



# **Response to Submissions**

for the

## **McPhillamy's Quarry**



*Prepared by:*

**R.W. CORKERY & CO. PTY. LIMITED**

**May 2018**

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# Response to Submissions

for the

## McPhillamy's Quarry

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## **LIST OF ACRONYMS**

AHD	Australian Height Datum
EP&A Act	Environmental Planning and Assessment Act 1979
LEP	Local Environmental Plan
MAC	Muller Acoustic Consulting Pty Ltd
RWC	R.W. Corkery & Co. Pty Limited
SEPP	State Environmental Planning Policy



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## 1. INTRODUCTION

Mr Tom McPhillamy (the Applicant) has submitted a development application under Part 4 of the *Environmental Planning and Assessment Act 1979* for the continued operation and expansion of the McPhillamy's Quarry (the Proposal).

An *Environmental Impact Statement* was prepared for the Proposal by R.W. Corkery & Co. Pty Limited (RWC). That document, hereafter referred to as RWC (2018), was submitted to Bathurst Regional Council in to seek approval for the following.

- Extraction of an average of 40 000tpa, or a maximum of 80 000tpa, of weathered granite for a period of approximately 24 years.
- Stockpiling and blending of extracted material within the Project Site.
- Loading and transportation of stockpiled material from the Quarry via Gormans Hill and Lloyds Roads to Vale Road.
- Progressive reconstruction or relocation of a range of infrastructure
- Rehabilitation of the Quarry and Extraction Area to achieve a final land use of nature conservation and/or agriculture.

Copies of the *Environmental Impact Statement* were publicly exhibited by Bathurst Regional Council from 5 March to 5 April 2018. During the exhibition periods were received from the following government agencies.

- Department of Planning and Environment - Division of Resources and Geoscience
- Environment Protection Authority.
- Office of Environment and Heritage
- Roads and Maritime Services.
- Department of Primary Industries – Agricultural Land Use Planning

In addition, eleven submissions from members of the public were also received during the exhibition period.

This document has been prepared by R.W. Corkery & Co. Pty Limited on behalf of the Applicant to provide a response to each of the submissions received. In order to facilitate review of this document, text drawn from submissions received is presented as *italicised* text. The Applicant's response is presented in non-italicised text.

## 2. GOVERNMENT AGENCY SUBMISSIONS

### 2.1 DIVISION OF RESOURCES AND GEOSCIENCE

#### Representative Comment(s)

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*GSNSW has reviewed the Environmental Impact Statement for the continuation of McPhillamy's Quarry and is satisfied that the resource has been adequately assessed.*

#### Response

Noted.

#### Representative Comment(s)

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*The GSNSW requests that as a condition of development consent the proponent should be required to provide annual production data to DRG.*

#### Response

The Applicant consents to the proposed condition of consent.

#### Representative Comment(s)

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*GSNSW request to be consulted in relation to the proposed location of any biodiversity offset areas (both on and off site) or any supplementary biodiversity measures to ensure that there are no consequent reduction in access to prospective land for mineral exploration, or potential for sterilisation of mineral or extractive resources.*

#### Response

As there is no requirement for a Biodiversity Offset Area, this comment is not relevant.

### 2.2 ENVIRONMENT PROTECTION AUTHORITY

General Terms of Approval from the Environment Protection Authority were received on 27 April 2018. The following presents a brief review of the terms of that approval and some limited clarifying comments.

#### Representative Comment(s)

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##### **Management Plans:**

*The following management plans must be prepared and implemented within three (3) months of development consent being granted and prior to the recommencement of any quarrying activities:*

- i) *Erosion and Sediment Control Plan - to capture the mitigation measures outlined in section 4.6.2 of the Environmental Impact Statement prepared for the project. This plan must include details of sediment control structures designed to capture a 5 day 95th percentile rainfall event of 44 mm in accordance with the document Managing Urban Storm water: Soils and Construction (Landcom, 2004).*

- ii) *Noise Management Plan - to capture the mitigation measures outlined in section 4.1.4 of the EIS.*
- iii) *Traffic Management Plan - to capture the mitigation measures outlined in section 4.2.2 of the EIS.*
- iv) *Air Quality Management Plan - to capture the mitigation measures outlined in section 4.8.3 of the EIS.*
- v) *Construction Management Plan - to capture the protocols to be put in place when soil stripping (or other surface construction activities) is undertaken at the premises. This plan must include a protocol to notify residential neighbours of the intention to commence surficial operations at the premises.*

*Copies of these plans must be provided to Bathurst Regional Council and the EPA prior to the recommencement of operations at the premises.*

### **Response**

The Applicant consents to the proposed condition of consent. However, for ease of operation, the Applicant requests that Council and the Environment Protection Authority consent to a single Environmental Management Plan for the Quarry, incorporating separate chapters complying with the above, be accepted.

### **Representative Comment(s)**

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#### ***Hours of Operation:***

*Construction Activities: Construction activities (e.g soil stripping) must only be undertaken on a maximum of three (3) days per year during the following hours:*

- *9 am to 3 pm, Monday to Friday, and*
- *At no times on Saturdays, Sundays or Public Holidays.*

#### ***Operational Activities:***

- *8 am to 5 pm, Monday to Friday; and*
- *At no times on Saturdays, Sundays or Public Holidays.*

### **Response**

The Applicant consents to the proposed condition of consent. However, as the Proposal would be used for public purposes, the Applicant requests that a caveat permitting operations outside the approved hours of operation during emergencies, including flooding, emergency road repairs, etc.

