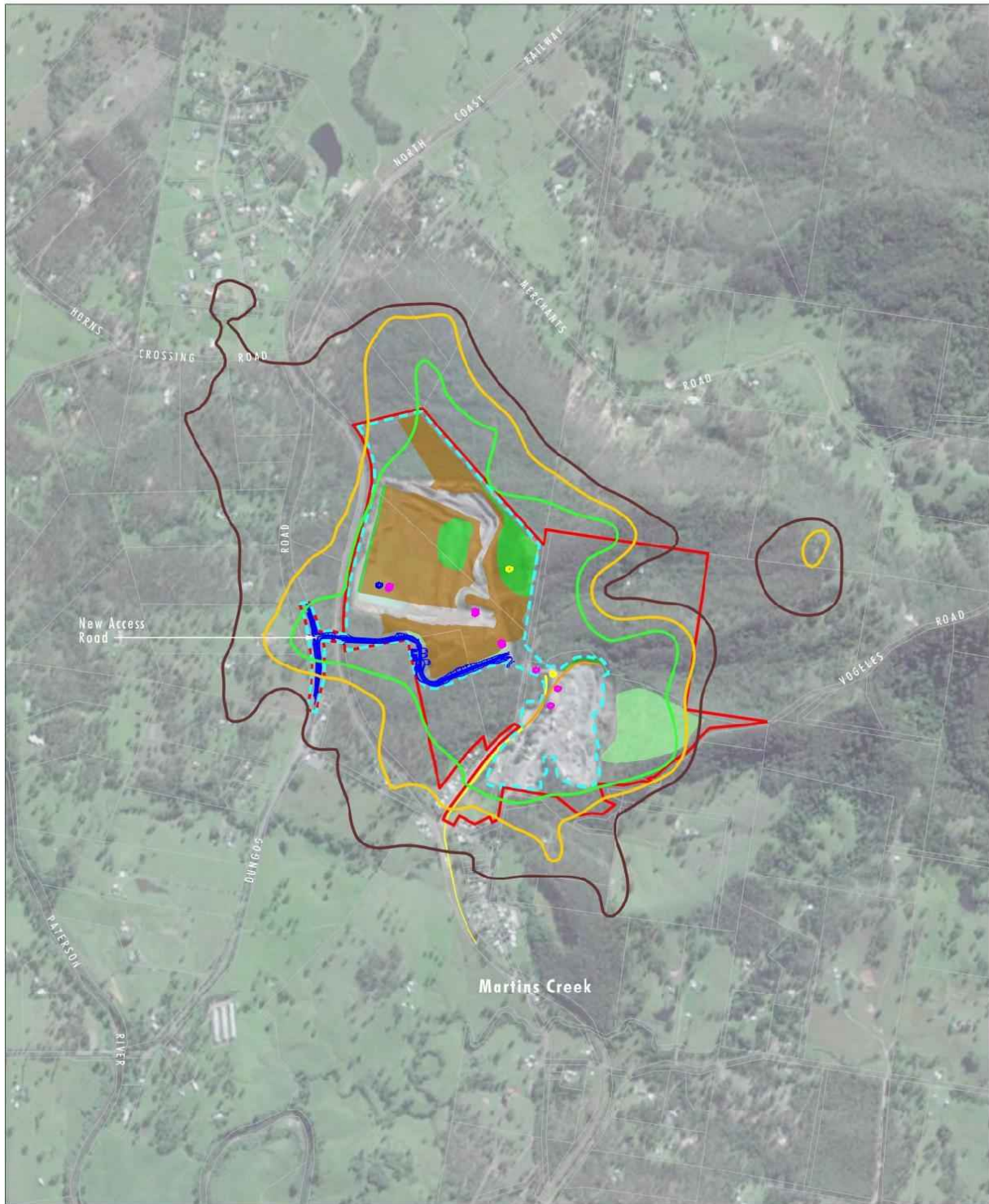


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

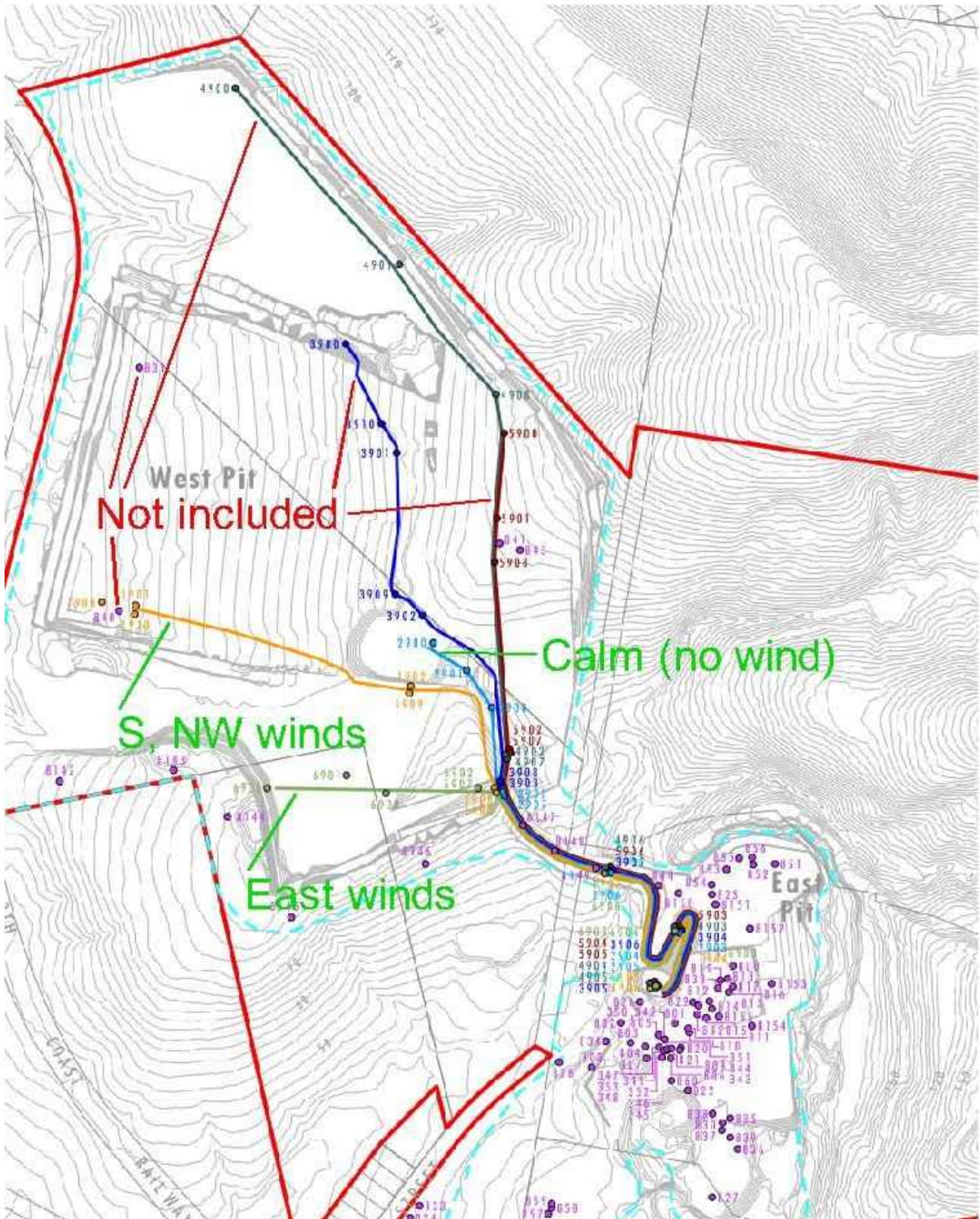
File Name (A4): R04/3957_150.dgn
 20201113 14:59

Actual modelled pit sources (Table A4.3):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x0.75 in West Pit

FIGURE A6.15

Conceptual Quarry Plan Year 10
 Predicted Noise Level
 Southerly 2.3 m/s

YEAR 15



Extract from Figure A4.4, Year 15 Noise Model, Noise Source Locations (in ADA Appendix D Noise Assessment)

