



Registration certificate

Environmental Protection Act 1994

Registration certificate

No: ENRE00256605

This registration certificate is issued by the administering authority and takes effect from: 14-JAN-2009.

The anniversary day for the purposes of the Annual Return remains: 20 November

This registration certificate is a requirement of section 73F of the *Environmental Protection Act 1994* and authorises the registered operator to undertake the activities listed below at the following Lot 769 Plan SP133374 subject to the conditions set out in a development approval attached to the premises, or the relevant code of environmental compliance.

Registered Operator:-

S & F Marino Pty Ltd
Marinos Quarry
PO Box 6722
MANUNDA QLD 4870

Place:-
Lot 796 Plan SP161396.

Located at:-
Marino Hill Quarry, KANIMBLA QLD 4870

ERA 16-2(b) Extracting rock or other material: 5,000-100,000t/yr

16-3(a) Screening rock or other material: 5,000-100,000 t/yr

Delegate
Department of Environment and Heritage Protection
Environmental Protection Act 1994

08-MAY-2012





Change to a development approval

This notice is issued by the Department of Environment and Heritage Protection pursuant to section 376 of the Sustainable Planning Act 2009 ("the Act").

S & F MARINO PTY LTD,
Charles Marino

PO Box 6722

Cairns, QLD 4870

Email: charlie.marino@marinomoller.com.au

cc. Cairns Regional Council
PO Box 359,
Cairns Qld 4870

council@cairns.qld.gov.au

Our reference: 223629

Re: Request to change a development approval

1. The Chief Executive, Department of Environment and Heritage Protection (EHP) as assessment manager received a request to change a development approval on 20-Jan-2012.

2. **Details of the development approval for the original application**

Date original application made or referred to EHP:

17-SEPT-2001

Development approval applied for:

development permit

Aspect(s) of development:

Material change of use of premises – For an environmentally relevant activity	<i>Sustainable Planning Regulation 2009 - Schedule 3, Part 1, Table 2, item 1</i>	DERM ref. no. – 223629 Permit No. SPCE03753412 Replacing IPDE00570807E11
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Property/Location description:

Ramsay Drive, Kanimbla, QLD 4870

Lot 796 on SP161396

Date of decision for the original application and development approval:

12-NOV-2001



Notice
Change to a development approval

3. The decision for the request to change a development approval made on 20-JAN-2012 is to approve the request with conditions.

4. If the request is refused, the reasons for refusal are as follows.

Not Applicable,

5. If the request is approved, attached is a copy of the decision notice for the original application showing the changes.

Not Applicable

6. If the request is approved, and there is no decision notice for the original application, the approved changes to the development approval are as follows.

Request was made to reduce thresholds for Extractive and Screening activities from:

16-2(c) Extracting rock or other material: >100,000-1 million t/yr; and

16-3(b) Screening rock or other material: >100,000-1 million t/yr

to

16-2(b) Extracting rock or other material: 5,000-100,000t/yr and;

16-3(a) Screening rock or other material: 5,000-100,000 t/yr

and remove:

ERA-11. Crude oil or petroleum product storage
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ERA-62. Concrete batching

7. If this notice is given to the person who made the request, or to an entity that gave EHP as the responsible entity a notice under section 373 of the Act or a pre-request response notice, or if this notice is given by EHP as a concurrence agency and the concurrence agency's decision is to refuse the request or approve the request on conditions, such person or entity may appeal against the decision and the attached extract from the Act states how the person or entity may appeal.



Delegate

Scott Sullivan

Delegate

Department of Environment and Heritage Protection

08 MAY 2012

Enquiries:

Carrie Goldsmith

Department of Environment and Heritage
Protection

5b Sheridan Street,
Cairns

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Attachments

Information Sheet – Appeals – Sustainable Planning Act 2009 (extract from the Sustainable Planning Act 2009)



Development application decision notice

Application number:	NR0230
Applicant:	Nordev Contractors Pty Ltd
Date received by EPA	26 June 2001
Date of decision:	16 November 2001
Relevant Laws and Policies:	<i>Environmental Protection Act 1994</i> and associated policies
Role:	Assessment Manager

Description

Development application for a material change of use to conduct the Environmentally Relevant Activities:

ERA 11 (a) – Crude oil or petroleum product storing – storing crude oil or a petroleum product in tanks or containers having a combined total storage capacity of – 10 000 L or more but less than 500 000 L; and

ERA 20 (c) – Extracting Rock or other material - extracting rock (other than rock mined in block or slab form for building purposes), sand (other than foundry sand), clay (other than clay used for its ceramic properties, kaolin or bentonite), gravel, loam or other material (other than gravel, loam or other material under a mining authority) from a pit or quarry using plant or equipment having a design capacity 100 000t or more per year; and

ERA 22(c) – Screening etc. materials – using plant or equipment having a design capacity of –100 000t or more per year; and

ERA 28 – Motor Vehicle workshop – operating a workshop or mobile workshop in the course of which motor vehicle mechanical or panel repairs are carried out in the course of a commercial or municipal enterprise (other than on a farm or under a mining tenement) or on a commercial basis; and

ERA 62 – Concrete batching – producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100 t per year.

