

Response to Information provided by Dept of Planning and Daracon

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Overview

It is disappointing to note that the DPE has not undertaken any independent verification of the claims made in Daracon's response to the questions posed by the independent commission. For example,

- verification of Daracon's claim that a 10% reduction in tonnage to be transported by road will result in a 43% reduction in truck movements during peak periods and a 20% reduction on other days
- verification of Daracon's claim that *'The Hunter region currently has a significant short fall of construction material supply, with continued sourcing from other regions, including the Taree, Gunnedah, Bylong and Liverpool Plains, to supplement requirements.'*

Daracon's/Umwelt's response to the questions raised by the Commission are designed to minimise and downplay the concerns of residents and to create an impression that there is a shortfall in gravel supply that can only be met through approval of its development application. Its response omits information that does not support its case and selectively reports opponents' comments to further its case.

Comment on Daracon's proposal to reduce tonnages transported by Road

This is the fourth reduction from the original submission by Daracon in the proposed amount to be extracted and transported by road (from an initial 1,450,000 tonnes) despite their prior comments that further reduction in tonnages extracted would make the quarry uneconomic. It also contradicts their position that 600,000 tonnes is the maximum that can be transported by rail.

Daracon claim that the proposed reduction of 10 % in the quarry product to be transported by road will lead to a reduction of 43% in peak daily truck numbers and 20% at other times.

These data are misleading and do not have face validity. If you use Daracon's estimate of 250 days per year haulage, on average the daily tonnage to be transported will fall from 2000 to 1800 tonnes per day. Based on 80 laden truck movements per day, each truck would need to carry 22.5 tonnes to shift the 1800 tonnes. If this haulage rate is applied to the original 2000 tonnes per day there would be on average 88.88 truck movements per day. Thus, reducing the tonnage by 10% would at most reduce the average laden truck movements by from 88.88 to 80 or by 10%.

Daracon's claim that a further reduction in tonnages transported by road would result in a 43% reduction in peak periods and 20% reduction at other times is misleading and not sustainable by their own facts.

Question 1: Table 3-2 of the Department's Assessment Report identifies six other approved hard rock quarries within the Hunter Region that could provide significant volumes of quarry material to the regional market and which also have more direct access to the State Road network. Given the impacts of increased truck movements associated with the proposed Martins Creek Quarry project along the local road network why is this project essential to meet regional market demand?

The DPE's response (Table 2) that none of the current six applications currently being planned can be relied upon to meet the shortfall in quarry material in the local market is not credible and dismissive. This is lazy policy analysis. A number of these applications are well advanced and on-going, for example:

- The DPE has not noted as reported on its own website that Hillview Hard Rock Quarry at Stroud has requested an increase in extraction rates from 750,000 to 1.5M tonnes per year
- Deep Creek Quarry submitted an aquatic Ecology Assessment in December 2022
- Eagleton Quarry: Correspondence seeking approval of road works dated 27/9/2022

The Department should be required to provide an indication of the feasibility of each of these sites. The majority of these planned projects are in areas where there is less social impact and more direct access to major highways.

In relation to Daracon's claim that:

The Hunter region currently has a significant short fall of construction material supply, with continued sourcing from other regions, including the Taree, Gunnedah, Bylong and Liverpool Plains, to supplement requirements.

A simple internet search indicates that Daracon has underestimated the amount of quarry product available to service existing markets by some 1.239M tonnes. Missing from table 3.1 are the:

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|--------------------------------------|-----------------------|
| - Dolwende Quarry, Denman | - 250,000 tonnes p.a. |
| - Hebden Quarry, Singleton | - 499,000 tonnes p.a. |
| - Holcim Jandra Quarry, Possum Brush | - 490,000 tonnes p.a. |

Question 2: If the Commission grants consent to the Application, and considering the proposed works to be undertaken to the rail siding, are there reasons why it should not impose a condition requiring a greater portion of product (recommended condition A15) to be transported by rail? If so, what are these reasons?

The Department's response to this question indicates lack of proactive policy initiative. It relies predominantly on the proponent's response.

The main impediment to increased rail transport is lack of an unloading infrastructure within the Newcastle area. The proponent by its own admission notes that rail transport to Sydney is feasible because of available unloading infrastructure.

The development of an unloading hub in Newcastle would benefit not only Martin's Creek but also Ard Glen (owned by Daracon) and potentially the proposed Focono Quarry north-west of Singleton which is also close to rail infrastructure.

The argument that the use of an unloading hub is not feasible because of the large number of product types is not sustainable. Coal which also has a large number of product types is delivered to the coal loaders in Newcastle without issue.

The main impediment to rail transport to Newcastle is Daracon's unwillingness to build the infrastructure.

Question 3: The Commission notes the judgment of *CEAL Limited v Minister for Planning & Ors* [2007] NSWLEC 3021, in which the Court refused consent to a proposed sand and hard rock quarry at Ardmore Park. The Commission appreciates that all development applications should be treated on their merits. However, the Commission notes the reasoning adopted by the Court in that judgment with reference to the number of truck movements, the haulage route and people living along the haulage route. What is the Applicant's view as to whether the Commission should or should not adopt the reasoning adopted by the Court in that judgment – and why?

The legal opinion cited by Daracon is just that 'opinion.' Given Daracon paid for the advice it is not independent rather designed to support Daracon's position.

Very little of the opinion relates to 'points of law'. It is predominantly composed of information which seeks to paint the development in a positive light by comparing it to developments in other locations.

The flaw in these arguments is there is no assessment of the extent to which affected residents in these other locations support the operation of the cited quarries.