**Representative Comment(s)**

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*A water truck must be present on site when quarrying activities (including construction activities) are being undertaken at the premises*

**Response**

The Applicant consents to the proposed condition of consent.

**Representative Comment(s)**

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*Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.*

**Response**

The Applicant consents to the proposed condition of consent

**Representative Comment(s)**

---

*The internal quarry access haulage road must be sealed up until the entrance to the extraction area*

**Response**

The Applicant consents to the proposed condition of consent. The site access road will be sealed from the site entrance to the point at which the road enters the Extraction Area.

**Representative Comment(s)**

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*All trucks and mobile plant operating within the premises must be fitted (where there is a requirement for such devices to be fitted under the work health and safety legislation) with broad-spectrum reversing alarms.*

**Response**

The Applicant consents to the proposed condition of consent.

**Representative Comment(s)**

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*All existing and proposed soil bunds and stockpiles must be treated (grassed, spray emulsion or covered) such that they will not be a continual source of air pollution.*

**Response**

The Applicant consents to the proposed condition of consent.

### Representative Comment(s)

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*The proponent must apply for and hold an in-force environment protection licence issued by the Environment Protection Authority prior to the proponent carrying out any scheduled activities under the Protection of the Environment Operations Act 1997 as proposed.*

### Response

The Applicant consents to the proposed condition of consent

## 2.3 OFFICE OF ENVIRONMENT AND HERITAGE

The Office of Environment and Heritage raised no issues or objections to the Proposal.

## 2.4 ROADS AND MARITIME SERVICE

### Representative Comment(s)

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*Pursuant to section 16 of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, Roads and Maritime provides the following recommendations for Council's consideration:*

- *Safe Intersection Sight Distance in accordance with Part 4A of Austroads Guide to Road Design is to be provided and maintained at the intersection of the site access and Gormans Hill Road.*

### Response

The Applicant consents to the proposed condition of consent.

### Representative Comment(s)

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- *Haulage operations coinciding with local student school bus pick up/drop off times are to be avoided.*

### Response

The Applicant contends that this condition would impose unreasonable operational difficulties, and that the variety of transport operators accessing the site would make this condition impractical and difficult to enforce.

The Applicant notes that no Quarry traffic would pass the school. The Applicant proposes that the Driver's Code of Conduct would stipulate that drivers must limit vehicle speed to 40km/hr when travelling along the school bus route during school bus pick up/drop off times. The Applicant would also make reasonable efforts to schedule transport operations to limit the number of truck movements during these times where practical.

### Representative Comment(s)

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- *In accordance with clause 16(1) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, the applicant is to prepare and implement a driver code of conduct for the task of transporting materials on public roads.*

### Response

The Applicant consents to the proposed condition of consent.

## 2.5 DEPARTMENT OF PRIMARY INDUSTRIES - AGRICULTURE

### Representative Comment(s)

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*The relevant areas include:*

1. *That a final landform allocated to pasture lands seeks to achieve a land and soil capability of Class 4. This can be done through identified soil physical and chemical parameters measured on approval for a basis to future monitoring. DPI Agriculture is seeking adequate planning to ensure the rehabilitated land to be returned for agricultural land use can be achieved through the rehabilitation process.*

### Response

The Applicant consents to the proposed condition of consent.

### Representative Comment(s)

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2. *That a biosecurity (pests and weeds) risk assessment outlining the likely plant, animal and community risks is undertaken on approval, and a response plan to deal with identified risks as well as contingency plans for any failures. This should include monitoring and mitigation measures in weed and pest management plans. This includes soil stockpiles, access areas, road sides and adjoining lands to the proposed quarry.*

### Response

The Applicant consents to the proposed condition of consent. The Applicant would prepare a Weed and Pest Management Plan to accompany the various Management Plans required by the Environment Protection Authority's General Terms of Approval.

### 3. PUBLIC SUBMISSIONS

#### 3.1 INTRODUCTION

This section provides a response to the public submissions received following the exhibition period. Eleven submissions were received from members of the public.

In addition, to limit repetition and allow the matters raised in the submissions to be adequately and efficiently addressed, each submission was reviewed and the matters raised were categorised. The categorisation is presented in no particular order of priority. It is acknowledged that classification of individual submissions is subjective and that individual respondents may classify issues raised in their own submission in a manner different to the way that they are classified in this document.

This subsection provides, for each category of issue raised, selected extracts from a range of submissions in *italics*, as well as a consolidated response to that issue. Submissions were selected when assembling the comments to be reproduced to ensure a representative selection of comments are presented and to avoid the perception of bias in the information presented. Again, the Applicant acknowledges selection of text for inclusion in this document is a subjective process and that individual respondents may have selected different sections of their submission for inclusion or may object to the fact that their submission was not included. However, the intention of this subsection is to provide a response to the issues raised rather than to each individual submission.

#### 3.2 CUMULATIVE IMPACTS

One submission raised the issue of the cumulative impacts of the Proposal and the adjacent quarry.

