

7th May 2021

For the attention:

Tamara Cavallaro

Principle Planning Officer

Planning and Development

Department of State Development, Infrastructure, Local Government and Planning

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Dear Tamara Cavallaro,

Your ref: 1906-11653 SRA

Gold Coast Council Ref: COM/2019/81

Re: Nucrush Quarries Pty Ltd, 33 Maudsland Road, Oxenford

Thank you for your email on 1st April 2021.

I note that the Gold Coast Council have subsequently contacted you on, or about, the 28th April 2021 re this development application.

I must admit I am somewhat perturbed about the contents of their communication to you. I believe this infers, incorrectly, that a SARA re-referral is not required and ignores many changes that have been applied since the original SARA approval back in April 2020.

I previously asked the Gold Coast Council to highlight a number of what I believe are significant errors and omissions that have since come to light since the original SARA approval. I note that they have, in my opinion, negligently failed to do this.

Inaccuracies with Gold Coast Council communication to you

I note that the Gold Coast council email to you quotes the applicant's comments on the most recent changes: *"The change involves no longer proposing to quarrying activity in Lot 906. Accordingly, the quarry footprint is reduced from 64.7 hectares to 54.93 hectares"*. And, Mr Phillip Zappala, Supervising Planner Major Assessment, for the Gold Coast Council concludes: *"In accordance with Section 25.1(b) and 26.2(b), Council officers advise that the change does not affect the development assessment process and the application will not be required to be re-notified. Officers are satisfied the changes made are not changes that would likely attract a submission objecting to the thing compromising the change, if public notification were to apply to the change"*. However, I believe this belies the true extent of the changes. As they include additional truck parking and car parking and access details that were not originally specified but were subsequently requested by the Gold Coast Council planning department. This, to my knowledge has already attracted at least two additional submissions of

objection referring to these additional changes that are not referred to in the applicant's comments:
"The change involves no longer proposing to quarrying activity in Lot 906. Accordingly, the quarry footprint is reduced from 64.7 hectares to 54.93 hectares".

I believe these changes also affects the Traffic Impact Assessment and requires an update to reflect these changes which, in my opinion, requires re referral to TMR via the SARA referral process. At this point I would also like to point out that the Traffic Impact Assessment and the Traffic Impact Assessment (Pavement Impact) submitted to SARA both contain significant errors that were not picked up during the SARA referral process. I have attached a copy of my Traffic Impact Assessment notes for your perusal (Addendum 1).

Others changes include previously undisclosed proposed 15m benching layout that have been changed from a planned graduated area of descent that is on the boundary to property on the north and within 150m of local residents homes in the north-east. I feel 15m drops to be dangerous at locations so close to local residents. I also believe the 15m proposed benching denotes an updated plan for blasting in these areas which I feel is highly dangerous and morally unacceptable at this non-existent (in places) and only 150 metres in other places separation distances which is far below the 1000m separation buffer (and 1000m Blast Exclusion Zone) requirements for blasting quarries. This is a significant change since SARA referral and Public Notification closed that I believe requires assessment due to the safety implications of blasting so close to residential homes (and within 345 metres of the Oxenford State School).

Here are the points I requested that the Gold Coast Council made you aware of:

SARA Approval was based on assumption that 'extraction area' was only increasing by 18% (not a nearly threefold increase

At the time of SARA referral and subsequent approval it was claimed that the current approval was 56.02 hectares and the development application was to increase this by only 10.6 hectares (an increase of 18%) as shown on Page 10 of the development application (reproduced in Attachment A1). This claim is also repeated on page 19 (reproduced in Attachment A2).

I believe these claims to be a culpable misdirection. The actual size of the current approved footprint is approximately 23.77 hectares and, therefore, the proposals was to increase the extractive footprint by 280% as shown in Plan '362-010' reproduced in Attachment A3, which is nearly a nearly threefold increase in extractive footprint. A significant difference in scale of expansion.

The SARA original referral was based on these incorrect claims of a relatively insignificant increase in extractive footprint is confirmed in my correspondence with Mr Rob Lawrence, the Deputy Director-General of the DES, re the SARA approval. He confirmed their approval was based on (quote from his email dated 26th June 2020): *"The previous approved extraction area was approximately 55.4ha in size ... making the current approval of 66ha an expansion of 10.6 ha"* (reproduced in Attachment A4). When he dismissed my claims out of hand.

Subsequently, however, a 'Right To Information' (RTI) enquiry has confirmed my original findings and it was not just a 10.6 hectares increase as claimed, it was approximately 42.85 hectare increase (which is nearly a threefold increase over the current approval).

Current Approval Size is NOT '56.02 ha' as claimed but it is only '23.77 ha' approx

The actual size of the current approved footprint can be confirmed from two critical documents with regard to their current approval that were, I believe, culpably omitted from the development application (and the SARA referral).

This being the 'Third Schedule' (or 'Plan 362-010' as it is also referred to) of the Rezoning agreement, dated 17th March 1992 (annotated version reproduced in Attachment A3) and development plan 'C1495:00:13B' (reproduced in Attachment B1, with a close up in B2 and annotated version for clarity in B3).

The highly important 'Third Schedule' was, it would appear, removed from the submitted copy of the Rezoning agreement and replaced with the relatively innocuous 'Fourth Schedule' with its title removed (See Attachment B4). The original is reproduced in Attachment B5 with its 'FOURTH SCHEDULE' title intact. In fact, if you examine these two pages alongside each other (Attachment B4 and Attachment B5), it would seem, not only has the title been removed, but the signature at the bottom appears to be changed also (A close up of the Original Rezoning agreement Fourth Schedule is reproduced in Attachment B6 and the submitted copy in Attachment B7).

In my opinion, this apparent removal of the title: 'FOURTH SCHEDULE' in order, I believe, to appear to be the 'Third Schedule' is a fraudulent misdirection, I believe, to hide the status of the 'Buffer Land' and 'Permanent tree and shrub screening' protected areas.

Without these two critical documents 'C1495:00:13B' (Attachment B4) and 'Plan of Development 362-010' or 'Third Schedule' (Attachment A3) it was virtually impossible to ascertain the current approval and therefore their seemingly culpable omission from the development application must be questioned.

However, it does explain why the SARA referral team and the Deputy Director General of the DES where under the misapprehension that the extractive area was only a relatively small increase in footprint and not the nearly threefold increase actually proposed.

Please note in the Rezoning Agreement (dated 17th March 1992) Section F (page 2) states: *"On 17th April 1991, the Court Ordered that the application be amended in accordance with the Plan of Development No. 362-010 dated 5th April, 1991 which plan is the Third Schedule of this Deed, and that the appeal be allowed in respect of that Amended Application as shown on the said Plan of Development"* (Attachment B8).

SARA Approval was further based on assumption that the additional 10.6 hectares was a straight exchange for an already approved areas in the northeast corner for a more lucrative corners in the southeast and southwest

The main development application claims on page 9: *"The changes to the approved quarry footprint involves extending the footprint to the southeast and southwest whilst reducing the footprint to the northeast"* (Attachment C1). These changes are shown on page 19 of the main application in diagrammatic format showing the claimed 'Current approval' and the 'Proposed extractive footprint;' (Reproduced in Attachment C2).

However, the development application fails to reveal that the claimed *"reducing the footprint to the northeast"* is contained within an area of approximately 16.6 hectares that is a prohibited development area, for the life of the quarry and should have been rezoned by the applicant as Rural

'B' as agreed. This prohibited development area is labelled on Plan C1495:00:13B' as: *"The Portion of Extractive Zone to be rezoned as Rural 'B' "* (as shown in Attachment B1 and annotated in Attachment B3 for clarity). As shown on page 6 of the Deed of Novation (reproduced in Attachment C3), which is another crucial document (dated 12th September 1989) pertaining to this development application that has been, seemingly culpably omitted by the applicant.

Unfortunately, the applicant has failed to rezone this prohibited development (Rural 'B') area as promised. However, despite the apparent negligent actions of the applicant, the clear intent of this remains in force. As per confirmation in transcripts from the court case: *Nerang Pastoral Co Pty Ltd v Chief Executive, Department of Natural Resources Court Case Appeal against unimproved valuation: '[1997] QLC 102'* where the judge said to the effect: *"Abutting the quarantined land to its West is part of the sale land "north-east corner" has an area of 10.5ha which the letter says will be the subject to an application for rezoning from its "Extractive Industry" zone to Rural B". The intent appears to be one of extending the buffer area beyond that provided by the "quarantined land". The party bound by an undertaking to apply to rezone the land in the northeast corner of the sale land is effectively saying that neither quarrying activity not processing will be carried out in that part of the land"* (Attachment C4).

(Note the judge in this case indicated the Rural 'B' is an area of 10.5 hectares. However, I believe this is incorrect assumption and this is based on the smaller area identified in Attachment B4 identifying an earlier extractive footprint. The Rural 'B' area was subsequently defined as a result of the David Kershaw report, who was a geologist, who attempted to establish relative harmony between the proposed residential development to the east and the quarry to the west, the result is clearly shown in Attachments B1, B2 and B3, which is approximately 16.6 hectares).