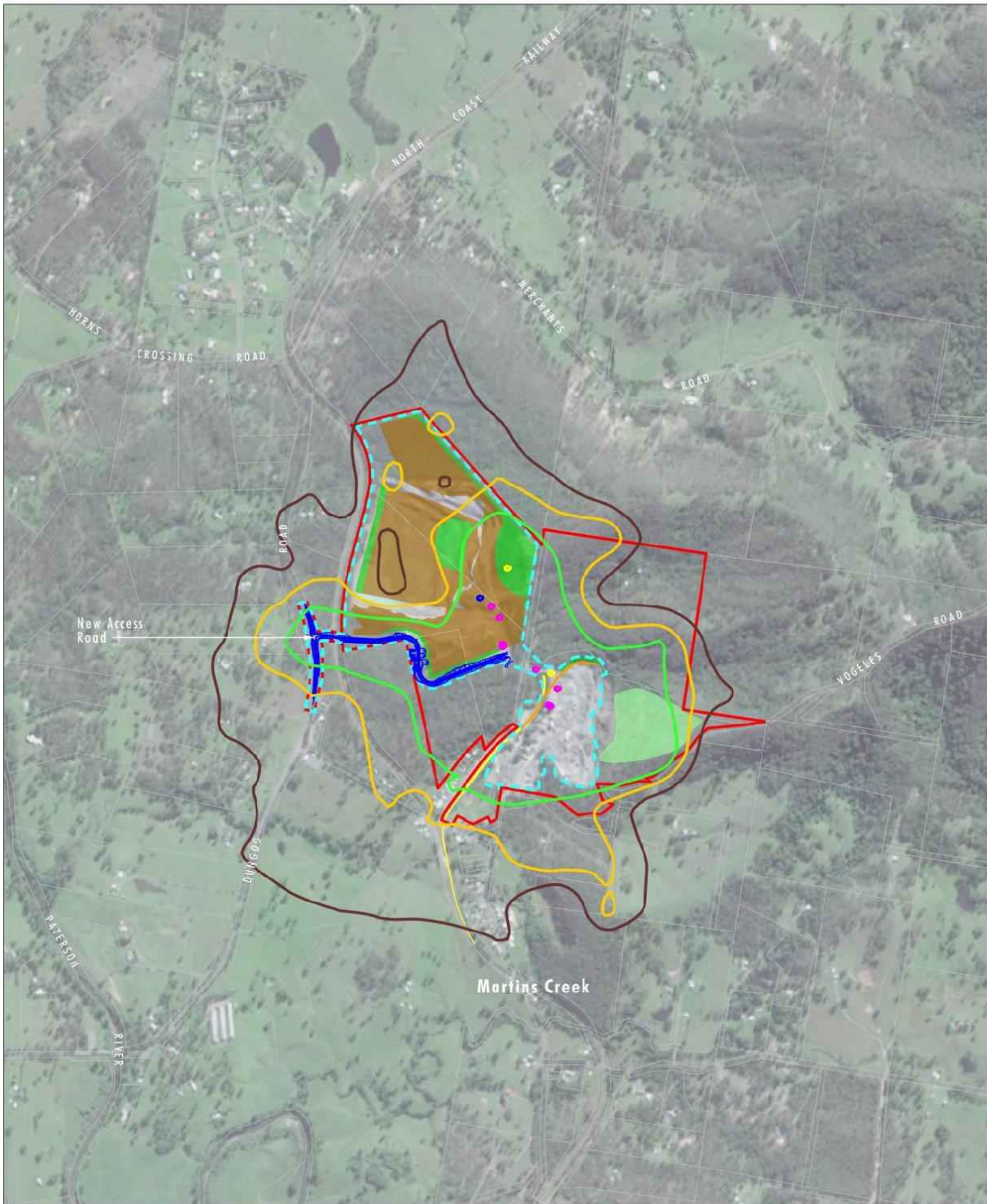


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_171.dgn
 20201113 15:35

Actual modelled pit sources (Table A4.4):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x0.65 in West Pit

FIGURE A6.17
 Conceptual Quarry Plan Year 15
 Predicted Noise Level
 Calm Neutral

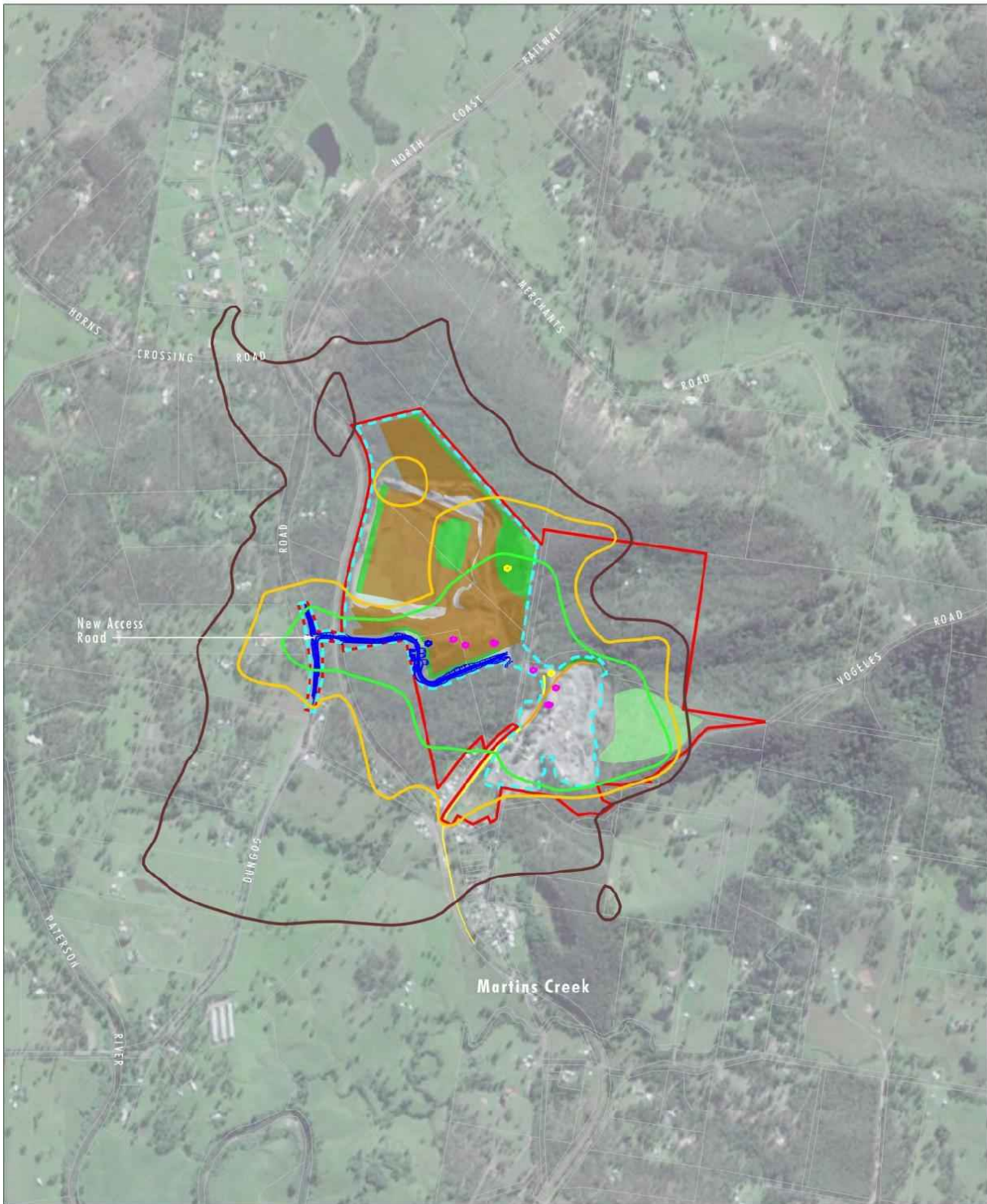


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km
 1:20,000

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_172.dgn
 20201113 15:36

Actual modelled pit sources (Table A4.4):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.1 in West Pit

FIGURE A6.18
 Conceptual Quarry Plan Year 15
 Predicted Noise Level
 Easterly 1.7 m/s