##### **Representative Comment(s)**

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*As Council is well aware, the other adjacent quarry (Lot 24 DP830868) appears to continue to operate without consent. The cumulative effect of both quarries we believe is untenable, especially considering that it is now proposed to double the proposed extraction area with this DA.*

##### **Response**

The Applicant understands that development consent does not exist for operation of an extractive industry within the identified land. In addition, the Applicant notes that the scale of the proposed activities is consistent with activities that have historically been undertaken within the Project Site, including concurrent operation of operations on Lot 24. This matter has historically not resulted in community complaints.

In light of the above, the Applicant contends that cumulative impacts are likely to be negligible.



### 3.3 NOISE

Nine submissions raised the issue of noise impacts from the Proposal.

#### Representative Comment(s)

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*As one of the closest residents to the quarry and the closest to the quarry exist (sic), we have noticed the noise from the dozer can be quite extreme at times.*

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*The noise survey indicates a very modest level, but from past experience the dozer is audible from Lloyds Rd area. With housing in very close proximity it is difficult to imagine compliance of noise limits. I think an independent noise survey would be more satisfactory before any decision on approval was made.*

*With most wind prevailing from the south the noise would be more intense around Dees Close and Fish Parade areas.*

*With the tonnage that is projected it would seem the dozer would be in operation a lot of the time. The track clatter would be extremely audible especially as tracks on a machine age.*

---

*The operational noise of the quarry has been an ongoing concern since we moved here in 2013. Inside our house and in the surrounding yard, we could hear the trucks, bulldozers and heavy vehicles extracting and transporting the granite. No care was taken over the previous life of the quarry to minimise the impact of this noise upon residence on the North side who had to endure the constant sound of heavy vehicles trailing up and down the site.*

---

*There is reference in the EIS that there have been no noise complaints during the existing operation of the quarry. The quarry has not operated since February 2017 and operations over the past few years have reduced to 2-3 truck movements per day. The proposed expansion of the quarry will result in 80 truck movements per day, as well as operation of heavy machinery, resulting in increased noise impact to residential properties to the north of the proposed expansion of the quarry.*

*The proposed expansion of the quarry site will result in an increase in noise levels to surrounding properties, as operations expand to the west of the existing quarry site, with the expanded quarry site coming closer resulting in noise impact on these residential properties to the north of the quarry site.*

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*The Sound Power Levels (Table 14) Mac (sic) 2017, indicates that the Bulldozer has a level of 104dBA, also the Front End Loader with 102dBA, and Truck with 105dBA, these will be a constant annoyance. It states in 4.1.2.1 Point 5 that the Bulldozer will operate "Only 1 day per year with winds blowing from NW to SW at speeds between 5 and 18km/h (sic). This will reduce the level of noise on the adjoining residences. If there is to be 40,000tpa to a maximum of 80,000tpa transported from this quarry every year, I find it hard to believe that in 1 10hour (sic) that this Bulldozer is going to move that amount of Granite, (if the wind speed and direction allow) into an area so the trucks can be loaded, for a full year.*



## Response

The Applicant acknowledges that perceived impacts associated with noise, particularly night-time noise are subjective and emissions that one person would find acceptable may be unacceptable to others. Notwithstanding this, the Applicant notes that the operational noise assessment conducted by Muller Acoustic Consulting Pty Ltd (MAC, 2017) and presented in Section 4.1.5 of RWC (2018) identifies that the only residence that would be expected to experience noise emissions higher than the 38dBA amenity criterion as a result of the Proposal operations is owned by the Applicant.

The Applicant acknowledges that during soil stripping operations, which would be undertaken one day per year, 31 residences would be expected to receive noise levels up to 12dBA higher than the relevant amenity criteria. However, the Applicant contends that the anticipated noise levels would not be unreasonable since:

- construction of the 4.5m high amenity bunds required to mitigate noise levels below the criteria would have a greater impact on surrounding residents than the soil stripping operations themselves; and
- all reasonable and feasible management and mitigation measures would be undertaken during construction and soil stripping operations to minimise the noise impact to surrounding residents.

Finally, a number of the respondents would appear to have assumed that all bulldozer operations would be undertaken at the natural land surface. In reality, the vast majority of operations would be undertaken within the Extraction Area, with the walls of the Extraction Area acting as an amenity bund.

Notwithstanding the above, the Applicant would maintain an open dialogue with the surrounding community and neighbours. Any concerns raised in relation to noise would be investigated and addressed.

## 3.4 ROAD SAFETY

Eight submissions raised issues relating to road safety impacts from the Proposal.

### Representative Comment(s)

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*Also, the nature of campaign cartage also heightens the risk of accidents especially at the quarry entry, the Lloyds and Gormans Hill Rd and the extremely narrow single lane bridge on Lloyds Rd.*

*Road Widening, and truck signs would be definitely required for safety of all road users as there is not a lot of vision in either direction and the traffic is known to speed through this section of road.*

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*It has been indicated that some work will be done on Gormans Hill Rd but the bigger concern is the one lane bridge on Lloyds Rd. With the volume of trucks anticipated this bridge should be opened up to take traffic both ways. We have witnessed too many near misses and it is only a*



*matter of time until a major accident will occur on the present bridge. Also where the old causeway was should be raised and piped as during heavy rain the water runs across the road reasonably deep.*

---

*The transport route would pass along Gormans Hill Road which is in a state of disrepair on the section of road that will be used, the trucks used to transport granite previously have contributed to this damage.*

---

*Heavy traffic. The existing road structure will not support the constant use and the increase in heavy traffic. Constant repairs will have an impact not only on the residents' use of the road but also MacKillop College traffic, Bathurst Private Hospital traffic, St Catherines Nursing Home and Macquarie Care.*

### **Response**

The traffic and transport assessment is presented in Section 4.2 of RWC (2018). The Applicant notes that this assessment determined that, given the low levels of traffic currently using Gormans Hill Road and Lloyds Road, the proposed works at the intersections of the Site Access Road and Gormans Hill Road and Gormans Hill Road and Lloyds Road, and the limited number of heavy vehicles that would access the Project Site, the Proposal would be unlikely to have an unacceptable impact on traffic and transport surrounding the Project Site.