In fact, the applicant incredulously claims that this DA is highly beneficial for the native fauna and local wildlife and the local residents by releasing the area in the northeast in exchange for areas in the southeast and southwest. Here is the extract from page 27 of the main application: *"The currently approved extraction area boundary would have resulted in the removal of native vegetation and extraction of quarry materials up to the edge of adjacent residential area towards the north-east of the site. This would have created a barrier to the movement of native fauna seeking to traverse these habitats, either blocking their passage entirely or forcing them into the adjacent residential area with an increase in threat"* (reproduced in attachment C5). However, this statement would seem to be highly misleading and culpably incorrect as this area is part of the prohibited development, Rural 'B', protected area and is thus not part of the extractive footprint as claimed.

It should also be realised that the current extractive footprint maintains a separation buffer in the order of 500 metres in the north-east corner whereas the proposed development application will be reduced to within 150 metres of homes. Therefore, I believe the claimed: *"This would have created a barrier to the movement of native fauna seeking to traverse these habitats, either blocking their passage entirely or forcing them into the adjacent residential area with an increase in threat"* is highly emotive and fraudulently misleading.

Thus, SARA, at the time of the referral and subsequent approval, were under the clearly mistaken believe that the quarry 'realignment' (as it was referred to, see attachment D1) of the extractive footprint was actually beneficial for the local environment. Clearly this was not so as additional areas of environmentally significant biodiversity and priority species and koala habitat are being engulfed by the proposed extractive footprint despite the contractually agreed status as a prohibited

development area that will squeeze the connectivity to the Nerang State forest completely at odds with, what I see as, the applicants misleading claims.

In total, I believe, the development application proposal engulfs a further 19 hectares of environmentally significant (biodiversity and priority species) and koala habitat. The net loss is not made clear in the submitted development application.

SARA Approval was further based on assumption that Lot 906 was not quarantined land

SARA approval was also based on the mistaken believe that an approximate 10 hectares of Lot 906 (Southeast corner) was part of the KRA and suitable for extractive industry, as advised by the applicant. However, it would seem the applicant failed to divulge the 'Quarantined land' status of this area and thus SARA were led incorrectly to believe this was an appropriate extractive area also (despite its environmental significant biodiversity and priority species City Plan overlay status).

The applicant as of the 18th February 2021 update has now removed Lot 906 from their proposal. However, it is very much still part of the SARA approval. This needs to be addressed.

I believe, it should also be questioned why SARA at the time of the original referral where not made aware of the 'Quarantined Land' status of this area.

SARA Approval was further based on assumption that areas designated as 'Buffer Land' and 'Permanent trees or shrub planting' were extractive areas

I believe SARA approval was also based on the mistaken believe that an area of approximately 15.5 hectares in the southwest and west (labelled as 'Buffer land' and 'Permanent tree and shrub screening' on the missing Third Schedule, reproduced in attachment A3) were also part of the extractive area and not designated buffer areas for, what is believed to be for the life of the quarry.

The clear intent of these areas is to maintain an appropriate buffer from local residents and the busy Maudsland Road. However, it would seem, the crucial and believed culpable removal of the 'Third Schedule' of the rezoning agreement helped ensure the protected status of these areas was maybe overlooked as part of the SARA referral.

Clearly, these areas are not part of the current extractive approval and therefore this has important implications for these 'claimed areas' that are in fact areas that are environmentally significant - 'biodiversity', 'priority species' and 'vegetation management'. I believe these areas were not, and are not appropriate as part of the extractive footprint as they are clearly defined as 'Buffer land' and 'Permanent tree and shrub screening' in their current approval, which is believed to be in perpetuity.

State Development Assessment Provisions (SDAP)

Moving on, I note the following State Development Assessment Provisions (SDAP) where used as 'Assessment criteria' for SARA original referral (See attachment D1):

- State Code 1 - Development in a state-controlled road environment
- State Code 6 - Protection of state transport networks
- State Code 16 - Native Vegetation Clearing
- State Code 22 - Environmentally relevant information

Having perused the SDAP information I also believe the following warrant further assessment too:

State Code 3 - 'Development in a busway environment'

The access intersection is part of bus routes and therefore I think Performance Outcome PO2 - *"Development does not add or remove loading that will cause damage to bus transport infrastructure or a busway corridor"* (Attachment D2) is relevant. Especially as the Traffic Impact Assessment supplied for the SARA referral initially claimed no increase in haulage truck. This was then changed to a 21% increase. However, it is noted this does not include delivery trucks to the on-site concrete plant (part of the development application who's haulage trucks were seemingly ignored despite providing an estimated additional 4,900 deliveries per annum (based on their estimate of 93,309 m³ concrete per annum) merely to supply the concrete production facility with sand/cement/silica fume and fly-ash, etc. This is, I believe, requires an additional 9,800 truck movements per annum (or 34 per day). These trucks were seemingly completely ignored in the Traffic Impact Assessment(s).

Also, Performance Outcome PO4: *"Construction activities do not cause ground movement or vibration impacts in a busway corridor"* (Attachment D2). This development application is proposing blasting within forty metres of busway corridor. Yet this was not part of the assessment criteria?

Similarly. Performance Outcome PO8: *"Excavation, boring, piling, blasting ... does not result in ground movement or vibration impacts that would cause damage or nuisance to busway transport infrastructure or busway infrastructure works"* (Attachment D2). This development application is proposing blasting within forty metres of the busway corridor.

Performance Outcome P10: *"Filling and excavation does not cause windblown dust nuisance in a busway corridor"* (Attachment D2). A recent dust plume as a result of blasting (as close as forty metres from busway) is shown in Attachment D3. Whilst Attachment D4 shows dust on a normal quarry day. With extensive stockpiling throughout the site and a vigorous quarrying activity it is hard to believe windblown dust nuisance was not part of the assessment criteria. Also, Attachment D5 show a haulage truck just outside the Nucrush quarry dissipating clouds of dust.

Performance Outcome PO14: *"Vehicular access for a development does not create a safety hazard or result in worsening of operating conditions on busways"* (Attachment D2). I believe an over twenty percent increase in haulage trucks, resulting in approximately one every two minutes throughout the working day (not including the concrete plant) warrants a safety assessment that has not been provided.

Also, please note the Traffic Impact Assessment(s) supplied, to SARA fails to include the cumulative haulage trucks effect by ignoring the adjacent Bullrin Quarry (Environmental Authority EPPR00565713) and the adjacent Holcim Concrete production / batching plant (34 Maudsland Road, Oxenford) that both uses the same access intersection yet are conspicuously and culpably absent in the Traffic Impact Assessments submitted.

Further the JJ Richards waste disposal site at 241 Tamborine Oxenford Road is also culpably omitted from the Traffic Impact Assessment(s).

State Code 8 - 'Coastal development and tidal works'

Bearing in mind the proposed development application is to go one hundred and ten metres below sea level (AHD -110m), within 500 metres of tidal water (Coomera River), leeching up to 432 ML/yr (Attachment E1) from the surrounding water table (for an estimated 1.4 km radius) and therefore collapsing the water table in the area, it would seem the only way to remove excess water is to pump it into the Coomera River, a mere one hundred metres away (by this time contaminated with acid sulfates?), using the hydraulic pump they refer too. Which feeds straight into the Coomera River (brackish and tidal). Therefore, Performance Outcome PO11: *"1. Maintains and enhances environmental values of receiving waters; 2. Achieves the water quality objectives of Queensland waters; 3. Avoids the release of prescribed water contaminants to tidal waters"* would seem to be highly relevant (Attachment E2).

State Code 11 - 'Removal, destruction or damage of marine plants'

Given, it would appear the quarry could be pumping up to 432 ML/yr (Attachment E1) of potentially contaminated (acid sulfates and/or pyrite) water into the adjacent Coomera River, Performance Outcome PO6: *"Development of, or adjacent to, fish habitats avoids unnecessary loss, degradation or fragmentation of fish habitats and their values and the loss of fish movement"* (Attachment F1) would, I presume, require investigation.

Similarly, Performance Outcome PO9: *"Development likely to cause drainage or disturbance to acid sulfate soils, prevents the release of contaminants and impacts on fisheries resources and fish habitats"* (Attachment F1) would also require investigation.

Also, Performance Outcome PO14: *"Development does not adversely impact on community access to fisheries resources and fish habitats including recreational and indigenous fishing"* (Attachment F1). As the lake adjacent to the quarry that is hydraulically connected to the quarry and is a widely used local fishing spot I believe this should also be part of the assessment criteria.