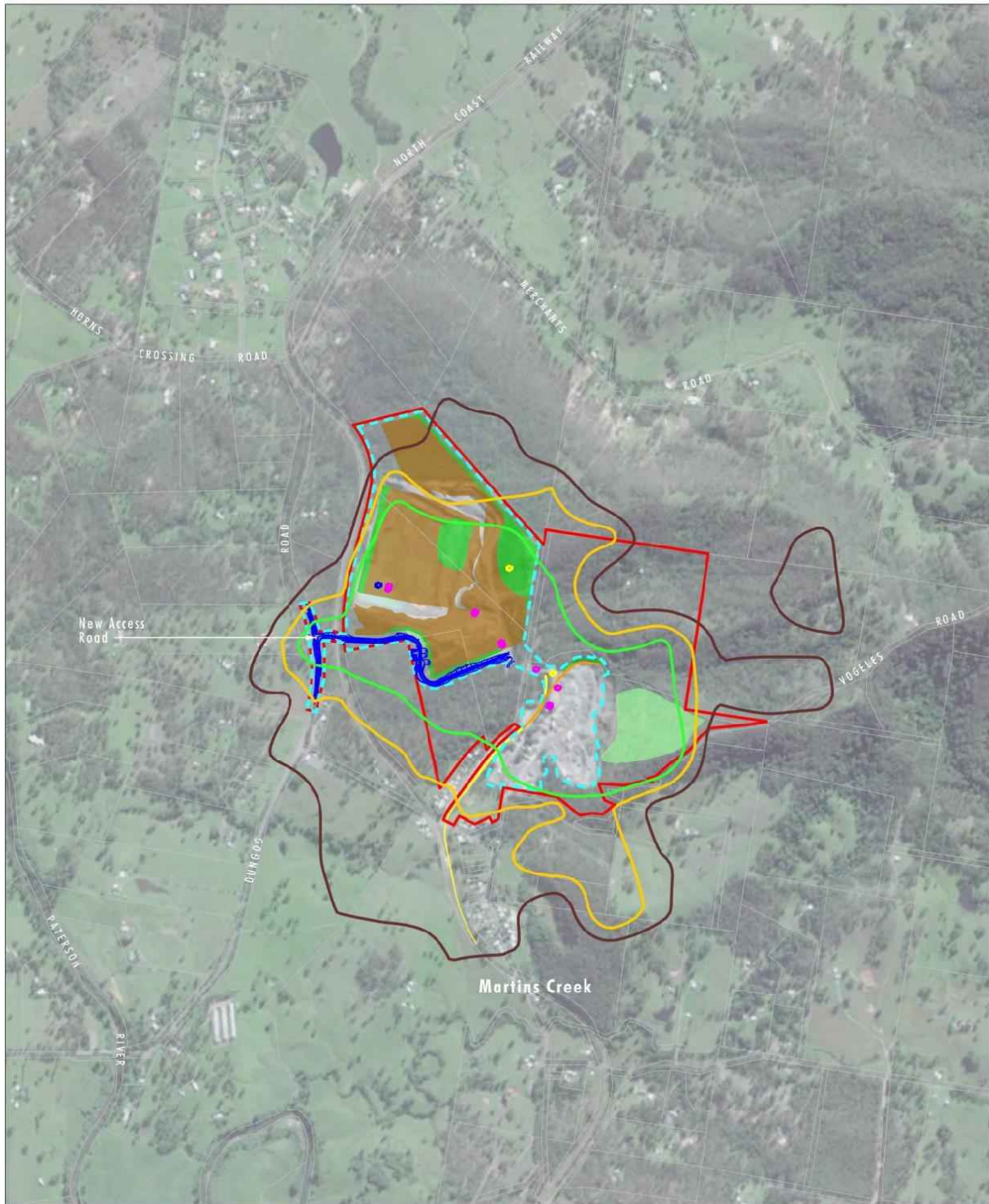


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_174.dgn
 20201113 15:38

Actual modelled pit sources (Table A4.4):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.35 in West Pit

FIGURE A6.20

Conceptual Quarry Plan Year 15
 Predicted Noise Level
 North-westerly 3.0 m/s

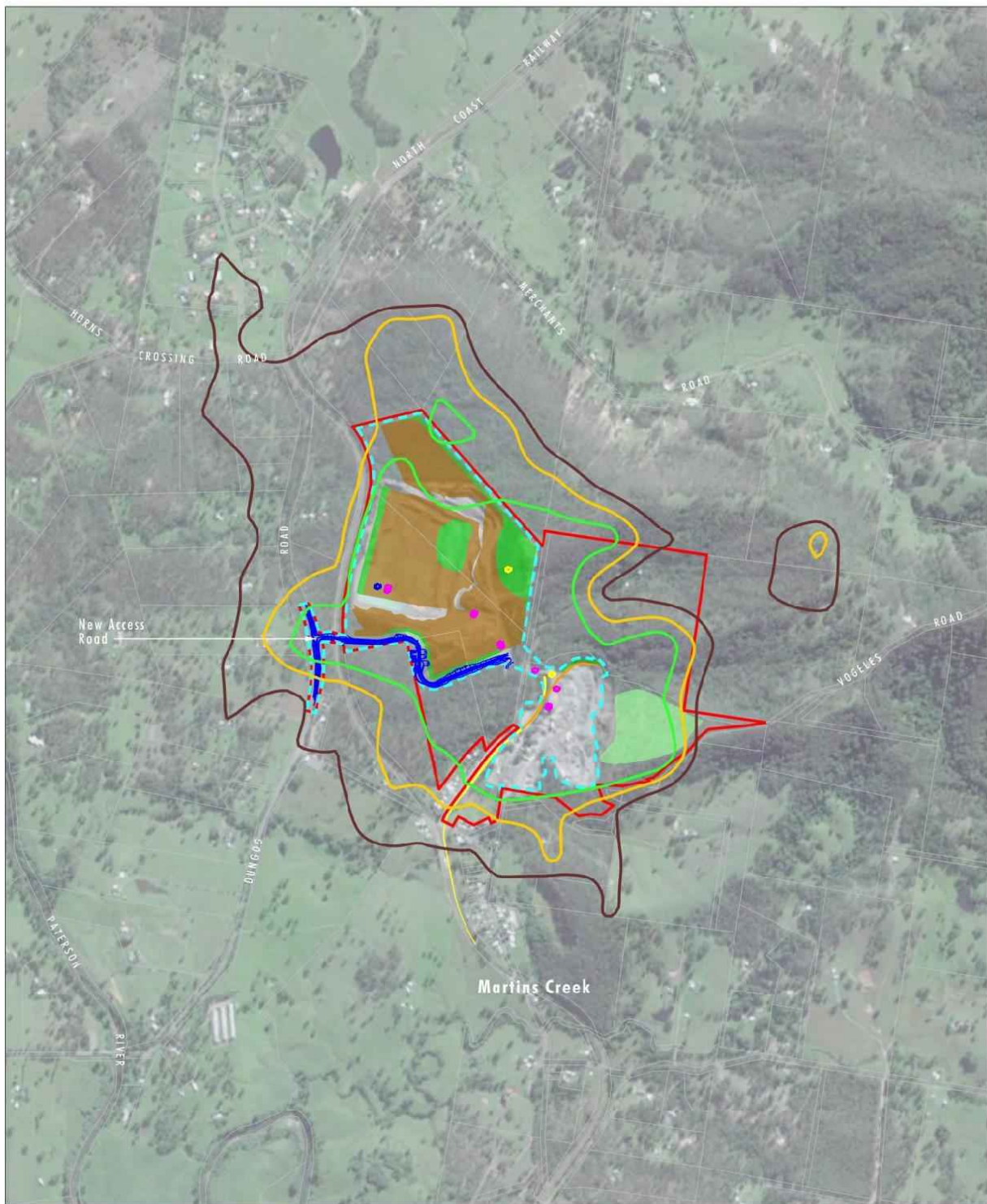


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km
 1:20,000

Legend

- | | |
|---|---|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

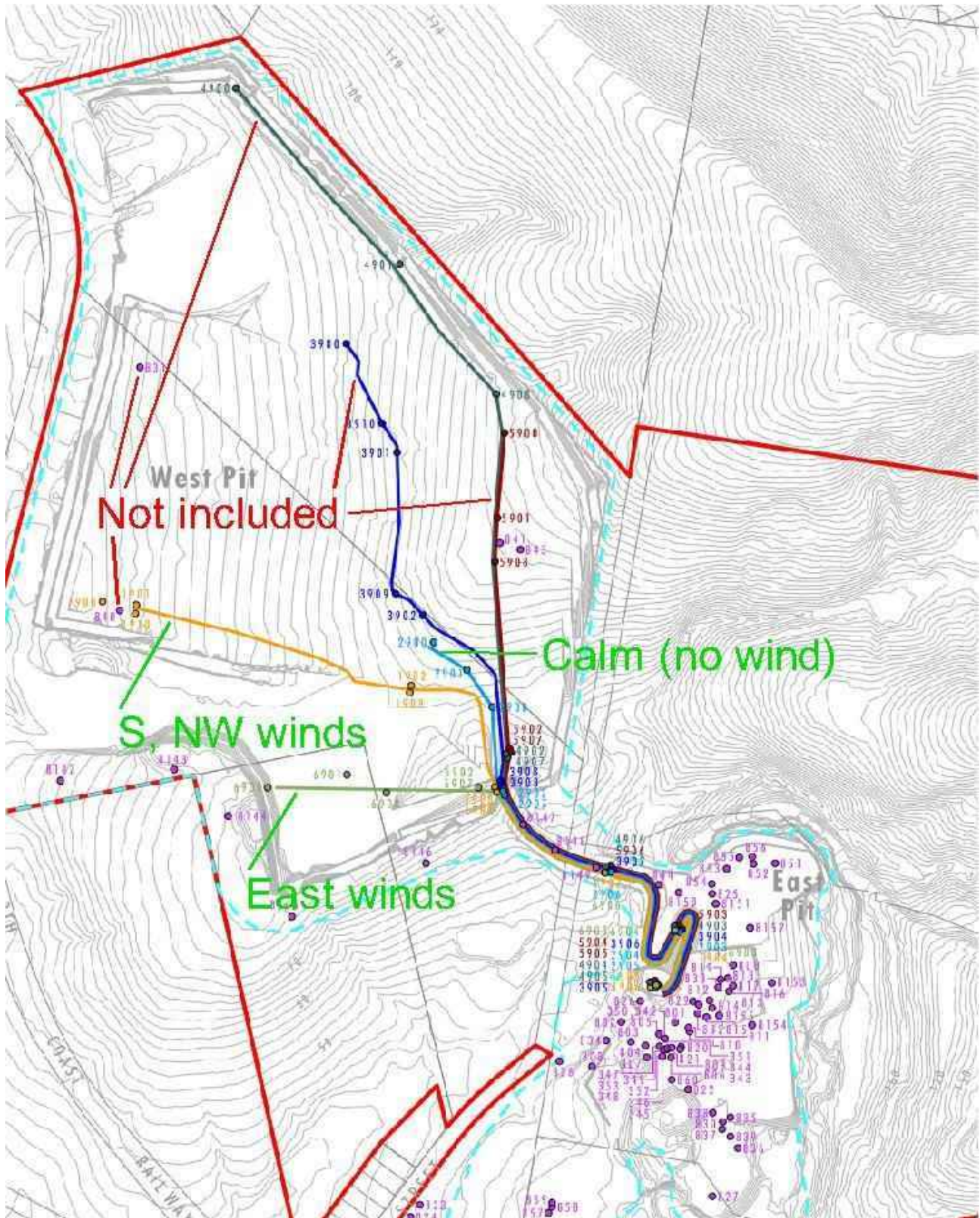
File Name (A4): R04/3957_173.dgn
 20201113 15:37