In relation to widening of the single lane bridge on Lloyds Road, the Applicant notes that Council has not identified this as a priority to date throughout the Quarry's operating history.

## **3.5 COMPLIANCE HISTORY**

One submission raised the issue of the Quarry's compliance history.

### **Representative Comment(s)**

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*This quarry has been operating outside of its footprint for many years now and outside its allowed volume. Also, the quarry may have ceased use in the nineties for longer than the 12-month period required to maintain its existing use rights.*

### **Response**

The Applicant acknowledges that the Quarry was operating without development consent. Upon becoming aware of this fact, the Applicant immediately ceased operations and prepared this development consent. As a result, the matters raised by the respondent are no longer relevant.

### 3.6 DUST

Six submissions raised the issue of dust impacts from the Proposal.

#### Representative Comment(s)

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*It will be impossible to keep the levels of dust to a minimum with the increase in heavy machinery usage & trucks. MacKillop College is situated within one km as is Bathurst Private Hospital & St Catherines Nursing Home. Health & safety of the residents & students is a concern.*

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*Dust has been an ongoing issue in and around our home and continues to be a problem due to the open dirt quarry so close to residential housing. Realistically, on a windy day no amount of water spraying is going to stop dust from affecting the neighbours of the quarry.*

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*Note that dust has been an ongoing issue despite our repeated Council objections over the years, and not coincidentally has reduced with recent pause of activity on site. The proposed development would no doubt significantly worsen the dust issue of the operating quarry.*

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*During the last 16 years noise and dust has been a big problem. Every few days my wife Christine would have to clean the inside of our house and remove a fine layer of filament dust that covered every object in our house...*

*...now that the quarry is to be extended the problem is going to be horrendous...*

*...2.4.1 last paragraph reads "The current road to the north of the Extraction Area would be retained as an Emergency Access Road and would not be used for product transportation once the Proposed Site Access Road has been completed". So does this mean that the road will be used, and for how long? This road is partially sealed up to and level with my shed and the stockyards, and past that level it is unsealed and when the trucks travel on it a large dust cloud is created. The sealed section is covered in dirt from truck movements. Appendix 12, and 13 shows this, and over the past 16 years excessive dust from laden or empty trucks travelling along this road have been one of the biggest problems we have had with the quarry...*

*...2.4.3 point 2 "Ground vegetation and topsoil would be stripped and directly transferred to Soils Stockpile area for future use. Soil Stockpile would be immediately (within 24 hours) sprayed with Hydromulch containing suitable mix of pasture species to achieve an immediate 70% coverage and prevent both dust emissions and control erosion from the stockpiles". This is going to be a very large amount of topsoil and my concern is that in the hours and ?days (sic) prior to the stockpiles being 70% covered. What is going to stop the dust from being blown in all directions? ...Even with the ? (sic) 70% coverage of Hydromulch it is not an instant solution to the dust problem.*

#### Response

The Applicant notes that the air quality assessment is presented in Section 4.8 of RWC (2018). That assessment determined that the Proposal would be unlikely to have unacceptable air quality-related impacts, as a result of the range of control measures the Applicant would implement throughout the life of the Proposal. These control measures are identified Section 4.8.3 of

RWC (2018) and would be embodied in an Air Quality Management Plan for the Proposal. Furthermore, the Applicant would ensure that stripping of soil material, the most emissions intensive activity, would be undertaken once per year, when the wind is blowing away from surrounding residences. The Applicant would also ensure that a water cart is available within the Project Site during all operations and would undertake progressive rehabilitation of disturbed areas to reduce the area of the Project Site available for wind erosion. Finally, the Applicant would modify or cease operations should visible dust emissions beyond the northern, western or southern Extraction Area boundary be observed.

In relation to comments addressing use of the existing site access road on the northern boundary of the Project Site, the Applicant would construct the proposed central access road as soon as practicable following receipt of development consent and, once complete, the northern access road would no longer be used. The Applicant is not willing to commit to a particular timeframe to complete those works, because the rate at which they will be completed is a factor of the rate at which material will be required for the quarry, a matter that is out of the day-to-day control of the Applicant.

The Applicant would maintain an open dialogue with the surrounding community and neighbours. Any concerns raised over dust impacts would be investigated and addressed.

### 3.7 MONITORING AND COMPLIANCE

Two submissions raised issues regarding the environmental monitoring and compliance of the Proposal.