State Code 25 - 'Development in South East Queensland koala habitat areas'

"The purpose of this code is to ensure that development in South East Queensland:

- 1. Results in no net loss of koala habitat area*
- 2. Does not contribute to fragmentation of koala habitat areas*
- 3. Maintains or improves connectivity within and between koala habitat areas to ensure safe koala movement*
- 4. Is constructed and undertaken in such a way that does not increase the risk of injury to, or death of koalas*
- 5. Avoids impacts on **matters of state environmental significance**, and where avoidance is not reasonably possible, minimises and mitigates impacts and, provides an **offset for significant residual impacts to matters of state environmental significance that are prescribed environmental matters**"* (Attachment G1).

Performance Outcome PO1 states: *“Development interfering with koala habitat (including interfering with koala habitat as a result of material change of use and interfering with koala habitat as a result of reconfiguring a lot) does not occur unless the application demonstrates the interfering with koala habitat has: 1. Been reasonably avoided; or 2. Been reasonably minimised where it cannot be reasonably avoided; and 3. Mitigated the impacts of interfering with koala habitat values”* (Attachment G1).

Given that large parts of the proposed expansion is into prohibited development areas zoned as ‘Environmentally Significant areas’ (priority species, including koala habitat) within Lot 467 that are currently approved as ‘Prohibited development’ , ‘Buffer land’ and ‘Permanent tree and shrub shielding’ areas, I believe for the life of the quarry, I would assume State Code 25 also requires assessment.

Performance Outcome PO4 states: *“The construction of the development does not increase the risk of injury or death of koalas”* (Attachment G1). However, I believe, the destruction of an additional approximately 19 ha of koala habitat would certainly require significant assessment under this State Development Code.

Similarly, Performance Outcome PO5: *“Development avoids impacts on matters of state significance or minimises and mitigates impacts on matters of state environmental significance”* (Attachment G1) would certainly require significant assessment under this State Development Code also.

Note ‘Koala habitat’, as defined in State Code 25.4 and as defined under Nature Conservation (Koala) Conservation Plan 2017 is: “1. An area of vegetation where kolas live; or 2. A partially or completely cleared area used by koalas to cross from an area of vegetation where koalas live to another; or 3. An area of vegetation here kolas do not live, if the area primarily consists of koala habitat trees and is reasonably suitable to sustain koalas”.

Revised Truck and Car Park plans

The revised plan of the Site Entrance, part of the supplied SARA update (No date specified - believed submitted in October 2020) contains incorrect information. It shows the entrance and dam adjacent to the entrance as *“Approved Extraction Boundary”* (Blue line in attachment H1). However, this is not part of the Extractive Boundary. But, it is part of the ‘Ancillary Operations’ area as shown in Plan 362-010 (Attachment A3).

It is clearly not part of the *“Approved Extraction Boundary”* as claimed as highlighted in Attachment H1. Therefore, I find this Site Entrance map, submitted to SARA, culpably misleading.

Environmental Authority EA0002207

It should also be realised there are still major errors in the Environmental Authority EA0002207 that has been produced as the replacement Environmental Authority EPPR00245613 to go alongside this development application. Please see attached email sent to DES representative Stephanie Maguire, A/Team Leader, DES re this. (Addendum 2 - Environmental Authority EA0002207 issues).

Noise and Dust Assessment

I believe there is a large number of errors and omissions in the submitted 'Noise and Dust Assessment' that clearly indicate the quarry is unable to meet both its Noise and Dust requirements as stipulated in the Environmental Authority EA0002207.

Please see attached Dust analysis (Addendum 3 - Dust Issues) and also the attach noise analysis (Addendum 4 - Noise Issues).

Ecological Assessment

I believe there are a number of issues within the newly submitted 'Ecological Assessment' (Version 5 dated 3rd December 2020). Please see attached analysis (Addendum 5 - Ecological Assessment Issues).

Groundwater Assessment

I believe there are a number of issues within the newly submitted 'GroundworkPlus Revised Plans - visualisations carparks etc' (no version, undated but part of the February 2021 updated documents). Please see attached analysis (Addendum 6 - Groundworks Issues)

Conclusion

The SARA approval was given with at least four fundamental incorrect assumptions:

- 1). The Traffic Impact Assessment stated there was no increase in traffic therefore no safety analysis was required (this was incorrect).
- 2). Led to believe the extractive area was only increasing by 18%, not a threefold increase.
- 3). It was led to believe the realignment of the extractive footprint was beneficial to the local environment in the northeast. When in fact the area the applicant claimed to be relinquishing was never available as extractive area as clearly shown above resulting in a net loss, believed to be, in the region of 19 ha of environmentally significant land (biodiversity and priority species) and koala habitat engulfed into this expansion plan.
- 4). It was not informed of the 'Quarantined Land' status of Lot 906.
- 5). It was also, it would seem, led to believe that protected areas for the life of the quarry ('Buffer Land' and 'Permanent trees or shrub planting') to the southwest and west were currently approved extractive area also.

Given these significant points that were, in my opinion, culpably hidden from SARA it would seem imperative to re refer SARA approval due to the above points and also the significant subsequent changes since SARA approval was originally granted.

Hopefully, the information I have provided will also help SARA to make the correct decision based on the correct information re current approved size and approved footprint and not based on the culpably incorrect information that the applicant has so far submitted (and importantly omitted).

There are a lot of clear misdirection's that have led SARA to believe the scale of the proposed extension was far smaller (just an 18% increase) rather than the nearly threefold increase it actually is.

The missing plans hid a lot of information about the current approval that was vital in understanding the current approved footprint that, I believe, was culpably omitted.

Also, I believe that major assessment criteria were missing from the SARA referral. These being: State Code 3, State Code 8, State Code 11 and State Code 25.

I was also disappointed that the Traffic Impact Assessment wasn't thoroughly investigated and therefore the SARA referral did not notice the problems within it.

Inadequacies in the Environmental Authority EA0002207, re blast monitoring, may well result in local residents having their health, welfare and personal amenity negatively affected and damage to their homes (maybe structural) may well occur. But, the inadequacies in the Environmental Authority will help ensure the operator can effectively hide any non-compliant blasting by monitoring at further locations (and ignoring the closest homes or most sensitive locations) and thus trivialise any local residents issues by claiming ground vibration and airblast overpressure levels are far lower than may well have been witnessed by local residents at closer locations.

I also believe there are significant errors uncovered with the Dust submission.

There is also significant errors in the Noise assessment.

The ecological assessment, re issued in February 2021, also contains significant errors.

The ground water assessment is also grave cause for concern.

I hope given the significant number and scale of the changes submitted since SARA original approval and seeing this incredible list of errors and omissions that have subsequently come to light with this development application that it will be re-refereed by SARA as would seem clearly appropriate.

Thank you in anticipation,

Kind regards

Tony Potter

Attachments:

Addendum 1. Traffic Impact Assessment errors and omissions objection

Addendum 2. DES communication re blasting inadequacies in EA0002207

Addendum 3. Dust problems objection

Addendum 4. Noise problems objection

Addendum 5. Ecological Assessment objection

Addendum 6. Groundwater assessment objection

* Disclaimer. Please note my findings are believed correct and are to the best of my ability. However, there may be errors and assumptions I have made that are incorrect. I do not believe this to be the case, but, realise with the vast amount of submitted data from the applicant, errors and assumptions on my part may occur. Hopefully this is not the case, but please accept my apologies if this is so. Thank you.

Attachment A1 - Development application claims approved footprint is 56.02 hectares (1)

2019-05-20 Section 2 - The main application.pdf

10 / 354

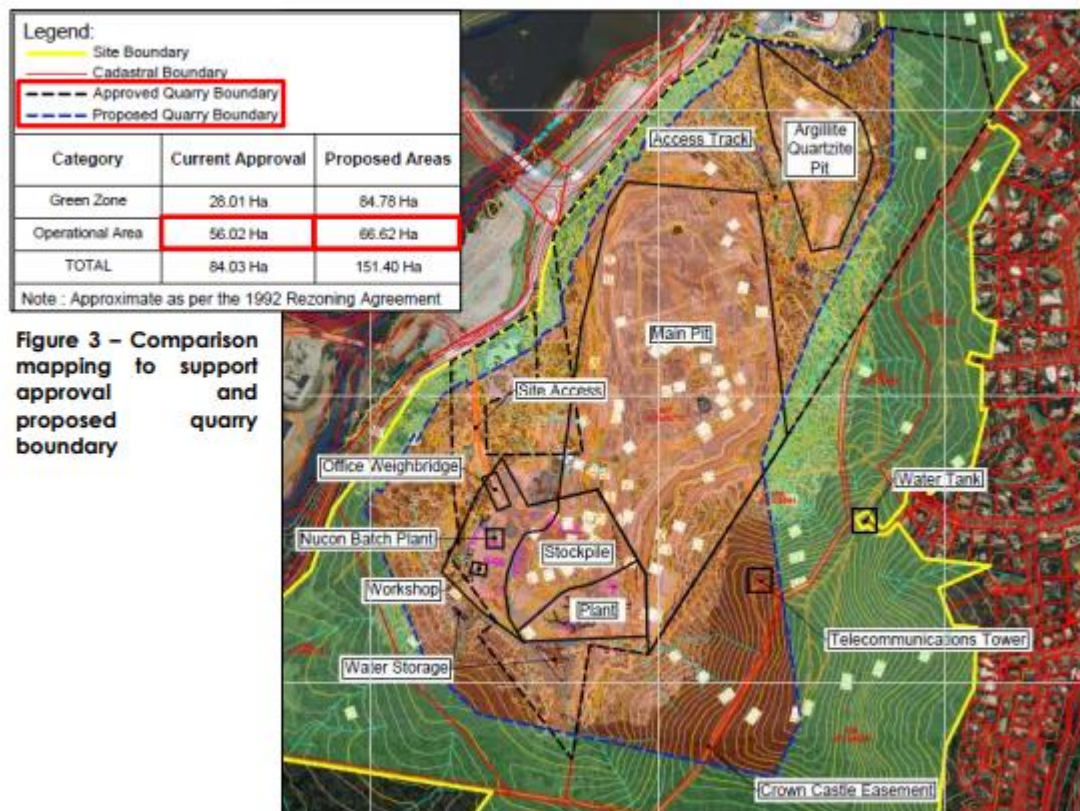
The proposal seeks to enlarge and realign the extraction footprint by approximately 10.6 hectares.