Actual modelled pit sources (Table A4.4):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.35 in West Pit

FIGURE A6.19

Conceptual Quarry Plan Year 15
 Predicted Noise Level
 Southerly 2.3 m/s

YEAR 20



Extract from Figure A4.5, Year 20 Noise Model, Noise Source Locations (in ADA Appendix D Noise Assessment)

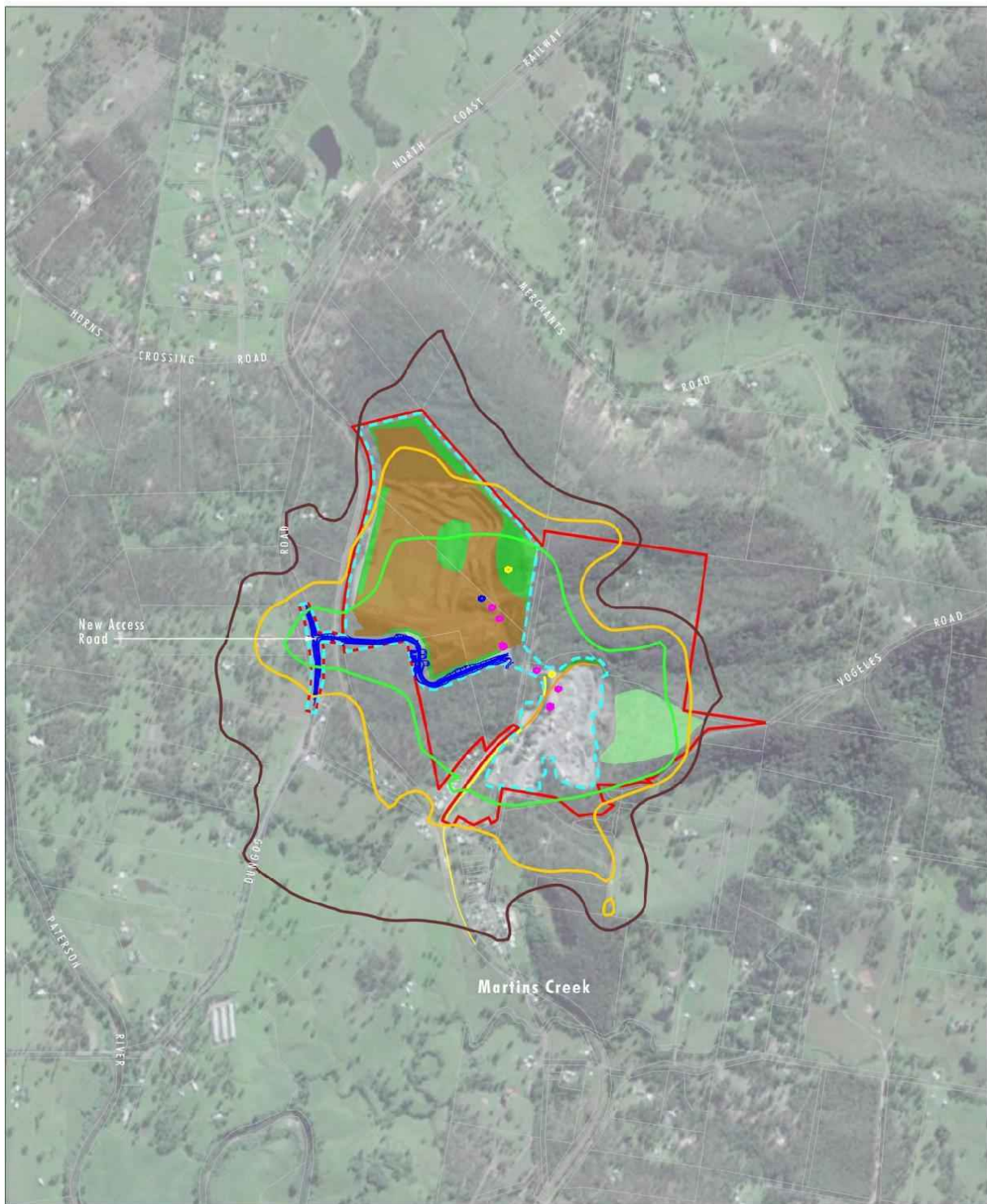


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0km
 1:20,000

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_175.dgn
 20201113 15:39

Actual modelled pit sources (Table A4.5):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x0.7 in West Pit

FIGURE A6.21

Conceptual Quarry Plan Year 20
 Predicted Noise Level
 Calm Neutral

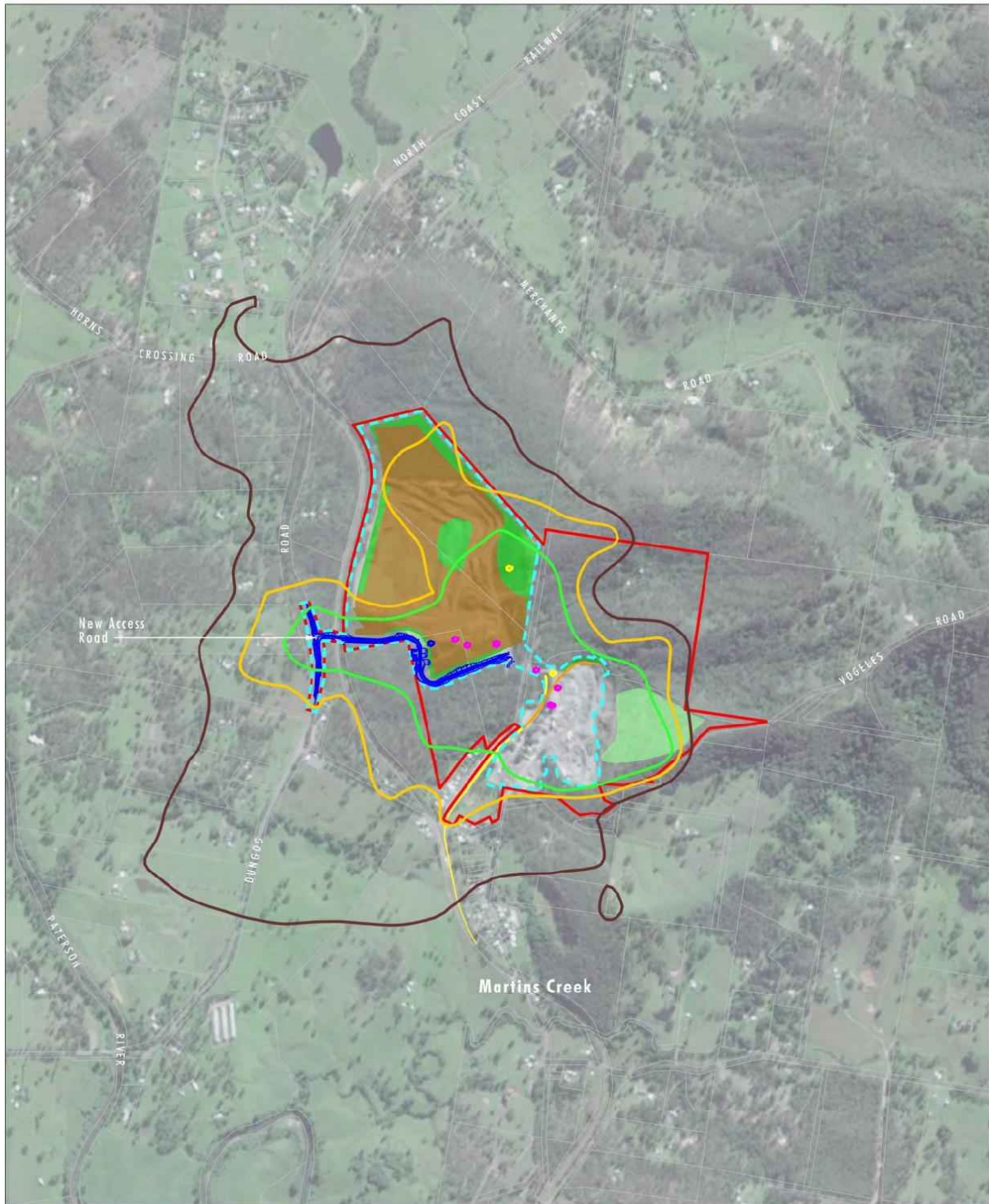


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km

Legend

- | | |
|--------------------------------|------------------|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_176.dgn
 20201113 15.41