At the following place

Marion Hill Quarry, Ramsey Drive. Local government Area of Cairns

located at

Lot 796 Plan SP133374, Locality of Kanimbla, Parish of Cairns, County of Nares

Type of development

Material change of use of premises (tick whichever is applicable) –

- ☐ the start of a new use of the premises; or
- ☐ the re-establishment on the premises of a use that has been abandoned; or
- ☒ a material change in the intensity or scale of the use of the premises; or
- ☐ the holder of an environmental authority, or development approval, for an environmentally relevant activity proposes to carry out works for the construction or alteration of premises, or for the installation or alteration

of plant or equipment in premises, for carrying out the activity; and the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment under the authority or approval.

Type of environmentally relevant activity(s) (ERA(s))

The development application relates to the following ERA(s):

ERA 11 (a) – Crude oil or petroleum product storing – storing crude oil or a petroleum product in tanks or containers having a combined total storage capacity of – 10 000 L or more but less than 500 000 L; and

ERA 20 (c) – Extracting Rock or other material - extracting rock (other than rock mined in block or slab form for building purposes), sand (other than foundry sand), clay (other than clay used for its ceramic properties, kaolin or bentonite), gravel, loam or other material (other than gravel, loam or other material under a mining authority) from a pit or quarry using plant or equipment having a design capacity 100 000t or more per year; and

ERA 22(c) – Screening etc. materials – using plant or equipment having a design capacity of –100 000t or more per year; and

ERA 28 – Motor Vehicle workshop – operating a workshop or mobile workshop in the course of which motor vehicle mechanical or panel repairs are carried out in the course of a commercial or municipal enterprise (other than on a farm or under a mining tenement) or on a commercial basis; and

ERA 62 – Concrete batching – producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100 t per year.

Decision on development application

In deciding the application, the Environmental Protection Agency, as assessment manager:

- Approves all or part of the application subject to conditions decided by the assessment manager and includes in the approval any concurrence agency conditions.

Further development permits required

Nil

Referral agencies

Concurrence Agencies: Nil

Advice Agencies: Nil

Referral Agencies: Nil

Additional information for applicants

This approval pursuant to under the *Environmental Protection Act 1994* does not remove the need to obtain any further approval for this development, which might be required by other State and/or Commonwealth legislation. Applicants are advised to check with all relevant statutory authorities. Applicants also should comply with all relevant legislation.



Appeal

When issuing a decision notice under the *Integrated Planning Act 1997*, the assessment manager must state the rights of appeal for the applicant (section 3.5.15(2)(h)). The rights of appeal are attached to the back of this notice.

Signed

16/11/01

Date

Peter Morrison
District Manager
Delegate of Administering Authority
Environmental Protection Act 1994

Conditions of the development approval

This environmental authority consists of the following schedules of conditions relevant to various issues:

- Schedule A - Activity
- Schedule B - Air
- Schedule C - Water
- Schedule D - Noise
- Schedule E - Waste
- Schedule F - Land
- Schedule G - Community
- Schedule H - Self monitoring and reporting
- Schedule I - Definitions
- Schedule J - Multiple Site Identification plans

Schedule A - Activity

Prevent and / or Minimise Likelihood Of Environmental Harm

- A1 Notwithstanding any other requirements of this document, all reasonable and practicable measures must be taken to prevent and / or to minimise the likelihood of environmental harm being caused when carrying out the environmentally relevant activities.

Site Management Plan

- A2 From commencement of the activity, implement the Site Based Management Plan (SBMP) – “Nordev Contractors Pty Ltd Marino Hill Quarry Site Based Management Plan” prepared in May 2001 and Environmental Management Plan “Nordev Contractors Environmental Management Plan” prepared in March 2000 and submitted with the application for this Development Approval, that identifies the actual and potential release of ALL contaminants, their subsequent environmental impacts and what corrective and preventive measures will be taken to prevent and / or minimise the likelihood of environmental harm. The SBMP must also provide for the review and “continual improvement” in the overall environmental performance of all Environmentally Relevant Activities that are carried out.
- A3 The holder of this Development Approval must ensure that all measures are taken, all things are done and all acts are performed to ensure compliance with:
- (a) the conditions of this Development Approval; and
 - (b) the conditions of the Environmental Authority NR0413 as issued to Nordev Contractors Pty Ltd – for crude oil or petroleum product storing, extracting rock or other materials, screening etc. materials, motor vehicle workshop and concrete batching at Marion Hill Quarry, Ramsey Drive. Local government Area of Cairns located at Lot 796 Plan SP133374, Locality of Kanimbla, Parish of Cairns, County of Nares; and
 - (c) the procedures and operational practices outlined in the “Nordev Contractors Pty Ltd Marino Hill Quarry Site Based Management Plan” prepared in May 2001 and Environmental Management Plan “Nordev Contractors Environmental Management Plan” prepared in March 2000 and submitted with the application for this Development Approval; or
 - (d) any future revised version thereof submitted to and approved by the administering authority.