Accordingly the new footprint will ultimately have a total operational footprint of 66.62 hectares.

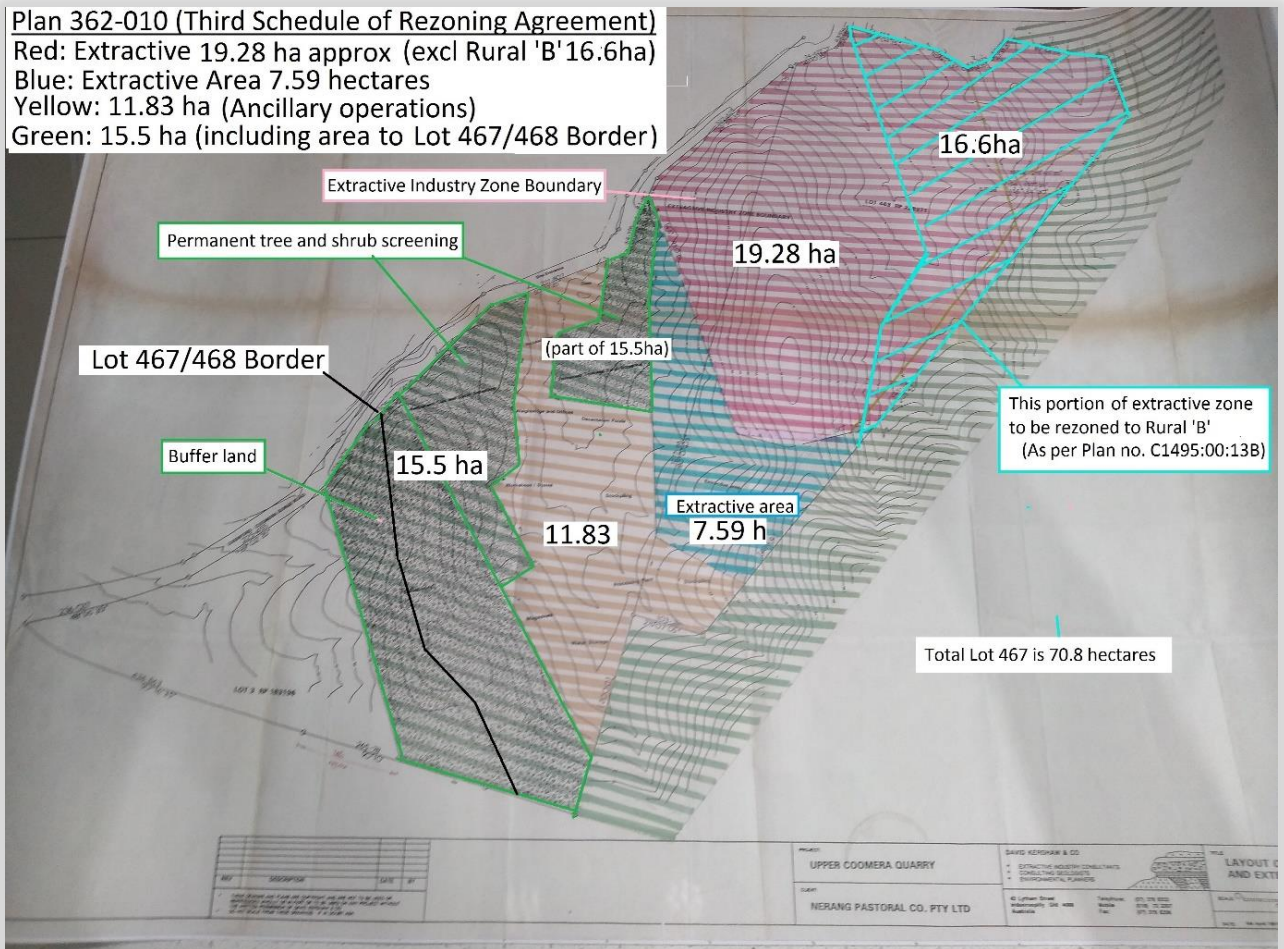
Attachment A2 - Development application claims approved footprint is 56.02 hectares (2)

2019-05-20 Section 2 - The main application.pdf

19 / 354



Attachment A3 - Annotated Third Schedule of Rezoning agreement (Plan 362-010) showing extractive area is 23.77 ha approximately



Note: Extraction prohibited in 2.1 ha of red area (40m buffer required to tamborine -Oxenford Road) and 1 ha extraction prohibited in blue area (40m buffer required from Lot 906).

Total extractive footprint is 23.77 ha $(19.28 - 2.1) + (7.59 - 1)$ NOT the claimed 56.02 ha

Attachment A4 - Deputy Director-General of DES assures me the approved extraction area is approximately 55.4 ha

2020-06-26 letter from Rob Lawrence.pdf

3 / 3

It should be noted that the current EA does not represent an expansion of 3.6 times the previously approved extraction area. The previous approved extraction area was approximately 55.4ha in size, with only 31.8ha disturbed to date, making the current approval of 66ha an expansion of 10.6 ha.