Actual modelled pit sources (Table A4.5):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.1 in West Pit

FIGURE A6.22

Conceptual Quarry Plan Year 20
 Predicted Noise Level
 Easterly 1.7 m/s

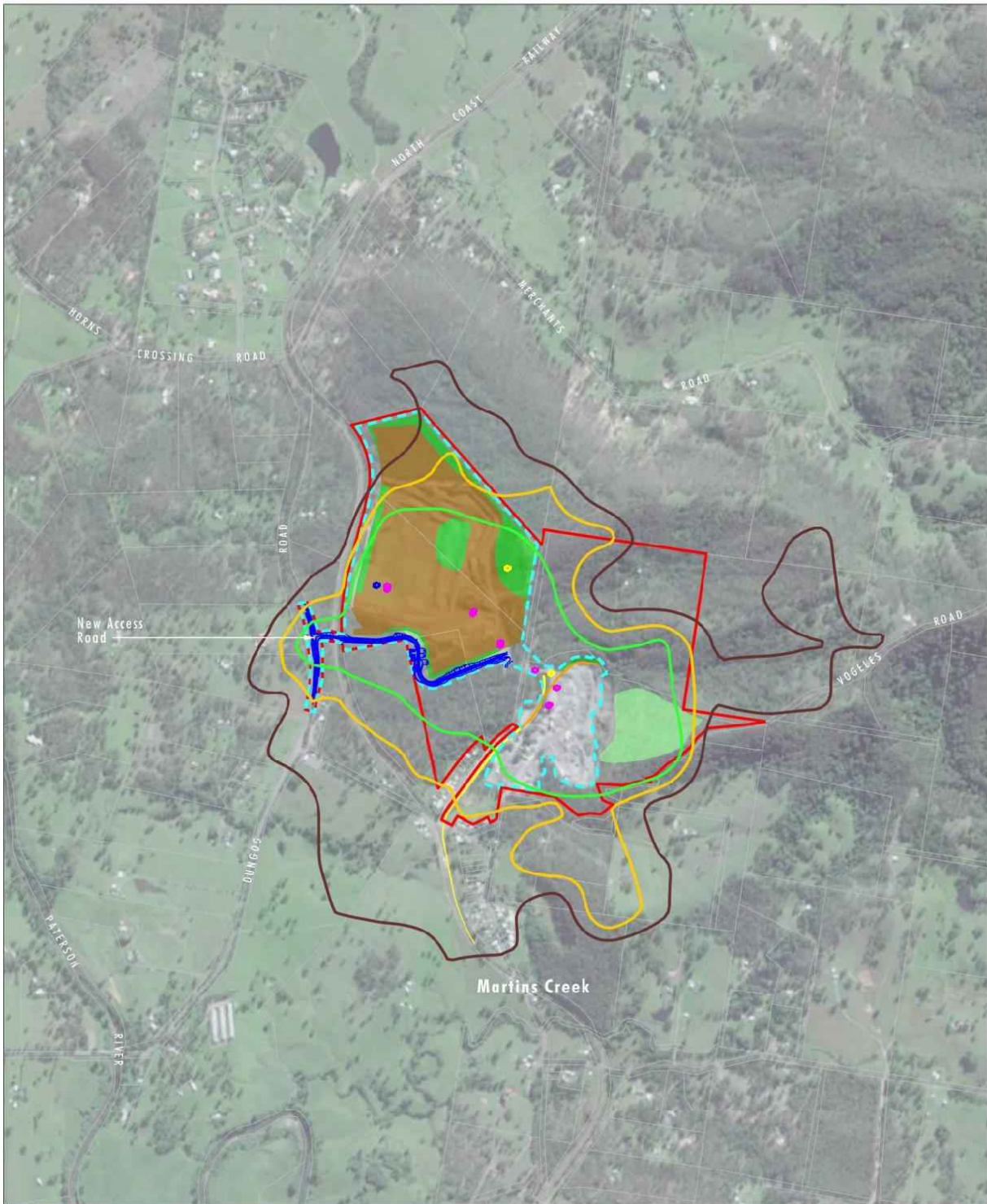


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km
 1:20,000

Legend

- | | |
|---|---|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

File Name (A4): R04/3957_178.dgn
 20201113 15.43

Actual modelled pit sources (Table A4.5):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.35 in West Pit

FIGURE A6.24
 Conceptual Quarry Plan Year 20
 Predicted Noise Level
 North-westerly 3.0 m/s

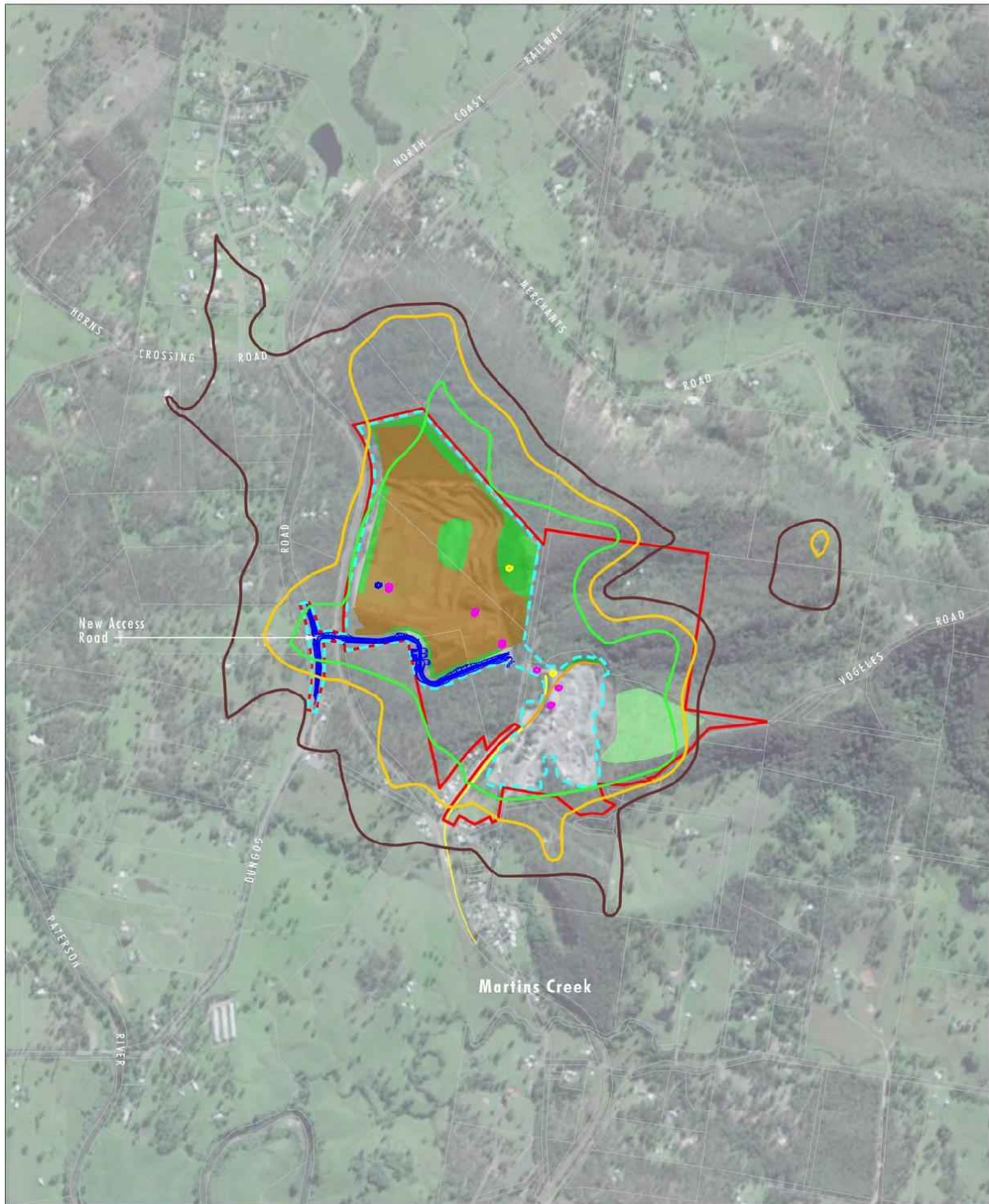


Image Source: Google Earth (2018)
 Data Source: Datacon (2020)

0 0.25 0.5 1.0 km

Legend

- | | |
|--|---|
| Project Area | New Access Road |
| Proposed Disturbance Area | 40 dB(A) Contour |
| Existing Rail Siding | 45 dB(A) Contour |
| Proposed Rail Siding Extension | 50 dB(A) Contour |
| Active Quarry Area | |
| Rehabilitation Area | |
| Previous Rehabilitation Area | |

Actual modelled pit sources (Table A4.5):
 Water truck (yellow)
 Loader (blue)
 Haul truck (pink) x1.35 in West Pit

FIGURE A6.23

Conceptual Quarry Plan Year 20
 Predicted Noise Level
 Southerly 2.3 m/s

File Name (A4): R04/3957_177.dgn
 20201113 15.42

Attachment 10 – Social Impact Assessment Peer Review

Dr Hedda Haugen Askland
E: Hedda.Askland@newcastle.edu.au
M: 0405066470

Dr Louise Askew
E: laskew80@hotmail.com
M: 0408262026

29/7/2021

MCQAG
PO Box 128
Paterson NSW 2421

Dear President,

The following advice presents the findings and recommendations of an expert review of the *Martins Creek Quarry Extension Project Social Impact Assessment (SIA) May 2021*, currently on public exhibition. The SIA was prepared by Umwelt (Australia) Pty Ltd on behalf of Daracon.