Access to Copy of Development Approval

- A4 A copy of this Development Approval, the “Nordev Contractors Pty Ltd Marino Hill Quarry Site Based Management Plan” prepared in May 2001 and “Nordev Contractors Environmental Management Plan” prepared in March 2000 and the relevant Environmental authority NR0413 must be kept on site so as to be readily accessible to personnel carrying out the activity.



Extraction Activities

- A5 Extraction activities must only be carried out in the licensed place identified in diagrams on map 1 Schedule J of this document and must be conducted in a manner that maintains the integrity of the environment surrounding the site where extraction occurs.

Progressive Rehabilitation

- A6 Native vegetation species indigenous to the area must be used for land rehabilitation.
- A7 Active extraction sites must be restricted to a maximum area of 10 ha at any one time.
- A8 Rehabilitation of area disturbed by extraction must take place progressively as works are staged and new areas of extraction are commenced.
- A9 Where vegetative regrowth has not adequately occurred within four months, supplementary rehabilitation techniques must be undertaken.
- A10 Rehabilitation must be conducted in a manner that ensures an 80% vegetation cover of disturbed sites.

Acid Sulfate Soils (ASS)

- A11 In the event that extraction occurs below 5 AHD or that acid sulphate soils or potential acid sulphate soils are encountered whilst undertaking the environmentally relevant activity of extracting rock or other material an Acid Sulphate Soil Investigation must be undertaken and a Acid Sulfate Soil Management Plan must be prepared and implemented as soon as practicable.
- A12 The Acid Sulfate Soil Management Plan, required by condition A11, must be prepared and updated as necessary to ensure at all times compliance with the requirements of the "Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils (ASS) in Queensland, 1998" Version 4.0 August 1998, C. Ahern, M. Ahern and B Powell, Queensland Acid Sulphate Soil Information Team, Department of Natural Resources, or more recent additions or supplements to that document as such become available.

Vegetation Management

- A13 Vegetation defined as remnant under the *Vegetation Management Act 1999* must not be disturbed prior to obtaining approval from the Department of Natural Resources and Mines in accordance with the provisions of the *Integrated Planning Act 1997*.
- A14 A minimum vegetation buffer of 50 m must be maintained on Lot 796 Plan SP133374 from any neighbouring residential properties.

Notification

- A15 Notify the administering authority as soon as practicable when the release of contaminants is not in accordance with the conditions of this document or any event where environmental harm may be threatened.

Written advice of the following information must be provided within fourteen (14) days following any event as identified in condition number A15:

- the location of the event;
- the time of the event;
- the time the holder of this document became aware of the event;
- the suspected cause of the event;



- a description of the resulting effects of the event;
- actions taken to mitigate any environmental harm and or environmental nuisance caused by the event;
- proposed actions to prevent a recurrence of the event.
- Record, compile and keep all monitoring results required by this document and present this information to the administering authority when requested, in a specified format.

Cultural Heritage

- A16 Prior to the commencement and during extraction activities on Lot 22 Plan RP857645 a cultural heritage assessment must be carried as described in section 5.7 Cultural Heritage Management of the "Nordev Contractors Pty Ltd Marino Hill Quarry Site Based Management Plan" prepared in May 2001 prepared in June 2001 and Environmental Management Plan "Nordev Contractors Environmental Management Plan" prepared in March 2000 and submitted with the application for this Development Approval

End of Conditions for Schedule A

Schedule B - Air

General All Sites

- B1 Prevent the release of dust and/or particulate matter, which causes or is likely to cause a nuisance at any dust sensitive place, the licensed sites and during transport of materials. Nuisance includes dust that is or is likely to be offensive to a person or a nuisance in the opinion of an authorised person.
- B2 Dust is not considered to be a nuisance under condition B2 if monitoring shows that dust and / or particulate matter does NOT exceed the following limits at the boundary of any affected dust sensitive place:
- dust deposition of 120 milligrams per square metre per day, when monitored in accordance with Australian Standard AS 3580.10 of 1991; and
 - a concentration of particulate matter with an aerodynamic diameter of less than 10 micrometre (μm) (PM10) suspended in the atmosphere of 150 micrograms per cubic metre over a 24 hour averaging time, at a dust sensitive place downwind of the licensed place, when monitored in accordance with:
 - Australian Standard AS 3580.9.6 "Ambient air - Particulate matter - Determination of suspended particulate PM10 high-volume sampler with size-selective inlet - Gravimetric method"; or
 - any alternative method of monitoring PM10 which may be permitted by the "Air Quality Sampling Manual" as published from time to time by the administering authority.

Dust Control

- B3 All practicable means necessary to prevent or minimise emissions of dust from land described by this development approval must be implemented.
- B4 Trafficable areas must be sealed or maintained in a condition, which minimises the release of wind blown or traffic generated dust.
- B5 Stockpiles must be maintained in a manner that minimises the generation of windblown particles.

Loss of Materials during Transit

- B6 Transportation of material from the licensed place must be managed to prevent wind-blown releases, dust and spillage of the material.



- B7 Watering of access and other internal roads shall be carried out so as to minimise the release of contaminants to the atmosphere.