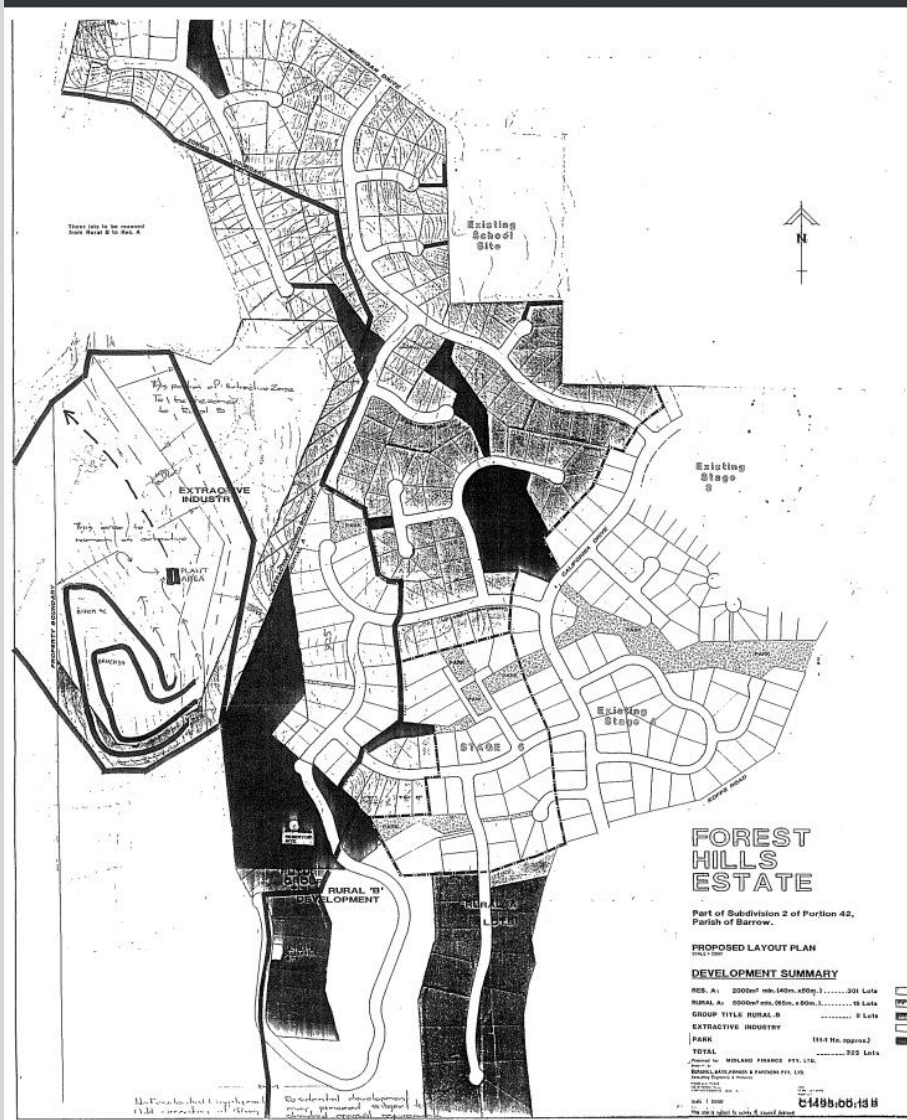
Yours sincerely



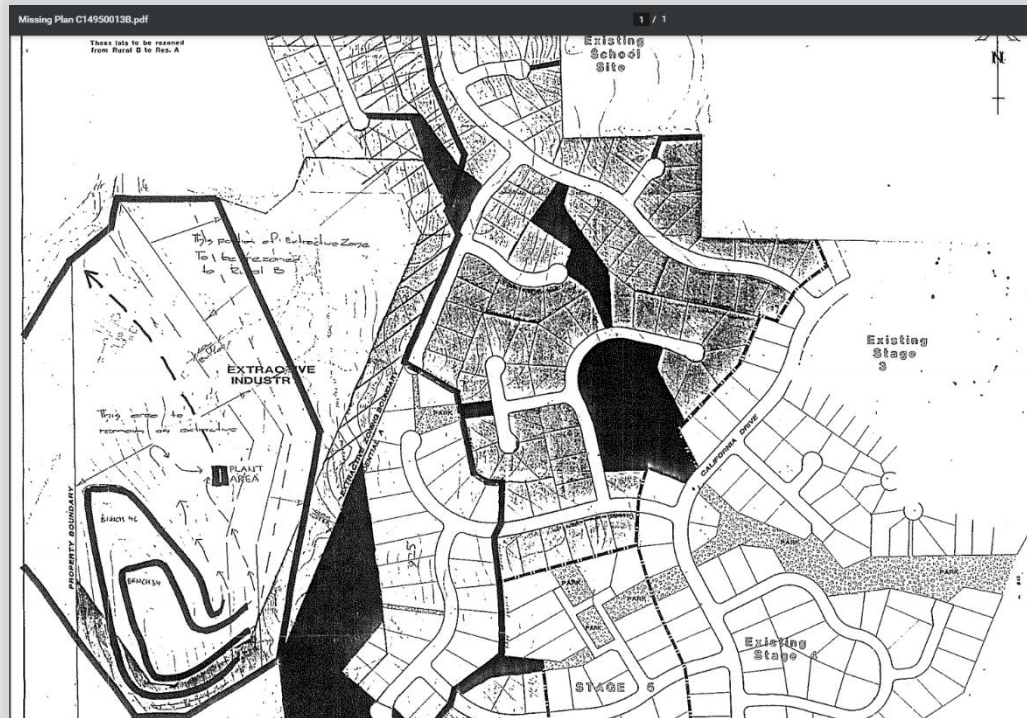
Rob Lawrence
Deputy Director-General

Attachment B1 - Plan C1495:00:13B

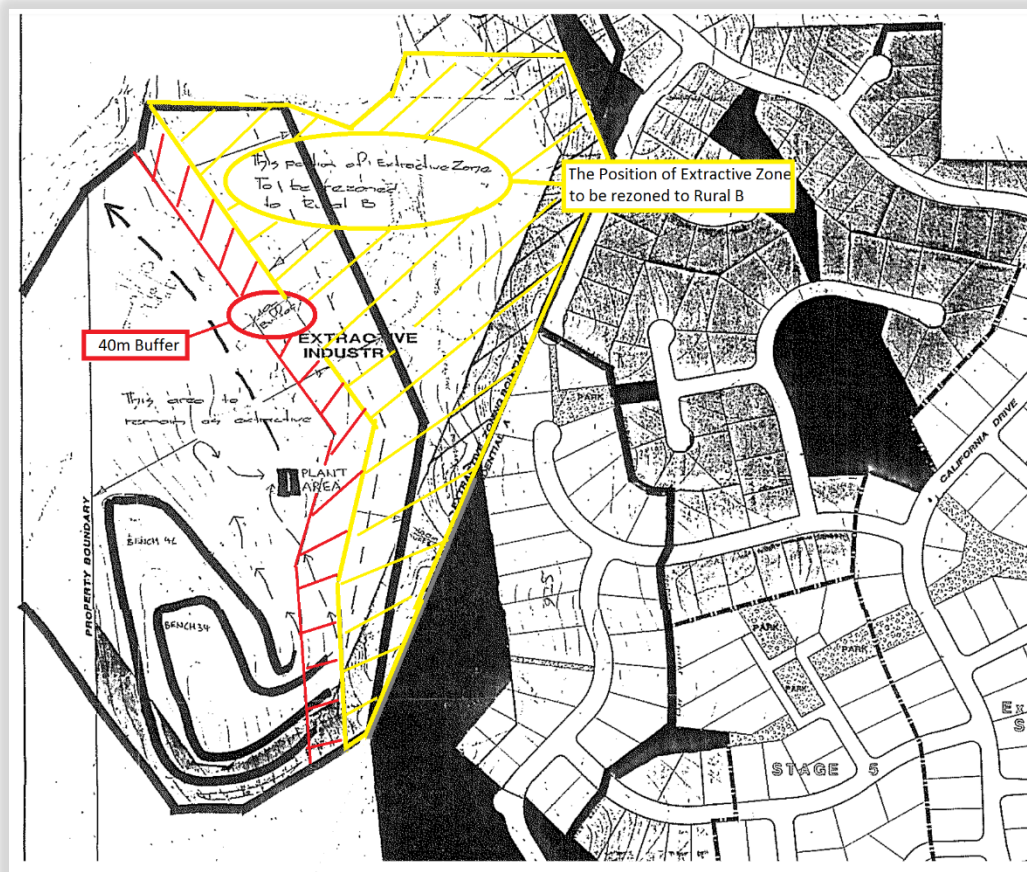
Missing Plan C14950013B.pdf



Attachment B2 - Plan C1495:00:13B (Showing close-up of Rural 'B' area)

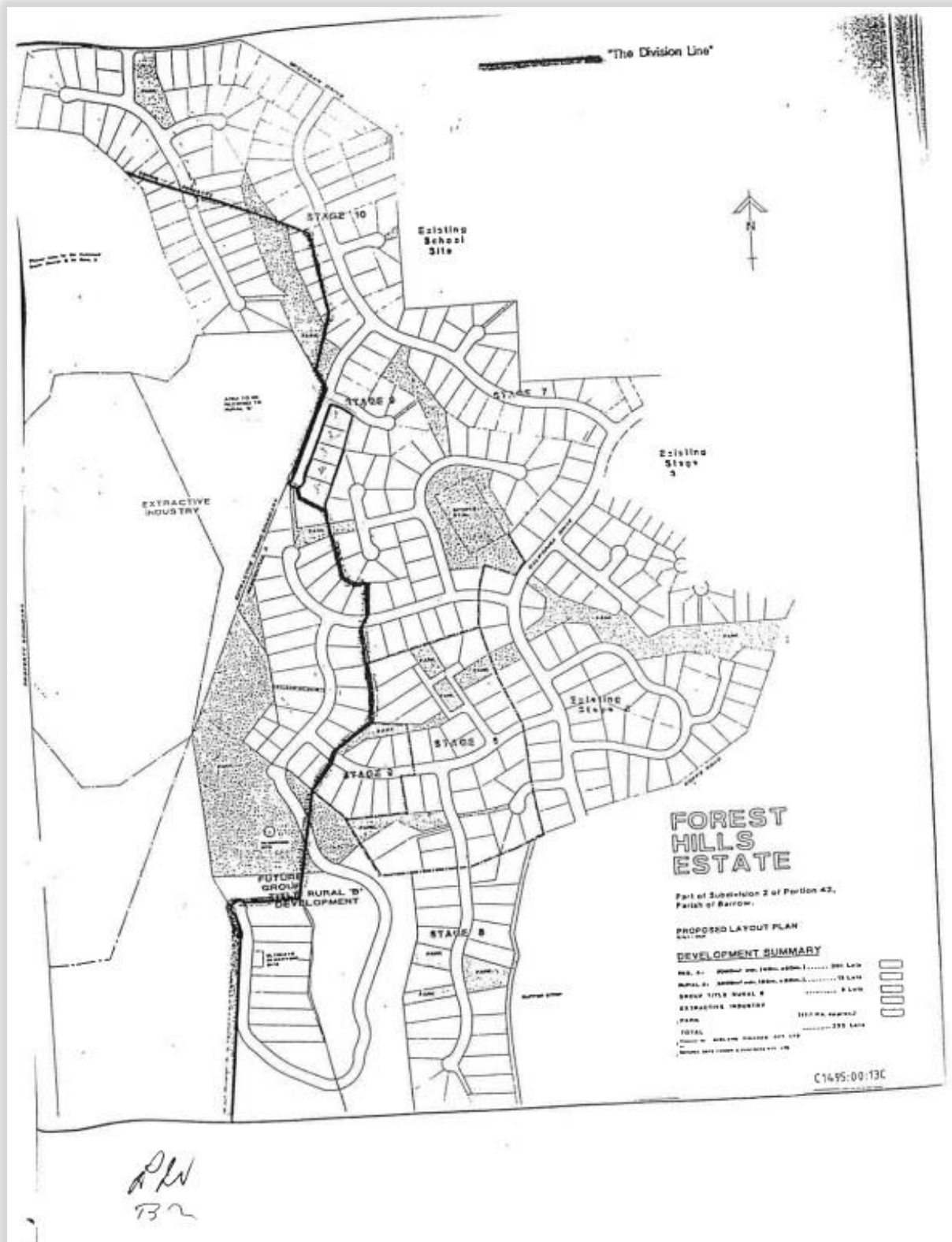


Attachment B3 - Plan C1495:00:13B (Showing annotated close-up of Rural 'B' area)