The expert views outlined in the letter include those of Dr Hedda Haugen Askland, an anthropologist and Project Director of the University of Newcastle's Centre for Social Research and Regional Futures (CSRRF), who has extensive experience in research and analysis of people's connection to place and their lived experiences of environmental and social change in the context of large-scale development projects. The expert review has also been conducted by Dr Louise Askew who has extensive experience working in social impact assessment for large development from both a consulting and government perspective. Both experts have had ongoing roles in the development and application of the original (2017) and updated (2021) *Social Impact Assessment Guidelines* prepared by the NSW Department of Planning, Industry and Environment.

Overall, the expert review demonstrates that the SIA is misleading in its use of a comparative baseline for the project that does not reflect the currently approved operations. It also significantly understates the 'lived experiences' of the proposed project features that have been experienced by local communities during an extended period of unlawful operations. Although the research and consultation process contained in the SIA is rigorous, it has been used in ways that have led to misleading and inaccurate assessments of impacts, risks and management options.

Drawing on the material presented in the SIA it is our assertion that the risk assessment and evaluation of significance of social impacts are inadequate, with likelihood level and consequence level underestimated. From the submissions analysed and based on the amended project parameters and mitigations, a number of residual social risks should be more correctly rated as "Almost Certain" to occur, having a "Major" social impact that will result in an "Extreme or Very High risk rating". We are of the opinion that the mitigations exhibited are inadequate and the

residual negative social impacts, based on lived experiences, will be unacceptable to a significant cohort of the impacted population.

We recommend that the social impacts and mitigations are reassessed and the SIA resubmitted to address the key issues identified in this review (see attached).

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'H. Askland'.

Dr Hedda Askland

A handwritten signature in black ink, appearing to read 'L. Askew'.

Dr Louise Askew

Findings	Evidence	Recommendations
An incorrect baseline is used to undertake the assessment.	<ul style="list-style-type: none"> • The SIA incorrectly uses the EIS exhibited in 2016 as a baseline for current operations and for the proposed 2021 amended Development Application (DA) project features. This baseline, which establishes the comparative measure for impact to that during the period of unlawful operation, significantly skews the evaluation of risk and impacts and leads to misleading proposals for mitigation and management. • The incorrect baseline renders the assessment invalid and misleads the public by presenting proposed project features as ‘reductions’ ‘restrictions’, ‘amendments’ (see pages 6-9) – when they are, in large part, increases to the current approved operations. 	<p>We recommend that the SIA is assessed as invalid and a request made to resubmit.</p> <p>The revised SIA should use the existing social research presented in the report to reassess impacts against the current approved operational baseline.</p>
The current operations and project history are misrepresented.	<ul style="list-style-type: none"> • The SIA report overlooks the current approved operations by using the misleading baseline (as described above). • The project history and Land and Environment Court ruling on the unlawful operations undertaken on the quarry from around 1998 to 2019 is not adequately described in the ‘Operational Context’ and ‘Historical Operations’ sections, nor reflected throughout the report [Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018] NSWLEC 153 (Molesworth AJ)]. The outcomes of the ruling are often referred to as ‘limited’ operations instead of ‘legally approved operations’, for example: <ul style="list-style-type: none"> – “the quarry previously <i>appeared</i> to be operating outside of its consent conditions” (page 226) – “following the Land and Environment Court’s decision in 2019 to <i>limit</i> operations” (page 209) – “although communication provided by Daracon expressed that the quarry was placed into a <i>limited</i> operation while the DA process is completed” (page 225). 	The context and project background should be rewritten as part of the revised SIA to accurately represent current and historical operations and the project history.

<p>The lived experience of social impacts by the community are not adequately taken into account as part of the assessment.</p>	<ul style="list-style-type: none"> • The Land and Environment Court decision in favour of Dungog Shire Council made clear a number of unlawful operations at the quarry from 1998-2019 including: <ul style="list-style-type: none"> – Extracting material from areas/land not approved – Contrary to their consent conditions, quarrying for material other than rail ballast (the quarry consent only allows them to produce rail ballast) – Contrary to consent conditions, transporting more product by road than rail (consent required that 70% of railway ballast be transported from the site by train, however most was transported by road) • These unlawful operations peaked at the site around 2014 when they extracted 1.1 million tonne of product (up from the 1991 EIS consent limit of 300,000 tonne), with 30-40 truck movements per hour and 100-600 truck movements per day along the 23km of local roads and through residential communities, rural villages and urban residential areas. • The unlawful operations are the same or similar to the operations proposed as part of the amended DA – for example, the amended DA seeks approval for extraction of up to 1.1 million tonnes per annum of quarry product material and hourly peak truck movements of 40 trucks per hour. • The fact that the local residents have endured real-time impacts of the proposed development during the time of unlawful operations presents the Umwelt social impact assessors with a unique opportunity to gain a deep understanding of the impacts that the proposed development will have. These are not ‘perceived social impacts’ but rather ‘real social impacts’ that the local community have endured for many years. • Although the SIA speaks directly to how various components of the proposed development impedes on the everyday experience of place, belonging, rural character and amenity, this is undermined in the evaluation of risk and significance of impact. The local residents’ past experiences speak directly to the significance of this, with clear indication that on a number of Project Aspects (e.g. Presence of operation; Product haulage; Onsite Quarry operations) this should be—in line with the risk matrix of the 2017 SIA Guideline to which the SIA has been conducted—Extreme, A4 or A5 (Likelihood level: A [Almost certain]; Consequence Level: 4 [Major] and/or 5 [Catastrophic]) and not High or Moderate. • Taking account of the lived experience of place is essential in understanding notions of place attachment and community (Askland and Bunn 2018) and 	<p>The revised SIA must appropriately represent the social impacts as ‘lived experiences’ of the local community. The unique nature of this case enables measurement of the lived impacts of the proposed development and its implications for people’s sense of place, belonging, rural character and amenity. Rather than forwarding this as ‘perceived’ social impacts that can attain a prediction of significance, the significance can and should be measured based on the lived experience of living with the impacts of the proposed development. This ‘lived experience’ must be taken into account when revising the risk assessment process and ratings.</p>
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	<p>central to forwarding a sound assessment of social impact as this relate to the SIA categories, specifically way of life, community, culture, health and wellbeing, surroundings and fears and aspirations.¹ Amenity—as this relates to both scenic quality and noise, movements and mobility (in this instance truck movement)—relates to both aesthetic values, sense of place and other intangible qualities often highly valued in rural and regional areas, such as Dungog. The project’s impact on amenity is, as such, something that must be seen in relation to the lived experience of place and sense of place.</p> <ul style="list-style-type: none"> • Lived experience is embedded in people’s sense of place and it shapes people’s perceptions, responses and experiences of social and ecological change (Rajala, Sorice and Thomas 2020) and to adequately understand social impacts of proposed development a rigorous analysis of people’s sense of place must be undertaken and folded into the social impact assessment matrix and consideration of mitigation and management measures.² As Lawrence explains ‘sense of place is the “everyday connection individuals have with their local spaces that gives their life meaning in the present. Having a sense of place contributes to a person’s wellbeing, general health and life satisfaction”’ (cited in Preston 2019).³ • As indicated by Judge Brian Preston’s judgement in the case of Gloucester Resource Limited v Minister of Planning in the Land and Environment Court, carefully addressing the lived experience of place through the notion of sense of place is essential for social impact assessments of state significant projects, with this measure being one of the central elements in his rejection of the proposed development in Gloucester.⁴ • The proposed development will have social impacts that have been lived (directly experienced) by local residents during the time of the proponent’s unlawful operations. As such, these measures are not simply perceived but lived, endured and felt. Whilst it is important to emphasise that so-called perceived impacts are real impacts equal to measurable technical impacts (see 2017 SIA Guideline, p.7) we want to emphasise here that as the community has already lived with the identified social impacts, the evaluation of this can move from modelling and projections to measurement. 	
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¹ Askland HH, Bunn M. 2018. Lived experiences of environmental change: solastalgia, power and place. *Emotion, Space and Society* 27: 16-22

² Rajal K, Sorice MG, Thomas VA. 2020. The meaning(s) of place: Identifying the structure of sense of place across a socio-ecological landscape. *People and Nature* 2(3): 718-733.

