

# **Social Amenity and Precautionary Principle and perceived Impacts associated with the Martins Creek Quarry Project**

This information has been provided as a supplement to submissions prepared in opposition to the proposed Martins Creek Quarry operation. The revised SEAR'S issued by the Department of Planning and dated 4 August 2016 specifically identifies the need to assess *the potential impacts on local and regional communities including impacts on social amenity.*

## **Social Amenity**

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.

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.*

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.

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.

The proposed development, as described in the project Environmental Impact Statement (EIS), fails to take account of the social, environmental and cultural structure of Paterson. While recognising that Paterson and the Martins Creek quarry have satisfactorily co-existed for nearly 100 years; the quarry being principally a source of hard rock railway ballast, the current proposal, if approved, will severely impact the social amenity characteristics described above.

The Proponent has failed to consult with the wider community and local businesses and has not addressed the requirement in the SEAR'S to examine social amenity and propose a strategy for it's protection. It is noted in this regard that in the absence of a wider consultation process by the Proponent, the local community, through the Martins Creek Quarry Action Group (MCQAG), instigated it's own Community and Business Surveys. The results of these surveys form a part of the MCQAG response to the EIS.

### **Precautionary Principle**

The concept of Precautionary Principle in Australia is specified and was adopted in the Intergovernmental Agreement of 1992, and internationally it was adopted at the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. This concept was noted in the Land and Environment Court of New South Wales in the decisions handed down in the following cases:

- BGP Properties v. Lake Macquarie City Council in 2004 – Judge McClellan presiding and,
- Telstra Corporation Limited v. Hornsby Shire Council in 2006 – Judge Preston presiding.

In the former case, noise, traffic and pedestrian safety were of concern.

In the latter case, the emission of electromagnetic energy was considered to be a harm/threat to health and safety of local residents.

In both cases the concept of Precautionary Principle was judged to apply.

Judge Preston emphasised the importance of preventative anticipation and stated that;

- *the rationale for requiring this shift of burden of proof is to ensure preventative anticipation....is to prevent environmental damage rather than remediate it.*
- *the function of precautionary principle is, therefore, to require the decision-maker to assume that there is, or will be, a serious irreverable threat of environmental damage and to take (this) into account....*

In both cases the threat was environmental, however since the impact of traffic (truck) noise on the community of Paterson can be regarded as an impact on the

physical and material comfort of the community then it is argued that Precautionary Principle should equally be applied in assessing Social Amenity.