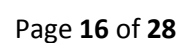


Attachment B4 - DA submitted Fourth Schedule of Rezoning agreement seemingly altered to appear as the 'Third Schedule'

Note title 'FOURTH SCHEDULE' has been removed. Original shown in Attachment B5 below.



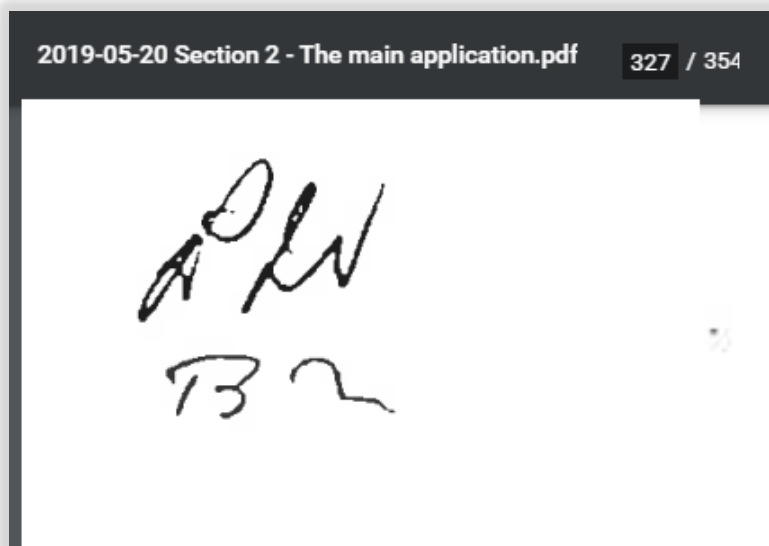
(note title: "FOURTH SCHEDULE' has not been removed in correct version)



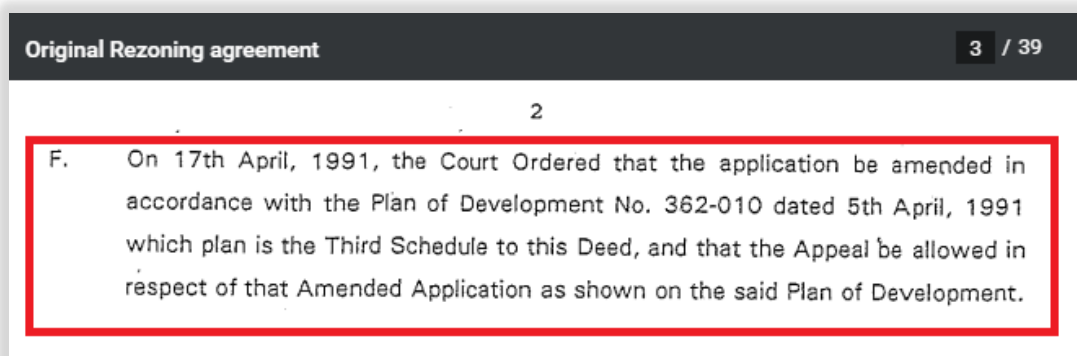
Attachment B6 - Fourth Schedule Original Rezoning Agreement signature



Attachment B7 - Third/Fourth Schedule Submitted copy of Original Rezoning Agreement signature




Attachment B8 - Court Order to amend applicaton as per Plan of Development No. 362-010



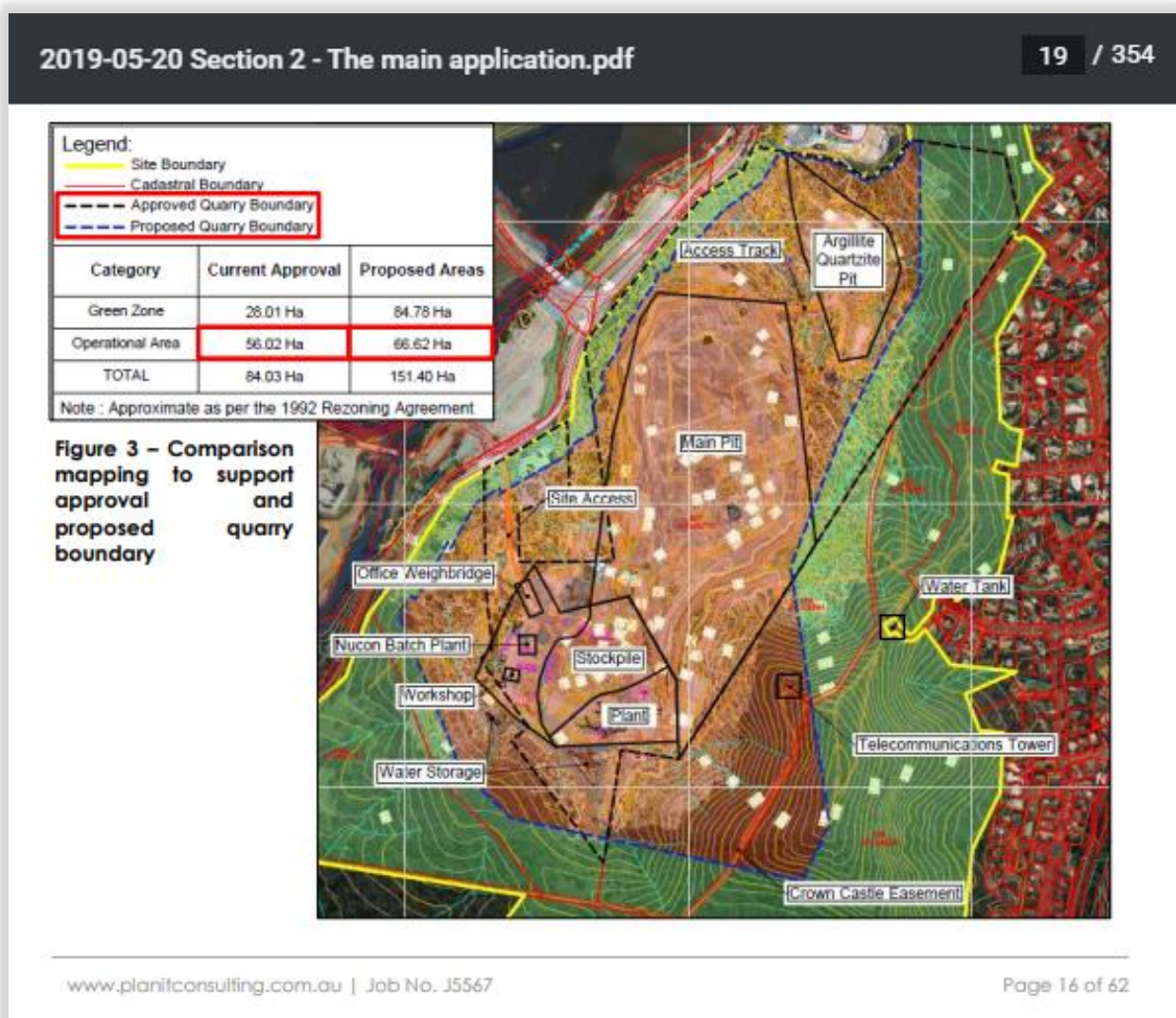
2019-05-20 Section 2 - The main application.pdf
9 / 354

Development Application – Town Planning Report
 Material Change of Use for Extractive Industry (Quarry) and
 Material Change of Use for Concurrence Environmentally Relevant Activity
 (Extractive and Screening Activities)
 Oxenford Quarry
 Nucrush c/- Planit Consulting Pty Ltd
 www.planitconsulting.com.au



1 Introduction

Planit Consulting Pty Ltd has been engaged by Nucrush Pty Ltd to prepare a development application for a development permit for a material change of use for an extension to the existing approved footprint and the duration of an existing lawful Extractive Industry (Quarry) at Oxenford. The changes to the approved quarry footprint involves extending the footprint to the southeast and southwest whilst reducing the footprint to the northeast.