Concrete Batching

- B8 Prevent the release of dust and/or particulate matter, which causes or is likely to cause a nuisance at any dust sensitive place. Nuisance includes dust that is or is likely to be offensive to a person or a nuisance in the opinion of an authorised person.
- B9 The mobile concrete batching unit must be able to contain small spills at least 10% of the silo capacity.
- B10 Any spills that occur from the mobile concrete batching unit must be cleaned up and contained immediately.
- B11 Filters must be installed and maintained on the cement silo vent. The filters must be designed for maximum discharge rates from delivery vehicles.
- B12 Spare filters must be stored at the site for routine replacement or replacement if the filter becomes damaged, blocked or otherwise ineffective.
- B13 Trucks filling the silo must be fitted with a shut off valve which can be closed when a high level of material is indicated by the overfill alarm.
- B14 The cement silo must be operated and fitted with appropriate discharge and dust control 'fail safe' options.

End of Conditions for Schedule B

Schedule C – Water

General

- C1 Prevent erosion that may result in the release of sediment to waters.
- C2 Prevent the release of stormwater run-off that has been in contact with any contaminants at the site to any waters.
- C3 Spillage of all chemicals and fuels must be captured within an on-site containment system.
- C4 Water velocities through temporary stormwater diversions around works area must be maintained similar to pre-work velocities during such diversions, and must be re-instated once extraction works are completed.
- C5 Notwithstanding any other condition of this Development Approval, any release of contaminants to waters must not produce any slick or other visible evidence of oil or grease, nor contain any visible floating oil, grease, scum, litter or other objectionable matter.

Emergency Release of Contaminants to Waters

- C6 Contaminants must only be directly or indirectly released from places to which this Development Approval relates to any waters or the bed or banks of any waters during an emergency and as permitted under Schedule C of this Development Approval and in compliance with the release limits listed in table 1 of this schedule.

- C7 Conduct and keep records of emergency contaminant releases to waters from the release points, frequency, and for the parameters specified in Schedule C Table 1. All determinations of the quality of contaminants released must be:
- performed by a person or body possessing appropriate experience and qualifications to perform the required measurements; and
 - made in accordance with methods prescribed in the Environment Protection Agency Water Quality Sampling Manual, 3rd Edition, December 1999, or more recent additions or supplements to that document as such become available.

Stormwater Management

- C8 Uncontaminated stormwater must be redirected in such a manner that contact with the active extraction site does not occur.
- C9 Turbid waters from extraction sites must be directed to the settlement basins and held until discharge water quality are achieved as specified in Schedule C – Table 1.

Quality Characteristics of Release to Waters

- C10 The release of contaminants from Water collected in the extraction areas and/or run-off from all diversion drains to the environment adjacent to the licensed sites must comply with the water quality characteristics specified in Schedule C - Table 1.

Schedule C - Table 1

Quality Characteristics of Emergency Release to Waters

Sample Location	Quality Characteristics	Release Limit	Limit Type	Frequency
At the point of release or overflow from excavation pit	Turbidity	40 ntu 60 ntu	80 th percentile maximum	prior to and immediately after any emergency release
	pH	6.5 - 9.0	Range	

Groundwater Exposure & Contamination

- C11 In the event of exposure or interception of groundwater by excavation, the excavation must cease at that point and appropriate material placed on top of the exposed aquifer so groundwater is not able to seep to the surface.

Motor Vehicle Workshop and Petroleum Product Storage

Petroleum Product storage

- C12 All petroleum product storage tank areas must be securely fenced and locked to prevent unauthorised access.



Refuelling and maintenance of mobile plant or equipment

- C13 Refuelling activities, other than for the crushing/screening plant, undertaken at the licensed place must occur within a compound that prevents the escape of fuel to the surrounding environment and allows for the recovery and appropriate disposal of spilled fuel.

Fuel Unloading Area

- C14 All tanker loading/unloading areas must be provided with a system for collecting and disposing of any spillage sufficient to contain at least 100% of the capacity of the largest compartment of any tank vehicle using the loading/unloading area.
- C15 Where vehicle access to a bunded area is required, the access must be by way of a rollover bund.

Spillage control

- C16 All spillage control compounds must be constructed and maintained so as to be sufficiently impervious to allow retention and recovery of any materials being stored within the compound.
- C17 All chemical and fuel tank storages must be within a spillage control compound sufficient to contain at least 100 % of the largest storage tank plus 10 % of the second largest tank within the compound.

Workshop and Washdown Area

- C18 A system must be provided for the washing/degreasing of vehicles/plant/equipment which must provide for the collection and disposal or reuse of all wastes to a facility lawfully able to accept such waste.
- C19 Drains and bunds must be provided to ensure surface stormwater runoff is excluded from the washing area.

End of Conditions for Schedule C

Schedule D - Noise

- D1 Prevent the emission of noise, which causes or that is likely to cause a nuisance at any noise affected premises. Nuisance includes noise that is or is likely to be annoying, intrusive or offensive to a person or a nuisance in the opinion of an authorised person.
- D2 Noise is NOT considered to be a nuisance under condition D1 if monitoring shows that noise does NOT exceed the following levels in the time periods specified in Schedule D Tables 1 and 2.