³ Preston CJ. 2019. *Gloucester Resources Limited v Minister for Planning*. NSWLEC 7.

⁴ *Ibid.*

<p>Final risk assessment scores are understated and not well-evidenced</p>	<ul style="list-style-type: none"> • The social research undertaken to inform the risk assessment is rigorous and includes submissions (887 submissions) and consultation (285 stakeholders) from the original and amended EIS process. However, the risk assessment scores do not adequately or accurately represent the baseline operations, the lived experience of these social impacts, cumulative impacts from other nearby quarries, or the mitigation measures. <ul style="list-style-type: none"> – Firstly, the risk assessment includes a comparison between the original and revised project features, instead of the current approved operations – this provides a misleading sense of the mitigation effort and therefore the final risk assessment scores. – Secondly, the ‘perceived’ social impact ratings do not appear to adequately represent the ‘lived experience’ of the local community who have experienced many of the proposed operations under an extended period of unlawful operations. For example, there are no ‘extreme’ rankings for perceived impacts and only 33% are rated ‘high’ – despite the fact that many would be perceived as ‘likely-almost likely’ and ‘moderate-major’ in consequence.⁵ – Thirdly, many of the ‘mitigation’ measures are misleading: they do not address the change from baseline current operations; they rely largely on the technical studies and do not address the <i>social</i> impacts of those technical risks; and, the change from unmitigated to mitigated ratings are not well-evidenced. For example, 33% of the negative social impacts originally rated ‘high’ remain ‘high’ even with mitigation. In addition, the increased rating in the four identified positive impacts is not adequately justified (e.g. the number of employees as a proportion of local workers is insignificant, and there is a major unstated assumption that there would be enough local employees to prioritise for employment). – Finally, the cumulative impacts of Martins Creek and Brandy Hill quarries, while noted in the SIA report, do not appear to be adequately considered as part of the risk assessment process. 	<p>The risk assessment is redone using existing research, the accurate baseline, with particular attention paid to ‘lived experiences’ and cumulative impacts and greater transparency in the process of evaluation (the arguments underpinning the resulting risk and significance score).</p>
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⁵ Out of submissions on the original EIS, social impacts were the second most frequently raised theme in submissions, with concerns centred around the loss of social amenity (227 submissions), including: traffic and transport (373 submissions); public health and safety (291); noise (257); air quality (160); blasting and vibration (160); visual amenity (15). In addition, the consultation undertaken as part of the revised SIA confirms these lived experiences and fears of social impacts are ongoing with the top three impacts identified as: impacts on amenity from trucks and transport; sense of community; and social amenity impacts from quarry site operational impacts. An additional local community survey conducted in 2015 with 82 respondents further confirmed these social impacts

<p>The process of risk assessment is not transparent.</p>	<ul style="list-style-type: none"> • The process of undertaking the risk assessment ratings is not transparent in the report so it is difficult to understand who was involved and how the process was undertaken. In addition, there is not enough detail in describing why the ratings were prescribed for 'perceived' or 'mitigated' impacts, as evidenced by the fact most (65%) of the identified impacts have no 'comments/assumptions' attached in the risk assessment table. • In addition, it appears that the risk assessment process has not involved consultation with stakeholders as advised under good Social Impact Assessment practice. 	<p>As above – and include a description of how the process was undertaken and more clarity around any change in ratings. In addition, consult with stakeholders as part of the risk assessment process.</p>
<p>Mitigation and management strategies do not appropriately target key risks and impacts, or community concerns.</p>	<ul style="list-style-type: none"> • Of the 15 proposed mitigation/management measures, only 3 directly address the operational features causing the key social impacts, and of these, the measures are presented as 'reductions' and 'restrictions' against the original DA not the approved legal operations. These do not adequately represent the 'lived experiences' of the local community or the suggestions on management and mitigation put forward repeatedly by the community – thereby further reinforcing already very low confidence levels in the company.⁶ • Some of the mitigation/management measures are not specific or measurable – for example, "regular consultation with local bus companies". In addition, several measures seem vague or impractical to implement – for example "investigation of use of radar variable message signs", "reduced speed limits for quarry trucks through Paterson village" (pages iv-v) • Most of the mitigation measures are a standard part of any SIA (e.g. Social Impact Management Plan) or part of normal operations for a project of this scale (e.g. Community Contributions Scheme, Community Engagement Strategy, Voluntary Planning Agreement). 	<p>Mitigation and management strategies are reviewed as part of a revised SIA to provide more targeted measures that directly address the identified social impacts and reflect the views and 'lived experiences' of local community.</p> <p>The SIA must translate into the risk assessment and mitigation management strategies, and a no-development scenario must be established.</p>

with 40.6% of respondents stating they believed their normal daily activities have been affected by Daracon operations to some extent, and a further 37.5% affected very much (*Community Attitudes towards the Martins Creek Quarry Proposal 2015*, survey undertaken by Martins Creek Quarry Action Group)

⁶ See: *Community Attitudes towards the Martins Creek Quarry Proposal 2015*.

Attachment 11 – TfNSW Correspondence

RE: Questions - Martins Creek Quarry - SSD-6612

Timothy Chapman <Timothy.CHAPMAN@transport.nsw.gov.au>

Tue 15/11/2022 7:25 AM

To: james ashton [REDACTED]

Hi James

That's correct.

Tim

From: james ashton [REDACTED]**Sent:** Monday, 14 November 2022 4:50 PM**To:** Timothy Chapman <Timothy.CHAPMAN@transport.nsw.gov.au>**Subject:** Re: Questions - Martins Creek Quarry - SSD-6612

You don't often get email from [REDACTED]

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Thanks Tim

And just to confirm so I am clear, any other traffic network issues with the entire 27km route (ie specific issues with ausroad standards, safety issues) outside of the areas you focused on are within the remit of the local Councils to review and comment on?

Regards

James

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From: Timothy Chapman <Timothy.CHAPMAN@transport.nsw.gov.au>**Sent:** Sunday, November 13, 2022 9:30:27 PM**To:** james ashton [REDACTED]**Subject:** RE: Questions - Martins Creek Quarry - SSD-6612

Hi James

Hope I'm not too late.

TfNSW has reviewed our response to DPE and can advise that TfNSW's concerns were generally related to the Gostwyck Bridge and the State road network (New England Highway).

TfNSW acknowledged that Council is the roads authority and is responsible for any local road/regional road intersection upgrades.

Regards

Tim Chapman

Development Services Case Officer

Development Services

Regional and Outer Metropolitan

Transport for NSW[REDACTED] E timothy.chapman@transport.nsw.gov.au

6 Stewart Avenue, Newcastle West 2302

I work flexibly. Unless it suits you, I don't expect you to read or respond to my emails outside of your normal work hours.



Transport
for NSW



I recognise and acknowledge that modern New South Wales is an overlay on Aboriginal land and that many of the transport routes of today follow songlines Aboriginal people have followed for tens of thousands of years. I pay my respects to the Aboriginal people of NSW and Elders past and present.

Please consider the environment before printing this email.

From: james ashton [REDACTED]
Sent: Friday, 11 November 2022 3:29 PM
To: Timothy Chapman <Timothy.CHAPMAN@transport.nsw.gov.au>
Cc: Liz Smith <Liz.Smith@transport.nsw.gov.au>
Subject: Questions - Martins Creek Quarry - SSD-6612

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Hi Tim

As discussed, I note you were the TFNSW officer involved in review and TNSW response on SSD-6612.

As I understood our telephone conversation, are you able to confirm;

1. that TFNSW only reviewed the route and SSD-6612 TIA in terms of SIDDA network impacts and
2. that being local roads (from MCQ down to New England Hwy) that the safety aspects/concerns RE: Ausroad standards, activity centre function, pedestrian interactions, on street parking issues or any other carriage way concerns, rests with the Local Councils to communicate with DPIE and IPC?

thanks in advance

Regards
James

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Attachment 12 – Biodiversity Impacts – Photos of Threatened Species Sightings