APPLICATION FOR REZONING

5. The Applicant shall forthwith make application to the Council for the rezoning of that part of the quarry land shown as "proposed Rural B" on the plan comprising the Second Schedule ("the buffer land") by excluding it from the "Extractive Industry" zone under the Town Plan and including it in the "Rural B" zone. Such application shall be made in the form required by the Council's by-laws and shall contain or be accompanied by all information and particulars required by law or otherwise reasonably required by the Council to enable it to determine the said application. The Applicant shall give public notice of the application as required by law.

Special Condition 36.1 of the contract binds the purchaser to certain obligations expressed in a letter attached to the contract. That letter, dated 19 October 1988, was apparently sent from the solicitors for the vendor to the solicitors for the local authority setting out the terms of a settlement of an appeal brought before the Planning and Environment Court by the vendor following a subdivision application relating to the parent parcel from which the Sale 1 land was to be subdivided. The land which is the subject of Sale 1 lies in the western part of the parent parcel and there is between the sale land and the balance, a part of which I will call "the estate land", having an area estimated by Mr Grennan to be about 30 to 33 ha, referred to in the evidence as the "quarantined land". The letter sets out an agreement that the "quarantined land" will not be subdivided until the life of a quarry on the sale land ends, either because of the exhaustion of resources or because further quarrying becomes unlawful. The intent appears to be one of establishing a suitable buffer between the quarrying activities intended to be carried out on the sale land and the residential development which is to take place on the balance of the "estate land".

Abutting the "quarantined land" to its west is part of the sale land, which I will call the "north-east corner", which has an area of 10.5 ha and which the letter says will be subject to an application for rezoning from its existing "Extractive Industry" zone to "Rural B". The intent appears to be one of extending the buffer area beyond that provided by the "quarantined land". The party bound by an undertaking to apply to rezone the land in the "north-east corner" of the sale land is effectively saying that neither quarrying activity nor processing will not be carried out in that part of the land.

Clause 36.2 of the contract of sale provides that the purchaser will develop the land being purchased, in the way set out in "David Kershaw's Report", a report dated 20 July 1988.

Attachment C5 - Applicant claims to be helping native vegetation and local wildlife by not quarrying an illegal area

2019-05-20 Section 2 - The main application.pdf

27 / 354

The currently approved extraction area boundary would have resulted in the removal of native vegetation and extraction of quarry materials up to the edge of adjacent residential area towards the north-east of the site. This would have created a barrier to the movement of native fauna seeking to traverse these habitats, either blocking their passage entirely or forcing them into the adjacent residential area with an increase in threats.

Attachment D1 - SARA Referral assessment criteria

2019-07-05 SARA Information Request.pdf

Development details	
Description:	Development Permit for Material Change of Use to enlarge and realign the existing approved quarry footprint and extend the duration of an existing lawful Extractive Industry (Quarry); Environmentally Relevant Activity 16-2(b) and Environmentally Relevant Activity 16-3(b) for extractive and screening activities; and Development Permit for Operational Works for Tree works.
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 3, Division 4, Table 3, Item 1 – Clearing Native Vegetation Schedule 10, Part 5, Division 4, Table 2, Item 1 - Material Change of Use for an Environmentally Relevant Activity (Extractive Industry) Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 – State transport infrastructure Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – State transport corridors and future State transport corridors (Planning Regulation 2017)
SARA reference:	1906-11653 SRA
Assessment criteria:	State code 1: Development in a state-controlled road environment State code 6: Protection of state transport networks State code 16: Native Vegetation Clearing State code 22: Environmentally relevant activities

Attachment D2 - State Code 3 - Development in a Busway

State Development Assessment Provisions

State code 3: Development in a busway environment

3.1 Purpose statement

The purpose of this code is to protect **busways**, future **busways** and other infrastructure in a **busway corridor** from adverse impacts of development. The purpose of this code is also to protect the safety of people using, and living and working near, **busways**.

Specifically, this code seeks to ensure:

1. development does not create a safety hazard for users of a **busway**, by increasing the likelihood or frequency of fatality or serious injury
2. development does not compromise the structural integrity of a **busway**, **busway transport infrastructure** or **busway transport infrastructure works**
3. development does not compromise the state's ability to construct **busways** and future **busways**, or significantly increase the cost to construct **busways** and future **busways**
4. development does not compromise the state's ability to maintain and operate **busways**, or significantly increase the cost to maintain and operate **busways**
5. the community is protected from significant adverse impacts resulting from environmental emissions generated by **busways**.

3.2 Performance outcomes and acceptable outcomes

Development in a **busway** environment should demonstrate compliance with the relevant provisions of table 3.2.1 and table 3.2.2.

Development in a future **busway** environment should demonstrate compliance with the relevant provisions of table 3.2.3.

Table 3.2.1: Development in a busway environment

Performance outcomes	Acceptable outcomes
Buildings and structures	
PO2 Development does not add or remove loading that will cause damage to bus transport infrastructure or a busway corridor . Note: To demonstrate compliance with this performance outcome, it is recommended a RPEQ certified geotechnical assessment is provided. Section 3.1 of the Interim Guide to Development in a Transport Environment: Busway, Department of Transport and Main Roads 2017, provides further guidance on how to comply with this performance outcome.	No acceptable outcome is prescribed.
PO4 Construction activities do not cause ground movement or vibration impacts in a busway corridor . Note: To demonstrate compliance with this performance outcome, it is recommended a RPEQ certified geotechnical assessment is provided. Section 3.2 of the Interim Guide to Development in a Transport Environment: Busway, Department of Transport and Main Roads 2017, provides further guidance on how to comply with this performance outcome.	No acceptable outcome is prescribed.
Filling, excavation and retaining structures	
PO8 Excavation, boring, piling, blasting or fill compaction during construction of a development does not result in ground movement or vibration impacts that would cause damage or nuisance to busway transport infrastructure or busway transport infrastructure works . Note: To demonstrate compliance with this performance outcome, it is recommended a RPEQ certified geotechnical assessment is provided. Section 3.2 of the Interim Guide to Development in a Transport Environment: Busway, Department of Transport and Main Roads 2017, provides further guidance on how to comply with this performance outcome.	No acceptable outcome is prescribed.
PO9 Filling and excavation material does not cause an obstruction or nuisance in a busway corridor . Note: Section 3.2 of the Interim Guide to Development in a Transport Environment: Busway, Department of Transport and Main Roads 2017, provides further guidance on how to comply with this performance outcome.	AO9.1 Development does not store fill, spoil or any other material in, or adjacent to, a busway corridor .
PO10 Filling and excavation does not cause wind-blown dust nuisance in a busway corridor .	AO10.1 Compaction of fill is carried out in accordance with the requirements of AS1289.0 2000 – Methods of testing soils for engineering purposes. AND AO10.2 Dust suppression measures are used during filling and excavation activities such as wind breaks or barriers and dampening of ground surfaces.
Access	
PO14 Vehicular access for a development does not create a safety hazard or result in worsening of operating conditions on busways . Note: Section 3.4 of the Interim Guide to Development in a Transport Environment: Busway, Department of Transport and Main Roads, 2017, provides further guidance on how to comply with this performance outcome.	No acceptable outcome is prescribed.
PO15 Development does not damage or interfere with public passenger transport infrastructure , public passenger services or pedestrian and cycle access to public passenger transport infrastructure and public passenger services . Note: Section 3.5 of the Interim Guide to Development in a Transport Environment: Busway, Department of Transport and Main Roads, 2017, provides further guidance on how to comply with this performance outcome.	AO15.1 Vehicular access and associated road access works are not located within 5 metres of public passenger transport infrastructure . AND AO15.2 Development does not necessitate the relocation of existing public passenger transport infrastructure . AND AO15.3 On-site vehicle circulation is designed to give priority to entering vehicles at all times so vehicles using a vehicular access do not obstruct

Attachment D3 - Blast dust (including respirable crystalline silica)



Attachment D4 - Every day quarry dust on non-blasting days (including respirable crystalline silica)



Attachment D5 - Haulage truck dust dissipation on Tamborine - Oxenford Road (fine road dust contamination)



The inflows from Zone 1, the pit walls, varies from 15.1 ML/yr to 72.4 ML/yr when the permeability of the bedrock is varied from 0.001 m/d to 0.01 m/d. The 0.001 m/d value represents the anticipated permeability of the rock at depth, due in large part to the closure of fractures from the overburden pressure. The 0.01 m/d value represents the permeability of the bedrock as measured in the monitoring bores completed for this project.

The inflows from Zone 2, the pit floor, varies from 113.6 ML/yr to 359.2 ML/yr when the permeability of the bedrock is varied from 0.0001 m/d to 0.001 m/d. The 0.0001 m/d value represents low permeability rock at depth, due in large part to the closure of fractures from the overburden pressure. The 0.001 m/d value represents the highest probable floor permeability.