#### Representative Comment(s)

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*Again I ask "Who is going to ensure that if visible dust emissions go beyond the Northern, Western and Southern Extraction Area Boundaries that they will Immediately (sic) cease operations, who will police this?". In Point 11 It (sic) states that they will Respond Promptly (sic) to any air-quality-related complaints, including modifying onsite operations in the event that dust emissions from those operations are not accepted. Again I ask "Who will be policing this, and who do we complain to?..."*

*...As I have questioned, "Who will ensure that all conditions will be adhered to, and what penalties, if any, will be handed out if they are breeched (sic)"? It can't be the Applicant!*

---

*Applicant has advised they will monitor dust by visual approach and any complaints could be dust from adjacent quarry operators, agriculture or dust from unsealed roads. Propose 1) Monitor equipment be installed with proof of air quality near homes and water filtration plant. 2) Procedure in place that stockpile will be covered on excessive windy days and work will stop if dust is blowing toward residential homes. Stockpile height not visible from any residential areas.*

## Response

The Proposal, should it be approved, will be subject to a number of conditional requirements associated with both the Development Consent and the Environment Protection Licence. In particular, the Applicant will be required to prepare a range of Management Plans that will outline in detail specific operating procedures, management measures and monitoring procedures to ensure that these requirements are complied with. These conditions of consent will also set out requirements for the reporting and auditing of the Proposal's environmental performance and compliance, including an Annual Return, and non-compliance procedures.

### 3.8 RURAL AMENITY

Two submissions raised concerns over impacts to rural amenity and lifestyle resulting from the Proposal.

#### Representative Comment(s)

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*Gormans Hill is an historic region of Bathurst, with great heritage value, as Coss Road the original access point to the town of Bathurst in the 1800's followed the pathway of the current Gormans Hill Road.*

*It is our view that this area has been grossly undervalued, and that the Bathurst Regional Council is failing to see its potential as a significant suburb of Bathurst, with a unique history, and with and (sic) attractive pastoral landscape with views toward the Blue Mountains. It is within the communities' interest that this suburb be cultivated and protected from future industrial development.*

---

*Many people use Gormans Hill & Lloyds Road for walking & cycling to enjoy the rural outlook. Increased road traffic, especially by trucks will greatly impede this enjoyment & potentially create an accident risk.*

## Response

The Applicant notes that the Quarry has been operating since the 1940s and is currently operated by Bathurst Regional Council (Council) under a commercial agreement with the Applicant. Extracted material is used by the Council for construction and maintenance of the public road network, as well as for other public purposes. As such, the Quarry has and would continue to contribute to residents' and visitors' ability to safely and conveniently access and enjoy the region's rural and heritage values through the local road network.

In addition, the Proposal would not materially increase the scale of operations within the Project Site and impacts on the rural amenity of the surrounding area would be no greater than those previously experienced.

### 3.9 VISUAL

Six submissions raised the issue of visual impacts from the Proposal.

#### Representative Comment(s)

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*When we moved here you would not know there was a quarry there as we could only see a hill, but since then the overburden has been stockpiled on top of the hill and is an ugly, eroding sight.*

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*As residences at our home has been adversely visually impacted by the quarry. When we purchased the property, we were overlooking a field that has in time been made into a mound of dirt to conceal the massive crater that is the quarry. No attempt has been made to rehabilitate the site over time, and we totally disagree with the notion that there has been "progressive rehabilitation" which is mentioned throughout the application.*

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*Whilst the current extraction pit may not be visible from surrounding residences in the project vicinity, the existing bunds on the northern boundary of the quarry site are visible from adjacent residences, particularly those on Inn Place. Currently the bunds are unvegetated and severely eroded, acting as an eye sore for residents.*

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*The quarry, if extended, will be a blight on the rural landscape we enjoy in this area. Already homes that are situated on a higher aspect look down on the ugly existing quarry next to the Macquarie River. We don't want this to be their only view.*

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#### Response

The Applicant notes that the visibility assessment is presented in Section 4.4 of RWC (2018). That assessment determined that the Proposal would be unlikely to have an unacceptable impact on visual amenity from residences or publicly accessible vantage points surrounding the Project Site. The assessment noted that views of the Extraction Area from residences immediately surrounding the Project Site are generally not available, while distant views are only available from residences on White Rock Road approximately 1.5km to the east.

The Proposal would not result in a substantial increase in the area of disturbance or the visible face of this Extraction Area. Furthermore, a range of management and mitigation measures would be implemented to minimise the visual amenity-related impacts of the Proposal, including the establishment of tree screens along the boundaries of the Project Site, and progressive rehabilitation of soil stockpiles and quarry faces. In light of the above, the Applicant contends that visual amenity of surrounding residences would not be significantly impacted by the Proposal.

Finally, the Applicant acknowledges the issues raised by the respondents in relation to existing bunds and stockpiles on the northern side of the Extraction Area. The Applicant would, in addition to establishing a visual screen on the northern boundary of the Project Site, ensure that the bunds and stockpiles are removed or revegetated prior to 31 December 2018.

### 3.10 VISUAL SCREENING

Four submissions raised the issue of the adequacy of visual screening of the Proposal.

#### Representative Comment(s)

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*It should be noted that poplars are deciduous in nature and would therefore serve as an inadequate visual screen during Autumn-Winter. Further, Figure 2.6 does not show proposed screening along the northwestern boundary of the proposed extraction area.*

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*The proposed visual screen on the northern boundary of Lot 13, DP 1081768, will be located at contour height of 670metres, some 10-15 metres lower at ground level than the southern wall height of extended quarry. Therefore, the proposed visual screening on the northern boundary of Lot 13 will have no effect of screening the quarry site from residences on the northern boundary in Inn Place, Gormans Hill, and residence (sic) will see the expanded quarry, as the expanded section cuts into the hill to the south west.*

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#### Response

The Applicant notes that the species to be used for establishment of the visual screen will be selected in consultation with Council. The selected species will provide year-round coverage and will not be deciduous.