Schedule D - TABLE 1 - NOISE LIMITS (Noise Sensitive Place)

Noise Level Db(A) measured as	Noise measured at a "Noise Sensitive Place"					
	Monday to Saturday			Sundays and public holidays		
	7am - 6pm	6pm - 10pm	10pm - 7am	9am - 6pm	6pm - 10pm	10pm - 9am
L _A 10, adj, 10mins	55	50	40	55	50	40
L _A 1, adj, 10mins	60	55	45	60	55	45

Schedule D - TABLE 2 - NOISE LIMITS (Commercial Place)

Noise Level dB(A) measured as	Noise measured at a "Commercial Place"					
	Monday to Saturday			Sundays and public holidays		
	7am - 6pm	6pm - 10pm	10pm - 7am	9am - 6pm	6pm - 10pm	10pm - 9am
L _A 10, adj, 10mins	60	55	45	60	55	45
L _A 1, adj, 10mins	65	60	50	65	60	50

D3 When requested by the Administering Authority noise monitoring must be undertaken to investigate any complaint of noise annoyance. Monitoring must include:

- L_A 10; adj, 10 mins;
- L_A 1, adj, 10 mins;
- the level and frequency of occurrence of impulsive or tonal noise;
- atmospheric conditions including wind speed and direction;
- effects due to extraneous factors such as traffic noise;
- location, date and time of recording; and
- the method of measurement and reporting of noise levels must comply with the Environmental Protection Agency's Noise Measurement Manual, Third Edition, 1 March 2000, or more recent editions or supplements to that document as they become available.

End of Conditions for Schedule D



Schedule E - Waste

- E1 The holder of this Development Approval must ensure that:
- (a) wastes are not stored within the bed and banks of any waters;
 - (b) containers are kept at the site for the storage of waste; and
 - (c) all waste generated is collected and disposed of at premises authorised to receive such waste.
- E2 The maintenance, servicing and cleaning of vehicles and any other plant or equipment must only be carried out at a facility authorised for such activities.

End of Conditions for Schedule E

Schedule F - Land

- F1 All disturbed areas (eg. temporary access tracks, stockpile sites) must be progressively reprofiled, stabilised and revegetated in accordance with conditions A 6 and A7 to minimise erosion at the cessation of activities.

End of Conditions for Schedule F

Schedule G - Community

- G1 All complaints received must be recorded including investigations undertaken, conclusions formed and action taken. This information must be made available to the administering authority on request.
- G2 In consultation with the administering authority, cooperate with and participate in any community environmental liaison committee established in respect of either the licensed place specifically, or the estate where the licensed place is located.

End of Conditions for Schedule G

Schedule H - Self Monitoring and Reporting

Monitoring of Volume of Release

- H1 Records must be kept of the hours of operational extraction and screening works and of the quantity of material removed.

Complaint Recording

- H2 All complaints received by the holder of this development approval relating to the emission of contaminants (including the emission of noise) from the operations at the premise to which this approval applies must be recorded in a log book with the following details:
- (a) time and date of complaint;
 - (b) type of communication (telephone, letter, personal, etc.);
 - (c) name, contact address and contact telephone number of complainant (note: if the complainant does not wish to be identified then "Not Identified" is to be recorded);
 - (d) response and investigation undertaken as a result of the complaint;
 - (e) name of person responsible for investigating complaint; and
 - (f) action taken as a result of the complaint investigation and signature of responsible person.



Notification of Emergencies and Incidents

- H3 As soon as practicable after becoming aware of any emergency or incident which results in the release of contaminants not in accordance, or reasonably expected to be not in accordance with the conditions of this Development Approval, the Administering Authority must be notified of the release by telephone or facsimile.
- H4 The notification of emergencies or incidents as required by condition H3 must include but not be limited to the following:
- (a) the holder of this environmental authority;
 - (b) the location of the emergency or incident;
 - (c) the number of the environmental authority;
 - (d) the name and telephone number of the designated contact person;
 - (e) the time the holder of the environmental authority became aware of the release;
 - (f) the suspected cause of the release;
 - (g) the environmental harm and or environmental nuisance caused, threatened, or suspected to be caused by the release; and
 - (h) actions taken to prevent further any release and mitigate any environmental harm and or environmental nuisance caused by the release.
- H5 Not more than 14 days following the initial notification of any emergency or incident, written advice of the information supplied in accordance with condition H4 in addition to:
- (a) proposed actions to prevent a recurrence of the emergency or incident;
 - (b) outcomes of actions taken at the time to prevent or minimise environmental harm and or environmental nuisance; and
 - (c) the results of any environmental monitoring performed must be provided to the Administering Authority.

Report Submission

- H6 The results of all monitoring performed in accordance with the Development Approval for the period covered by the return must be submitted with the Annual Return.