Koala sightings in and around Martins Creek Quarry Pit

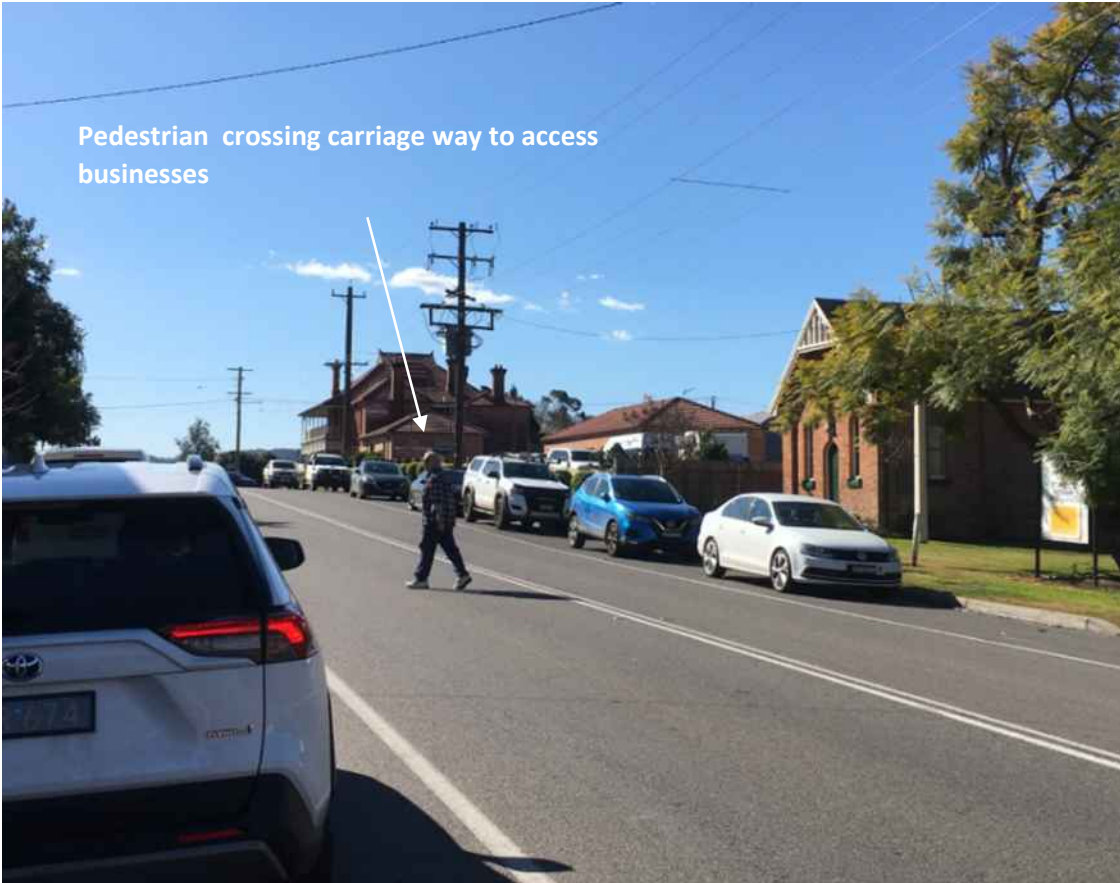


Attachment 13 – Activity Centre Impacts





Pedestrian crossing carriage way to access businesses



Driver exiting drivers side door. Door extends into carriage way when open and driver steps into traffic flow

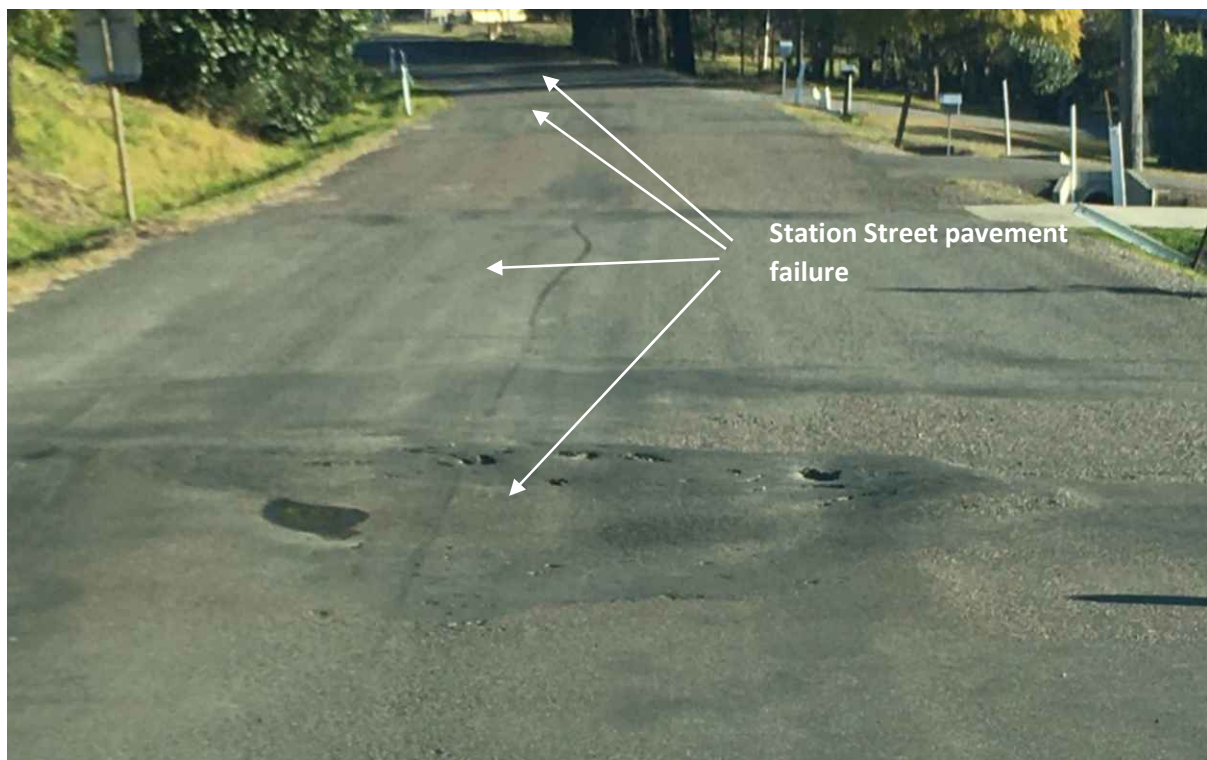


Attachment 14 – Traffic and Road Safety Impacts

Station Street (Rural residential cul-de-sac) Martins Creek Village



Station Street Pavement Failure, Martins Creek Village



Station Street, Grace Ave, Main Northern Rail line intersection, Martins Creek Village



Gostwyck Bridge, single lane timber bridge, Dungog Road



Gresford Road



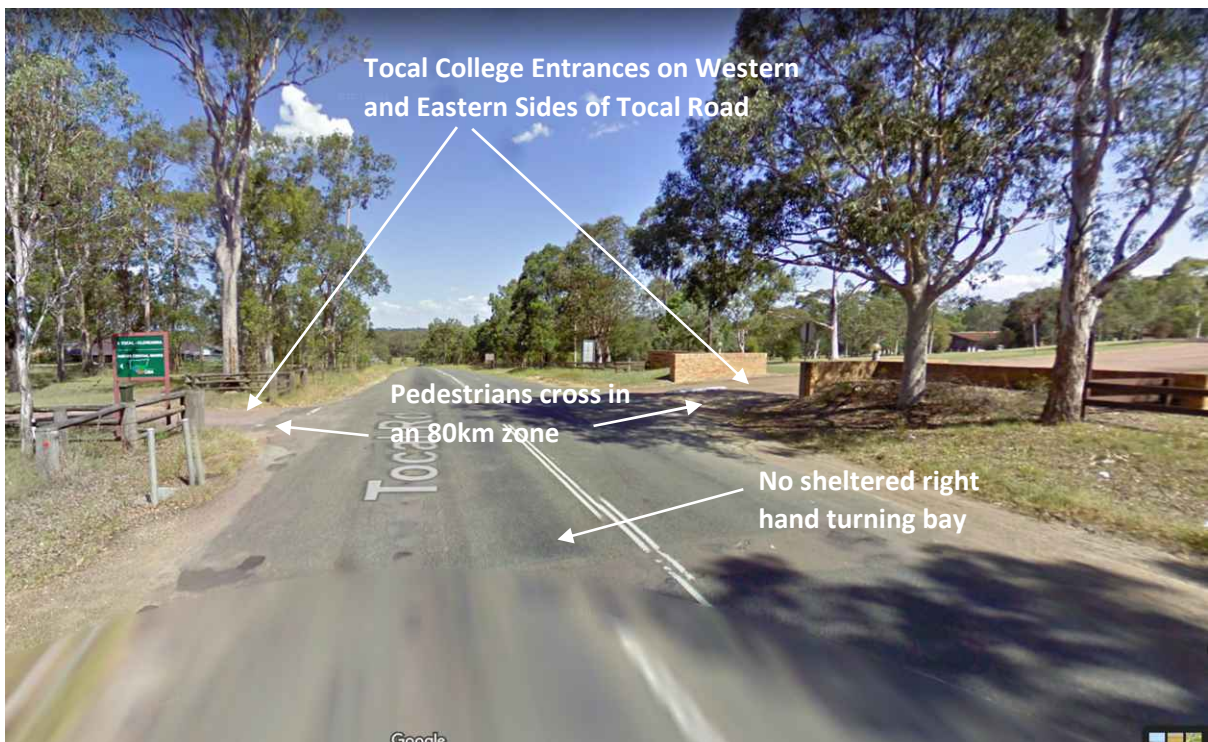
Church Street / King Street Intersection Paterson



Duke & Prince Street intersection Paterson



Total Road, Total College Entrance



Tocal Road, pavement failure



Paterson Road, Bolwarra Heights (School zones, Tilly's day care, cumulative impacts of Brandy Hill Quarry and MCRailwayBQ)



School bus drop off/pick up locations along proposed haulage route showing class 9 quarry trucks crossing double white lines into on coming traffic in 100km/hr zone on Tocal Road to clear school buses