### 3.11 PUBLIC HEALTH

One submission raised the issue of potential public health impacts from the Proposal.

#### Representative Comment(s)

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*Town Limits. This quarry extension is within the town limits of Bathurst & is potentially detrimental to the health & wellbeing of residents, school students at MacKillop, frail & aged people living in care in the area, hospital clients & the local work force.*

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#### Response

As noted in Section 3.6, the Proposal would be unlikely to result in airborne or deposited dust levels that would cause significant air quality-related impacts at any residences or other sensitive receivers located within the area surrounding the Project Site.

### 3.12 WATER

Two submissions raised concerns relating to the source, consumption, management and potential pollution of water.

#### Representative Comment(s)

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*Applicant has advised all working areas will hosed (sic) down to prevent dust? This would require many thousands of litres per day*

*Propose 1) Council monitor water use and applicant advise source of water supply and procedure to avoid any excess water entering creeks, drains, river boundary.*

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*I am deeply concerned that an extractive industry of a granite quarry would be granted approval, on the banks of the Macquarie River, only 600metres upstream from the Bathurst Water Filtration Facility, which supplies fresh water directly from the Macquarie River, for the population of Bathurst.*

#### Response

Water would be applied to operational areas and internal roads using water carts which are highly efficient at suppressing dust using as little water as possible. In RWC's extensive experience with similar quarries, the amount of water required for dust suppression at the Quarry would be limited. This water would be sourced from either the on-site Sediment Basin or from a suitably licenced off-site source.

In addition, Section 4.6 of RWC (2018), identifies that the Applicant would construct surface water control structures to ensure that potentially sediment-laden water is not discharged from the Project Site except under a 1 in 50 year 72-hour rainfall event. Furthermore, the Proposal is not on flood prone land and would be unlikely to be impacted by or to impact upon flood behaviour. As a result, the surface water assessment conducted by RWC (2018) determined that the Proposal would be unlikely to have unacceptable surface water-related impacts, including on the Macquarie River.

### 3.13 REHABILITATION

Four submissions raised the issue of previous and proposed rehabilitation of the Quarry.

#### Representative Comment(s)

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*Propose as applicant requires a 24 year DA. Council only provide 5 year DA with extension subject to all conditions and any complaints being addressed.*

*Council provide exit plan for end quarry use and guarantee applicant will return land for normal use (not as most quarries used as a dump)*



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*Given the apparent lack of site rehabilitation to date, we believe strong conditions relating to site rehabilitation should be imposed on the proposal, which are progressive and involve regular inspections by the appropriate authorities.*

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*The current soil stockpiles increased to their current height some 4 years ago and no erosion control provision have been implemented, nor has any rehabilitation of the site, been evident during that period, to the northern aspect of the quarry. I am deeply concerned that the expanded quarry site will ever be rehabilitated, given no rehabilitation of the site has occurred to date.*

### **Response**

A rehabilitation plan is provided in Section 2.10 of RWC (2018). The Applicant is committed to a progressive approach to the rehabilitation of completed areas of the Extraction Area and Project Site to ensure that, where practicable, as extraction is completed, the proposed final landform is quickly shaped and vegetated to provide a stable landform. This would be achieved by placing stockpiled overburden against completed faces of the Extraction Area and profiling them by excavator or bulldozer to create slopes with an angle of approximately 1:4 (V:H). As stated in Section 2.4.3 of RWC (2018), soil stockpiles would be immediately (within 24 hours) sprayed with hydromulch containing a suitable mix of pasture species to achieve an immediate 70% coverage and prevent both dust emissions and to control erosion from the stockpiles. The Applicant intends that the final land use on the Project Site would include a combination of agriculture on the Extraction Area floor and nature conservation on the site slopes.

Finally, the Applicant rejects the assertion that no progressive rehabilitation has been implemented, with substantial sections of the southern and southeastern sections of the Extraction Area shaped and revegetated.

### **3.14 OPERATING HOURS**

Two submissions raised the issue of the proposed operating hours of the Proposal.

#### **Representative Comment(s)**

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*Based on our experience of the noise levels the quarry generates we oppose the operational hours proposed. Our experience was that 7am daily was too early, waking the entire household to the sound of loud truck engines, and Saturdays were adversely interrupted by the noise pollution of the heavy vehicles.*

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*We have noticed that the operating hours for this time around are longer than the previous operating hours. I know that we have no control over the operating hours of the quarry, but we do have the right to lodge an objection, and it is a very strong objection to 0700-1700 Monday to Friday. We also strongly object to the operating on Saturday 0800-1200, because if the quarry is as stated in Section 1.3 used in construction and maintenance of the public road network by the Council, aren't Council's operating hours from Monday to Friday only so why operate the quarry on Saturdays? The weekly operating hours are a total of 50 hours, and we feel that this is*

*excessive, with as stated approximately 40 or more trucks per day. Who controls the amount of trucks a day? There is no justification other than sheer greed for operating on a Saturday.*

### Response

As noted in Section 3.3, the operational noise assessment conducted for the Proposal determined that noise levels would not exceed the residential amenity criteria at any non-Proposal related residence. This assessment also found that road traffic noise levels under the Proposal would fall below the relevant road noise criterion.