End of Conditions for Schedule H

Schedule I - Definitions

The following definitions apply for the purposes of this document:

- I1 "administering authority" means the Environmental Protection Agency or its successor.
- I2 "commercial place" means a place used as an office or for business or commercial purposes.
- I3 "extraction spoil" means material taken from an extraction or borrow pit by using equipment designed for use in extraction of earthen material.
- I4 "dust sensitive place" means -
- a dwelling, mobile home or caravan park, residential marina or other residential place;
 - a motel, hotel or hostel;
 - a kindergarten, school, university or other educational institution;
 - a medical centre or hospital;
 - a protected area;
 - a park or gardens; or



- a place used as an office or for business or commercial purposes.
- and includes the curtilage of any such place.
- 15 "disturbed" means to remove or cut down, ringbark, push over, poison or destroy the vegetation in any way.
- 16 "dwelling" means any of the following structures or vehicles that is principally used as a residence-
- a house, unit, motel, nursing home or other building or part of a building;
 - a caravan, mobile home or other vehicle or structure on land;
 - a water craft in a marina.
 - "intrusive" noise - means noise that, because of its frequency, duration, level, tonal characteristics, impulsiveness or vibration -
 - is clearly audible to, or can be felt by, an individual; and annoys the individual.

In determining whether a noise annoys an individual and is unreasonably intrusive, regard must be given to Australian Standard 1055.2 - 1997 Acoustics - Description and Measurement of Environmental Noise Part 2 - Application to Specific Situations.

- 17 "land" in the "land schedule" of this document means land excluding waters and the atmosphere.
- 18 "licensed place" means the place to which this document or development approval relates, as the case may be.
- 19 "mg/L" means milligrams per litre.
- 110 "noise affected premises" means a "noise sensitive place" or a "commercial place"
- 111 "noise sensitive place" means -
- a dwelling, mobile home or caravan park, residential marina or other residential premises; or
 - a motel, hotel or hostel; or
 - a kindergarten, school, university or other educational institution; or
 - a medical centre or hospital; or
 - a protected area; or
 - a park or gardens.
- 112 "noxious" means harmful or injurious to health or physical well being.
- 113 "NTU" means nephelometric turbidity units
- 114 "offensive" means causing offence or displeasure; is disagreeable to the sense; disgusting, nauseous or repulsive.
- 115 "protected area" means -
- a protected area under the *Nature Conservation Act 1992*; or
 - a marine park under the *Marine Parks Act 1992*; or
 - a World Heritage Area.
- 116 "regulated waste" means non-domestic waste mentioned in Schedule 7 of the *Environmental Protection Regulation 1998* and includes:
- for an element - any chemical compound containing the element; and
 - anything that has contained a regulated waste; and
 - regulated waste that has been treated or immobilised.

16/11/16



- I17 "waters" includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and any under groundwater, any part thereof.
- I18 "80th percentile" means not more than two (2) of the measured values of the quality characteristic is to exceed the stated release limit for any ten (10) consecutive samples for a sampling point at any time during the licensed works.

Noise Definitions

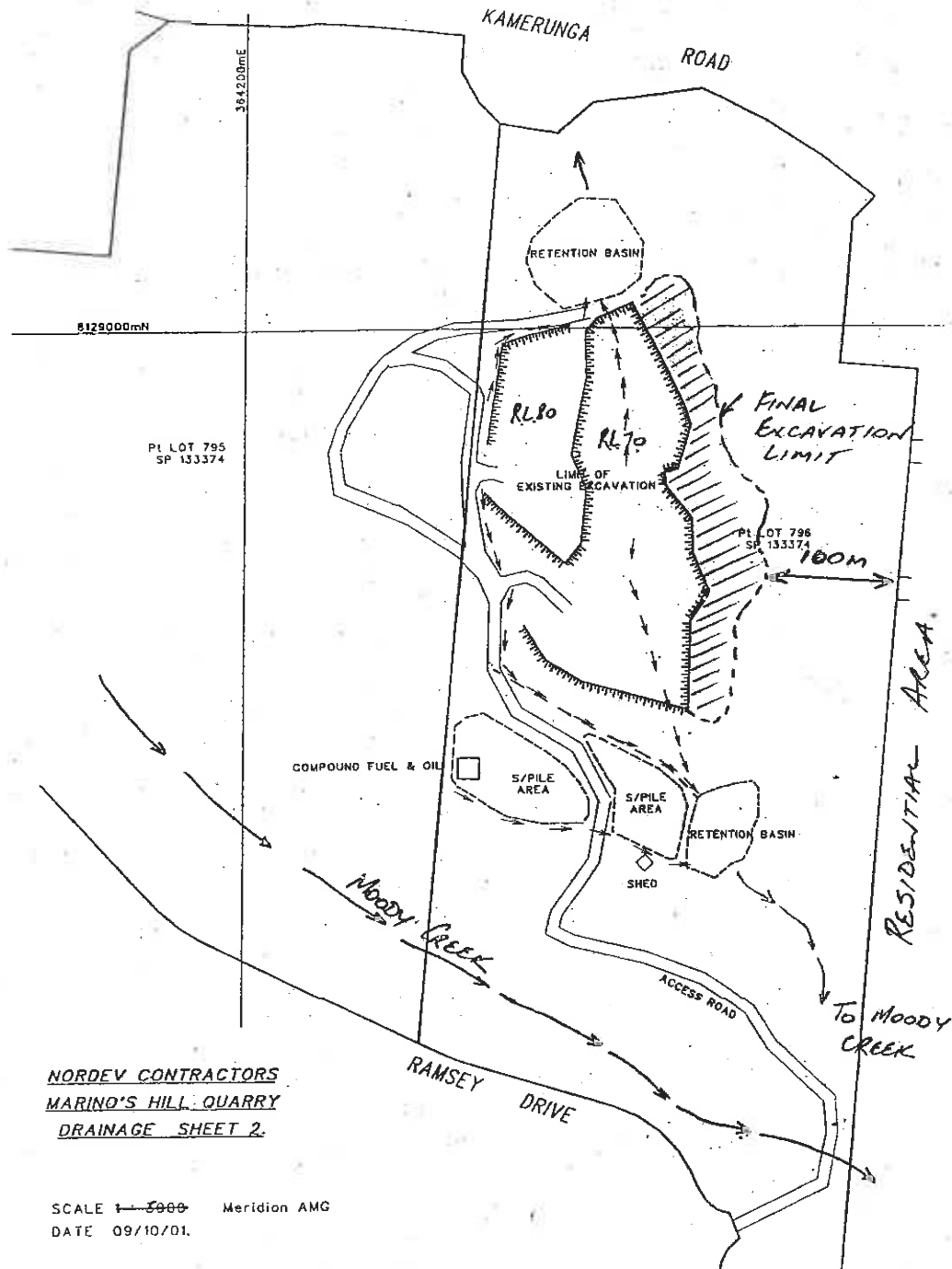
- I19 " $L_{A 10, \text{adj}, 10 \text{ mins}}$ " means the A-weighted sound pressure level, (*adjusted for tonal character and impulsiveness of the sound*) exceeded for 90% of any 10 minute measurement period, using Fast response.
- I20 " $L_{A 1, \text{adj}, 10 \text{ mins}}$ " means the A-weighted sound pressure level, (*adjusted for tonal character and impulsiveness of the sound*) exceeded for 1% of any 10 minute measurement period, using Fast response.