Question 4: Submissions presented to the Commission note that given the predicted frequency of truck movements and the characteristics of the towns and residential development along the proposed haul route, the development could result in long-term adverse impacts on the amenity and character of these communities. Noting the 25-year life of the proposal, how have intergenerational factors been measured and what are the probable outcomes of these impacts over the life of the project?

Daracon's application makes much in its submission of the fact that the quarry has been in operation since the early 1900s. This may be so, but it ignores the fact that the surrounding community has changed substantially over that time and continues to do so. It treats the local community as being static ignoring the dynamic nature of the community, including

the increased housing development in the area. There are currently four blocks for sale on Martins Creek Road, one in King Street Paterson, a new subdivision extending Bolton Street with approximately 20 blocks and a rural subdivision at Vacy incorporating 23 blocks.

Further Daracon's operations do not exist in a vacuum. In addition to the proposed 160 truck movements per day are numerous other heavy vehicle movements along the haulage route, for example,

- school and commuter buses
- delivery trucks carrying groceries for local supermarkets
- trucks carrying building and farm supplies
- trucks transporting heavy earth moving machinery,
- milk transporters collecting milk from local dairy farms
- trucks delivering animal feed to numerous chicken farms, and
- cattle trucks.

In relation to intergenerational equity Daracon's submission notes:

Intergenerational equity is based on the principle that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations. It requires that the needs and requirements of today's generations do not compromise the needs and requirements of future generations in terms of health, biodiversity and productivity.

Yet the points proffered as to how it will achieve intergenerational equity talk about minimisation of the impact of loss of social amenity and such things as:

- *provision of a long-term secure supply of quality hard rock construction material, including rail ballast, to the local and regional market. Current construction material supply is severely constrained (refer to **Section 3.1**)*
- *economic recovery of hard rock material within the quarry licenced areas held by Daracon, maximising operational efficiencies within the quarry site whilst aiming to minimise environmental and social amenity impacts*
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- *flexibility and contingency to adapt to future market and specification requirements*
- *flexibility and contingency for unplanned events (excessive rainfall, geological variation, changes to bench or slope stability, etc*
- ...
- contribute to the local, regional and State economies through capital expenditure, employment and economic supply of construction materials.

These have nothing to do with intergenerational equity. By its own admission, intergenerational equity is about ensuring that the community is no worse off and will continue to thrive and develop. Its only concession to the local community is the last statement which is little more than motherhood. The great majority of economic benefit will be for communities that are not affected by the development.

Question 5: How do the recommended conditions ensure that those most directly impacted by road transport are targeted by the proposed mitigation measures, including but not limited to social impact mitigation measures? What measures are in place for continuous improvement of mitigation measures over the life of the project?

Daracon's response to this question avoids the question. Apart from road works at specified locations, and speed controls which cannot be enforced there are no measures designed to reduce social impact for residents along the haulage corridor? There will still be 160 trucks per day travelling along the haulage route.

Daracon's intention to draw up a code of conduct for drivers is unenforceable. Voluntary codes of conduct are toothless tigers developed by institutions to avoid enforceable undertakings. Many residents will tell you how they have been tailgated by speeding trucks or have been involved in near misses with haulage trucks.

It is interesting to note that during this consultation period, a number of local residents have noted an increase in haulage traffic using Martin Creek Road so as to minimise truck movements through Paterson.

Question 6: Submissions to the Commission identified a risk that the ongoing haulage of quarry products by road could affect the commercial viability of businesses along the primary haulage route including in and around Paterson. What evidence is there that this will not occur?

Daracon's response to this question using a common ploy to focus on a narrow aspect of the issue, in this case tourism. With the exception of Paterson Lodge, tourism is an adjunct to the core business of the majority of businesses within Paterson.

Further, three of the businesses listed as impacted are not in Paterson – Dillon and Sons (Dungog), Tilly's Childcare Centre (Bolwarra) and Tocal College. None of them are tourism related.

The response does not consider the possibility that the business centre of Paterson might develop beyond the current businesses operating in Paterson. For example, if development continues in the surrounding area, will it be feasible with the planned traffic levels for the supermarket to expand. Would council consider that the lack of availability of parking makes it not feasible to approve the development.

Question 7: In reference to paragraph 94 of the Department's Assessment Report, how was the conclusion reached that the impacts of the increased road haulage associated with the Application on road users, including cyclists, school bus passengers, and pedestrians, present an acceptable level of risk?

Daracon's submission notes:

Daracon have confirmed that since operating the quarry there have been no record of any reportable or significant accidents associated with the truck movements in and out of the quarry site along the haul route.

First, the absence of any records of reportable or significant accidents associated with the haulage from the quarry does not mean that there have not been any accidents involving haulage trucks along the transport route. One of our neighbours had a gravel truck leave the road and knock down his front fence. The fence was replaced within days by Daracon so as to remove evidence of the accident.

While the risk may be low, the results of any accident with a fully laden truck coming into contact with another vehicle, cyclist or pedestrian will be catastrophic.

Question 8: If the Commission grants consent to the Application, are there reasons why it should not impose a condition requiring the proposed road upgrades and transport mitigation measures to be in place prior to the commencement of any increase in road haulage of quarry product?

Although I am fundamentally against the approval of an increase in road haulage, I agree that all road up grades must be in place prior to the commencement of increased road haulage.

Question 9: When servicing local projects, trucks will utilise other local roads outside the primary haul route. How are local projects defined? What portion of total proposed product hauled by road would this comprise, and how will this be monitored and reported?

Daracon has indicated that some 5-10% of production will be delivered locally. It has not indicated how this is to be monitored or reported.