Notwithstanding this, the Environment Protection Authority has recommended, and the Applicant as agreed to reduced operational hours, namely to 8:00am to 5:00pm Monday to Friday, except in emergencies.

## 3.15 HISTORIC HERITAGE

One submission raised the issue of the potential impacts of the Proposal on historic heritage.

### Representative Comment(s)

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*We submit that the EIS does not adequately consider the potential impacts of the development on European heritage in the project vicinity. Appendix 5 of the EIS contains a Heritage Assessment. It predominantly assesses the proposal against Aboriginal cultural heritage issues and does not adequately address European heritage. ...*

*The EIS fails to consider items of Local significance in proximity to the proposed development. Schedule 5 of the Bathurst Local Environmental Plan 2014 ('Bathurst LEP') lists Gorman's Hill Inn (former) of 2 Dees Close, Lot 2 DP 881092 as being an item of Local heritage significance. ...*

*We submit that an expansion of the quarry has the potential to impact on the heritage values associated with Gorman's Hill Inn, including its rural outlook, setting and views.*

### Response

As the Gorman's Hill Inn is not located within the Project Site, no direct impacts to that site would occur.

In relation to indirect impacts, as stated in Section 3.8, the visual impact assessment undertaken for the Proposal determined that the Proposal would be unlikely to have an unacceptable impact on visual amenity from residences or publicly accessible vantage points surrounding the Project Site. A tree line would be established on the northern boundary of the Extraction Area within 24 months of the granting of development consent that would gradually obscure any views of the Project Site visible from Gorman's Hill Inn. The Applicant would consult with Bathurst Regional Council to ensure that the visual screening measures undertaken for the Proposal sufficiently mitigate any impact on the heritage values of the Inn.

### 3.16 PLANNING PRINCIPLES

One submission raised the issue of the Proposal's congruence with local and State planning principles.

#### Representative Comment(s)

*Inadequate consideration has been given to State Environmental Planning Policy (Rural Lands) 2008 ('Rural Lands SEPP'). The EIS generally only considers the proposal with respect to the agricultural aims of the policy, however the Rural Lands SEPP has a wider application than that. The Rural Lands SEPP aims to assist in the proper management, development and protection of rural lands for social, economic and environmental welfare purposes, including the maintenance and protection of rural amenity. The Rural Lands SEPP further identifies the importance of implementing measures designed to reduce land use conflicts. Whilst the proposal intends to reduce land use conflict by using mitigation and managements measures, such as vegetation screening, as previously discussed, further consideration of these measures is required to determine their adequacy. The objectives of the RU4 – Primary Production Small lots zone under the Bathurst LEP further speaks to this concept, in that the RU4 zone should minimise land use conflict and maintain the rural and scenic character of the land.*

#### Response

The first two aims of the *State Environmental Planning Policy (Rural Lands) 2008* (Rural Lands SEPP) are:

- a) "to facilitate the orderly and economic use and development of rural lands for rural and related purposes"; and
- b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,
- c) to implement measures designed to reduce land use conflicts,
- d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions."

As indicated in Section 1.5.1.3 of RWC (2018), the protection of the land that is the subject of the Proposal would not provide any public benefit, and so would not represent economic use and development of the land or promote social or economic welfare of the area or State. As stated in Section 5.2.3 of RWC (2018), the Proposal would have an overall positive socio-economic impact through provision of employment, supply of materials necessary for road construction and maintenance, and provision of indirect and flow-on benefits to the socio-economic environment such as expenditure of wages paid to employees and reduced costs for public works. Indeed, the employment and local economic stimulus that would be generated by the Proposal are likely to be of greater public benefit than agricultural activities. Moreover, as stated in Section 5.2.2 of RWC (2018), the Proposal has been designed and would be operated in a manner that would minimise the area of disturbance, avoid impacts to native vegetation or habitat, avoid impacts to local water resources, and create a final landform that maximises its future value for agriculture and conservation. Therefore, the Proposal would minimise potential environmental impacts,

contributing to the protection of rural lands and the environmental welfare of the area and State. As a result, the Applicant contends that the Proposal is consistent with the aims of the Rural Lands SEPP.

The objectives of Zone RU4 - Primary Production Small Lots under the *Bathurst Regional Local Environmental Plan 2014* are as follows.

- "To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural and scenic character of the land.
- To provide opportunities for intensive plant agriculture.
- To conserve high quality agricultural land by ensuring that it is not unnecessarily converted to non-agricultural land uses and that any lot created is capable of sustaining a range of agricultural land uses.
- To encourage development that protects, enhances and manages the riparian environment."

The first objective of the RU4 zone is "To enable sustainable primary industry and other compatible land uses." As extractive industries are permitted with consent in the RU4 zone, it is inferred that Bathurst Regional Council sees quarrying as a land use that is compatible with other permissible land uses in this zone.

The second objective of the zone is "*To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*" The Applicant contends that the Proposal would contribute to this aim by providing employment opportunities distinct from those traditionally provided by agricultural enterprises, and that the employment and local economic stimulus generated by the Proposal would likely be of greater public benefit than agricultural activities.