End of Schedule I



Schedule J - Multiple Site Identification plans

Site Plan 1 – Marino Hill Quarry



End of Schedule J

END OF DEVELOPMENT APPLICATION DECISION

Extract from the Integrated Planning Act 1997

Division 8—Appeals to court relating to development applications

Appeals by applicants

- 4.1.27 (1)** An applicant for a development application may appeal to the court against any of the following -
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under section 3.1.6;
 - (c) the decision to give a preliminary approval when a development approval was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.

(2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the **“applicant’s appeal period”**) after the day the decision notice or negotiated decision notice is given to the applicant.

(3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

Appeals by submitters

- 4.1.28(1)** A submitter for a development application may appeal to the court about -
- (a) the giving of a development approval, including any conditions (or lack of conditions) or other provisions of the approval; or
 - (b) the length of a currency period for the approval.

(2) The appeal must be started within 20 business days (the **“submitter’s appeal period”**) after the day the decision notice or negotiated decision notice is given to the submitter.

(3) If a person withdraws a submission before the application is decided, the person may not appeal the decision.

(4) If an application involves both impact assessment and code assessment, appeal rights for submitters are available only for the part of the application involving impact assessment.

Appeals by advice agency submitters

4.1.29(1) An advice agency may, within the limits of its jurisdiction, appeal to the court about the giving of a development approval for a development application if -

- (a) the development application involves impact assessment; and
- (b) the advice agency told the applicant and the assessment manager to treat its response to the application as a submission for an appeal.

(2) The appeal must be started within 20 business days after the day the decision notice or negotiated notice is given to the advice agency as a submitter.

Appeals for matters arising after approval given (co-respondents)

4.1.30(1) For a development approval given for a development application, a person to whom any of the following notices have been given may appeal to the court against the decision in the notice -

- (a) a notice giving a decision on a request for an extension of the currency period for an approval;
- (b) a notice giving a decision on a request to make a minor change to an approval.

(2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.



(3) Subsection (1)(a) does not apply if the approval resulted from a development application (superseded planning scheme) that was assessed as if it were an application made under a superseded planning scheme.

Division 9 - Appeals to court about other matters

Appeals for matters arising after approval given (no co-respondents)

4.1.31(1) A person to whom any of the following notices have been given may appeal to the court against the decision in the notice -

- (a) a notice giving a decision on a request to change or cancel a condition of a development approval;
- (b) a notice under section 6.1.44 giving a decision to change or cancel a condition of a development approval.

(2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

Appeals against enforcement notices

4.1.32(1) A person who is given an enforcement notice may appeal to the court against the giving of the notice.

(2) The appeal must be started within 20 business days after the day notice is given to the person.

Stay of operation of enforcement notice

4.1.33(1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until -

- (a) the court, on the application of the entity issuing the notice, decides otherwise; or
- (b) the appeal is withdrawn; or
- (c) the appeal is dismissed.

(2) However, subsection (1) does not apply if the enforcement notice is about -

- (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
- (b) carrying out development that is the demolition of a work.

Appeals against decisions on compensation claims

4.1.34(1) A person who is dissatisfied with a decision under section 5.4.8 or 5.5.3 for the payment of compensation may appeal to the court against -

- (a) the decision; or
- (b) a deemed refusal of the claim.

