

**Submission
No 122**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Organisation: Martins Creek Quarry Action Group

Date Received: 3 November 2023

Ms Sue Higginson MLC

Legislative Council

PORTFOLIO COMMITTEE NO. 7 – PLANNING AND ENVIRONMENT

3 November 2023

Via Email

RE: Martins Creek Railway Ballast Quarry SSD6612 (the Proposal) – Legislative Council

Dear Ms Higginson

Thank you for the opportunity to lodge a submission for consideration by PORTFOLIO COMMITTEE NO. 7 – PLANNING AND ENVIRONMENT in respect of the *Inquiry into the planning system and the impacts of climate change*.

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 (**SSDA6612**) 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. The site has been the subject of the largest NSW Land & Environment Court decision **Dungog Shire Council v Hunter Industrial Rental Equipment Pty Ltd (No 2) [2018] NSWLEC 153** the decision by his Honour Justice Molesworth was upheld on appeal in the NSW Supreme Court which found operations at the Site had been occurring unlawfully for many years including that excavation of rock (including removal of EPBC threatened species and cultural heritage artefacts) had occurred without development consent, that the EPL 1378 variation that occurred in 2007 had occurred unlawfully incorrectly authorizing a scale of operation with no environmental impact assessment and that in transporting greatly more than 30% of product by road the operator of the quarry was in breach of conditions of consent.
3. Concurrent with the court proceedings referred to above, Buttai Gravel Pty Limited an entity controlled by the privately owned Daracon Group commenced the SSDA 6612 process in 2014.
4. The SSD6612 process has cast a dark cloud over the impacted area both around the site and along 27km of proposed haulage route for now nine long years. Many of our membership have complained that the proponent has treated the impacted community of the SSDA6612 with contempt. Complaints have included the omission of residents concerns, impacts and lived experiences from environmental and technical studies, other complaints have included the miss representation of residents submissions and the complete dismissal and disregard of documented impacts. The process has resulted in numerous families selling up and leaving the local community and has stifled local business and investment. Who in their write mind would want to live or work or operate a

local business along a mining haul route (that proposed to transect residential communities and village activity centres) with 280+ truck movements per day planned for 25 years.

5. Over nine long years, impacted community members have had to endure death by a thousand cuts. There has been the July 2015 Public Meeting convened by Dungog Shire Council, the 2016 public exhibition of an EIS, the 2106 public meeting convened by the Department of Planning, the 2021 public exhibition of the amended development application, the 2021 public meeting convened by MCQAG, the November 2022 public exhibition of the Assessment Report by the Independent Planning Commission (IPC), the November 2022 two day public meeting convened by the IPC and the January 2023 re-exhibition of new information relating to the proposal by the IPC.
6. In February 2023 the IPC concluded that the cumulative impacts of the development in particular the cumulative impacts relating to road transport on balance were not in the public interest and as such determined to refuse consent to SSDA6612. The applicant, Daracon has lodged a class 1 merit based appeal against the IPC decision and that appeal is set down for conciliation conferencing in March 2024.
7. In respect of the terms of reference;
 - No where through this nine year long planning process has the proponent been required to assess or consider the impacts to climate change
 - In spite of the proposed haulage route being located along side and over the Paterson River, there has been no consideration given to the annual flood events that are experienced. There has been no impact assessment conducted on the alternate routes that haulage trucks take through back streets and parks to reach the quarry (previously performed during flood events whilst the quarry operated unlawfully),
 - There has been no consideration given to how the impacts of the proposal could be mitigated or improved having regard to climate change measure such as proposed emissions reductions or carbon offsetting of operations.
 - There has been no substantial analysis on the CO2 foot print or climate change impact of transporting product by a proposed 31,000 truck movements per year from the site in comparison to utilization of rail transport (utilizing the existing rail loading facilities at the site).
 - If the CO2 emissions analysis had been done, there is no weighting given by neither the Department of Planning's Assessment Report nor the IPC's Statement of Reasons as to what weighting such a change would or could have had in respect of the project,
 - The ESD principles purported to have been used (by the Proponent, Department of Planning and IPC) in the decision making process are unclear what if any consideration and weighting has been given to climate change impacts.
 - Why is the Hunter becoming the next quarrying hotspot for our state? Why is almost all of the resource proposed to be transported by road to market and why are quarries not incentivised to transport product to market by Rail as has been done by a number of operators in the Southern Highlands? And what cumulative impact assessment (including impacts on climate change) have been (or will be made) of the ever growing number of SSDA proposals for Quarrying and extractive industries in the Hunter Valley.
8. In short, the SSDA planning system is broken, this process has ground a local community into the ground, the Department of Planning staff seem to be measure against KPI's of "how many projects

they can get over the line approved” and in the case of SSDA6612 seemed to have completed their assessment report ensuring their work is constrained only to Department guidelines. Our understanding is that the impact of a development is more correctly supposed to assess ALL LIKELY IMPACTS of a development not just those impacts required to be assessed by Department Guidelines.

9. We also query the role industry is playing behind closed doors with the Department of Planning and other government policy makers.
10. We understand the CCA has had meetings with the Department of Planning staff behind closed doors and is drafting land use strategies to enable the un-inhibited access to aggregate resources within NSW with a vested interest in accessing all or any resource industry require.
11. Will these strategies see the light of day? Will these include climate change initiatives? And how will the impacted communities participate and have a say in these land use strategies before they become set in “concrete” so to speak.
12. Thank you for your time on this very serious and important matter.

Yours Faithfully