In relation to the third objective, the respondent has identified that the Applicant has sought to minimise conflict with surrounding land uses. The Applicant contends that the measures, as proposed, are adequate to ensure consistency with this objective. In particular, as described in Section 3.8, the Applicant would implement a range of management and mitigation measures to ensure that the Proposal would not have a significant impact on the rural scenic character of the land. Furthermore, the Applicant would implement a suite of other controls, described in Section 4 of RWC (2018), to minimise conflict with other land uses and users.

In relation to the fourth objective, the Applicant would implement a range of measures to ensure that the rural and scenic character of the land is maintained.

In relation to the fifth objective, the Applicant contends that use of the Project Site for extractive industries is only a temporary use and that disturbed sections of the Project Site would be returned to agricultural use following completion of the Proposal.

Finally, in relation to the sixth objective, the Applicant contends that as the Project Site would be nil discharge up to a 1 in 50 year, 72-hour rainfall event, that the Proposal is consistent with protection of the riparian environment.

### 3.17 CONFLICT OF INTEREST

Two submissions raised the concerns over potential conflict of interest of Bathurst Regional Council.

#### Representative Comment(s)

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*As the Bathurst Regional Council are to benefit from the reopening of this quarry so they can access granite easily (without having to scope out another quarry site, or undertake the expense incurred for starting a new one) I hold genuine concerns about the motives of even allowing a quarry on this site to be considered when the quarry is directly next to substantial residential housing and the Gormans Hill community which consists of 3224 people.*

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*In constituting the JRPP per section 2.13(2) of the Environmental Planning and Assessment Act 1979 ('EP&A Act'), we believe that it is considered inappropriate that any staff member directly involved in the writing of, providing advice with respect to (i.e. comments from Council's engineering, traffic, landscaping, heritage or other) or endorsement of an assessment report relating to a matter to be considered by the JRPP, be considered for nomination as a council member of the JRPP.*

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#### Response

As stated in Section 1.1 of RWC (2018), the Proposal is classified as Regional Development under Clause 8(a) of Schedule 4A of the EP&A Act. As a result, under Clause 21(1)(a) of the State Environmental Planning Policy (State and Regional Development) 2011, Bathurst Regional Council will accept, exhibit and assess the application, while the Joint Regional Planning Panel will determine the application. In addition, the Applicant gratefully acknowledges the assistance of Mr Simon Armitage of Council's Engineering Services Department. The Applicant is advised that the Proposal is to be assessed by Council's Environmental, Planning and Building Services Department and that an internal separation has been maintained between these Departments. The Applicant contends that this arrangement will ensure that there is no conflict of interest with Council acting as both operator and assessing authority.

Finally, the Applicant notes that the composition of the JRPP is a matter for the Secretariat of the Panel, however, it is anticipated that any member of the Panel associated with Bathurst Regional Council would either excuse themselves from deliberations in relation to the Proposal.

### 3.18 CONSULTATION

One submission raised the issue of the level of community consultation undertaken for the Proposal.



### Representative Comment(s)

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*As outlined in the Secretary's Environment Assessment Requirements,*

*"In preparing the EIS for the development, you should consult with the relevant local, State or Commonwealth Government authorities, infrastructure and service providers and any surrounding landowners that may be impacted by the development. The EIS must describe the consultation that was carried out, identify the issues raised during this consultation, and explain how these issues have been addressed in the EIS."*

*No such consultation with surrounding landowners has been undertaken in the preparation of the Environmental Impact Statement.*

### Response

The Applicant notes that the SEARs require consultation with surrounding landholders that may be impacted. As stated in Section 1.6.1 of RWC (2018), the Proposal is an established feature of the local setting and the proposed activities would not result in an increase in the scale or intensity of the proposed activities. As the nature of the proposed changes are relatively minor, the Applicant determined that notification of surrounding landowners of the public exhibition of the EIS would be sufficient consultation. This position has been supported by the fact that only 11 submissions were received, despite their being approximately 194 residences shown on Figure 3.5 of RWC (2018), as well as the Bathurst Private Hospital and McKillop College in close proximity to the Project Site.

Finally, the decision to undertake direct consultation with the community was supported by the fact that surrounding landholders have not chosen to engage with the Applicant or Council in relation to the past operation of the Quarry, with no complaints received since at least 2000.

## 3.19 PROPERTY VALUES

One submission raised the issue of the Proposal's potential effect on local property values.

### Representative Comment(s)

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*I am deeply concerned that the property prices of the neighbourhood to the north of the proposed expansion of the quarry, will be adversely affected with the granting of the operation of the quarry for another 24 years and the extension of the quarry site, when considering the significant visual impact, noise and dust impact upon the neighbouring properties to the north of the quarry site.*

### Response

The Applicant acknowledges concerns in relation to land values. However, land values and the value that potential purchasers may place on a particular property are subject to many variables and are highly subjective. It is RWC's experience that reduced land values are not a matter that has been identified at other extractive operations of similar scale to the Proposal. In addition, the Applicant notes that the Quarry has been operating since the 1940s and was a feature of the environment when the existing residences surrounding the Project Site were constructed or most recently were sold. As a result, the existence of the Quarry is a matter that has already been factored into property values.

#### **4. REFERENCES**

R.W. Corkery & Co Pty Limited (RWC) (2018). Environmental Impact Statement prepared by R.W. Corkery & Co. Pty Limited dated February 2018.

Muller Acoustic Consulting Pty Ltd (2017). Noise Impact Assessment, for the Proposed McPhillamy's Quarry dated August 2017.



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