(2) An appeal under subsection (1)(a) must be started with 20 business days after the day notice of the decision is given to the person.

(3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

Appeals against decisions on requests to acquire designated land under hardship

4.1.35(1) A person who is dissatisfied with a designator's decision to refuse a request made by the person under section 2.6.19, may appeal to the court against -

- (a) the decision; or
- (b) a deemed refusal of the request.

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(2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.

(3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

Appeals from tribunals

4.1.37(1) A party to a proceeding decided by a tribunal may appeal to the court against the tribunal's decision, but only on the ground -

- (a) of error or mistake in law on the part of the tribunal; or
- (b) that the tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

(2) An appeal against a tribunal's decision must be started within 20 business days after the day notice of the tribunal's decision is given to the party.

Court may remit matter to tribunal

4.1.38 If an appeal includes a matter within the jurisdiction of a tribunal and the court is satisfied the matter should be dealt with by a tribunal, the court must remit the matter to the tribunal for decision.

Division 10 - Making an appeal to court

How appeals to the court are started

4.1.39(1) An appeal is started by lodging written notice of appeal with the registrar of the court.

(2) The notice of appeal must state the grounds of the appeal.

(3) The person starting the appeal must also comply with the rules of the court applying to the appeal.

(4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

Certain appellants must obtain information about submitters

4.1.40(1) If the applicant or a submitter for a development application appeals about the part of the application involving impact assessment, the appellant must ask the assessment manager to give the appellant the name and address of each principal submitter who made a properly made submission about the application and has not withdrawn the submission.

(2) The assessment manager must give the information requested under subsection (1) as soon as practicable.

Notice of appeal to other parties (div 8)

4.1.41(1) An appellant under division 8 must, within 10 business days after the day the appeal is started (or if information is requested under section 4.1.40, within 10 business days after the day the appellant is given the information) give written notice of the appeal to -

- (a) if the appellant is an applicant - the assessment manager, any concurrence agency, any principal submitter whose submission has not been withdrawn and any advice agency treated as a submitter whose submission has not been withdrawn; or
- (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal - the assessment manager, the applicant and any concurrence agency; or
- (c) if the appellant is a person to whom a notice mentioned in section 4.1.30 has been given - the assessment manager and any entity that was a concurrence agency for the development application.



(2) The notice must state -

- (a) the grounds of the appeal; and
- (b) if the person given the notice is not the respondent or a co-respondent under section 4.1.43 - that the person, within 10 business days after the day the notice is given, may elect to become a co-respondent to the appeal.

Notice of appeal to other parties (div 9)

4.1.42(1) An appellant under division 9 must, within 10 business days after the day the appeal is started give written notice of the appeal to -

- (a) if the appellant is a person to whom a notice mentioned in section 4.1.31⁷³ has been given - the entity that gave the notice; or
- (b) if the appellant is a person to whom an enforcement notice is given - the entity that gave the notice and if the entity is not the local government, the local government; or
- (c) if the appellant is a person dissatisfied with a decision about compensation - the local government that decided the claim; or
- (d) if the appellant is a person dissatisfied with a decision about acquiring designated land - the designator; or
- (e) if the appellant is a person who is disqualified as a private certifier - the entity disqualifying the person and if the entity disqualifying the person is not the accrediting body, the accrediting body; or
- (f) if the appellant is a party to a proceeding decided by a tribunal - the other party to the proceeding.

(2) The notice must state the grounds of the appeal.

Respondent and co-respondents for appeals under div 8

4.1.43(1) This section applies to appeals under division 8 for a development application.

(2) The assessment manager is the respondent for the appeal.

(3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.

(4) If the appeal is about a concurrence agency response, the concurrence agency is a co-respondent for the appeal.

(5) If the appeal is only about a concurrence agency response, the assessment manager may apply to the court to withdraw from the appeal.

(6) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.

(7) A person to whom a notice of appeal is required to be given under section 4.1.41 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.

Respondent and co-respondents for appeals under div 9

4.1.44(1) This section applies if an entity is required under section 4.1.42 to be given a notice of an appeal.

(2) The entity given written notice is the respondent for the appeal.

(3) However, if under a provision of the section more than 1 entity is required to be given notice, only the first entity mentioned in the provision is the respondent.

(4) The second entity mentioned in the provision may elect to be a co-respondent.



How a person may elect to be co-respondent

4.1.45(1) An entity elects to be a co-respondent by lodging in the court, within 10 business days after the day the notice of the appeal is given to the entity, a notice of election under the rules of court.

(2) If a principal submitter is entitled to elect to become a co-respondent, any other submitter for the submission may also elect to become a co-respondent to the appeal.

Minister entitled to be represented in an appeal involving a State interest

4.1.46 If the Minister is satisfied that an appeal involves a State interest, the Minister is entitled to be represented in the appeal.

Lodging appeal stops certain actions

4.1.47(1) If an appeal (other than an appeal under section 4.1.30) is started under division 8, the development must not be started until the appeal is decided or withdrawn.

(2) Despite subsection (1), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.

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