The inflow predictions show that the inflows are predominately from groundwater entering through the pit floor where the Neranleigh_Fernvale Beds are saturated. The inflows predicted by the low bedrock conductivity scenario (i.e. 4 L/s or 130 ML/yr) are considered more likely to be representative of the magnitude of inflows to be observed during operations.

Table 7.2 Analytical results

Scenario	Zone	K _{h1} (m/day)	Radius of influence (m)	Q (L/s)	Q (ML/yr)	Total (ML/yr)
		K _{h2} (m/day)				
Low bedrock conductivity	1	0.001	700	0.5	15.1	130 (best case)
	2	0.0001	700	3.6	113.6	
High bedrock conductivity	1	0.01	1,418	2.3	72.4	186
	2	0.0001	1,418	3.6	113.6	
High bedrock wall and floor conductivity	1	0.01	1,418	2.3	72.4	432 (worst case)
	2	0.001	1,418	11.4	359.2	

State Development Assessment Provisions

State code 8: Coastal development and tidal works

8.1 Purpose statement

The purpose of this code is to ensure that development is designed and located to:

1. protect life, buildings and infrastructure from the impacts of **coastal erosion**
2. maintain **coastal processes**
3. conserve **coastal resources**
4. maintain appropriate public use of, and access to and along, **state coastal land**
5. account for the projected impacts of climate change; and
6. avoid impacts on **matters of state environmental significance** and, where avoidance is not reasonably possible, minimise and mitigate impacts, and provide an **offset** for **significant residual impacts** where appropriate.

In addition to the above, the purpose of this code is to ensure that development involving operational works which is not assessed by local government is designed and located to protect life and property from the impacts of **storm tide inundation**.

Note: Guidance on achieving compliance with the performance outcomes and acceptable outcomes in the code is provided in the Guideline – SDAP State code 8: Coastal development and tidal works, Department of Environment and Heritage Protection, 2017. Guidance for determining if development will have a significant residual impact on a matter of state environmental significance is provided in the Significant Residual Impact Guideline, Department of State Development, Infrastructure and Planning, 2014.

8.2 Performance outcomes and acceptable outcomes

All development should demonstrate compliance with the relevant provisions of table 8.2.1.

Development involving operational work should also demonstrate compliance with the relevant provisions of table 8.2.2. Development involving operational work which is not assessed by local government should demonstrate compliance with the relevant provisions of table 8.2.1, table 8.2.2 and table 8.2.3.

Table 8.2.1: All development

Performance outcomes	Acceptable outcomes
Water quality	
PO11 Development: <ol style="list-style-type: none"> 1. maintains or enhances environmental values of receiving waters 2. achieves the water quality objectives of Queensland waters 3. avoids the release of prescribed water contaminants to tidal waters. <p>Note: See Environmental Protection (Water) Policy 2009 for the relevant water quality objectives.</p>	No acceptable outcome is prescribed.
Category C and R areas of vegetation	
PO12 Development: <ol style="list-style-type: none"> 1. avoids impacts on category C areas of vegetation and category R areas of vegetation; or 2. minimises and mitigates impacts on category C areas of vegetation and category R areas of vegetation after demonstrating avoidance is not reasonably possible. 	No acceptable outcome is prescribed.

Category C areas means areas of high value regrowth vegetation classed as 'endangered' or 'of concern' under the *Vegetation Management Act 1999* that are shown on the regulated vegetation management map as **category C areas**.

Category R areas means regrowth watercourse and drainage feature areas under the *Vegetation Management Act 1999* that are shown on the regulated vegetation management map as **category R areas**.

State Development Assessment Provisions

State code 11: Removal, destruction or damage of marine plants

11.1 Purpose statement

The purpose of the code is to ensure that development which involves the removal, destruction or damage of **marine plants**:

1. maintains the extent, distribution, diversity and condition of **marine plant** communities and protects the ecological functions to which they contribute
2. maintains the health and productivity of **fisheries resources** and **fish habitat**
3. minimises impacts on the management, use, development and protection of **fisheries resources** and **fish habitat**
4. avoids impacts on **marine plants** that are **matters of state environmental significance**, and where avoidance is not reasonably possible, minimises and mitigates impacts, and provides an **offset** for **significant residual impacts** where appropriate.

Note: **Marine plant** protection under the *Fisheries Act 1994* applies irrespective of the tenure.

Further information will be provided in the forthcoming guideline: State code 11: Removal, destruction or damage of marine plants, Department of Agriculture and Fisheries, 2017.

11.2 Performance outcomes and acceptable outcomes

Development that is a material change of use, reconfiguring of a lot or operational work which involves the removal, destruction or damage of a **marine plant** should demonstrate compliance with the relevant provisions of table 11.2.2. For further details of the specific performance outcomes to be addressed, please refer to table 11.2.1.

Table 11.2.1: Development type and relevant provisions of the code

Development	Relevant provisions of code
All development	Table 11.2.2 – PO1 – PO15
Private maritime infrastructure	Table 11.2.2 – PO16
Erosion control structures and beach replenishment	Table 11.2.2 – PO17 – PO22
Dredging	Table 11.2.2 – PO23 – PO25
Temporary works	Table 11.2.2 – PO26 – PO28
Restoration	Table 11.2.2 – PO29 – PO30
Matters of state environmental significance	Table 11.2.2 – PO31

Table 11.2.2: Operational works

Performance outcomes	Acceptable outcomes
All development	
<p>PO6 Development of, or adjacent to, fish habitats avoids the unnecessary loss, degradation or fragmentation of fish habitats and their values and the loss of fish movement.</p> <p>Note: For more information, refer to relevant fish habitat management operational policies and fish habitat guidelines:</p> <ol style="list-style-type: none"> 1. Management and protection of marine plants and other tidal fish habitats (FHMOP 001), Department of Primary Industries and Fisheries, 2007 2. Tidal fish habitats, erosion control and beach replenishment (FHMOP 010), Department of Primary Industries and Fisheries, 2007 3. Dredging, extraction and spoil disposal activities (FHMOP 004), Department of Primary Industries, 1998 4. Departmental procedures for permit applications assessment and approvals for insect pest control in wetlands (FHMOP 003), Department of Primary Industries, 1996 5. Fisheries guidelines for fish-friendly structures (FHG 006), Department of Primary Industries and Fisheries, 2006. 	No acceptable outcome is prescribed.
<p>PO9 Development likely to cause drainage or disturbance to acid sulfate soils, prevents the release of contaminants and impacts on fisheries resources and fish habitats.</p> <p>Note: Management of acid sulfate soil is consistent with the current Queensland acid sulfate soil technical manual: Soil Management Guidelines v4.0, Department of Science, Information Technology, Innovation and the Arts, 2014</p>	No acceptable outcome is prescribed.
<p>PO14 Development does not adversely impact on community access to fisheries resources and fish habitats including recreational and indigenous fishing access.</p> <p>Note: In some cases, compensation for impact on fisheries access, operations and/or productivity may be necessary. The Guideline on fisheries adjustment provides advice for proponents on relevant fisheries adjustment processes and is available by request from the Department of Agriculture and Fisheries.</p>	AO14.1 The development does not alter existing infrastructure or existing community access arrangements.

State code 25: Development in South East Queensland koala habitat areas

25.1 Purpose statement

The purpose of this code is to ensure that development in **South East Queensland**:

1. results in **no net loss of koala habitat area**
2. does not contribute to **fragmentation of koala habitat areas**
3. maintains or improves **connectivity** within and between **koala habitat areas** to ensure **safe koala movement**
4. is **constructed and undertaken in such a way that does not increase the risk of injury to, or death of koalas**
5. avoids impacts on **matters of state environmental significance**, and where avoidance is not reasonably possible, minimises and mitigates impacts and, provides an **offset for significant residual impacts to matters of state environmental significance that are prescribed environmental matters**.

Notes: Guidance on achieving compliance with the performance outcomes and acceptable outcomes in the code is provided in the Guideline – SDAP State code 25: Development in koala habitat areas, Department of Environment and Science, 2020.

Guidance for determining if development will have a significant residual impact on koala habitat areas is provided in Chapter 2A of the [Queensland Environmental Offsets Policy](#), Department of Environment and Science, 2018.

Guidance for determining if development will have a significant residual impact on all other matters of state environmental significance is provided in the Significant Residual Impact Guideline, Department of State Development, Infrastructure and Planning, 2014.

25.2 Performance outcomes and acceptable outcomes

Development that is building work, operational works, a material change of use or reconfiguring a lot that is **interfering with koala habitat** should demonstrate compliance with the relevant provisions in table 25.2.1.

Table 25.2.1 All development

Performance outcomes	Acceptable outcomes
Retaining koala habitat areas PO1 Development interfering with koala habitat (including interfering with koala habitat as a result of material change of use and interfering with koala habitat as a result of reconfiguring a lot) does not occur unless the application demonstrates the interfering with koala habitat has: <ol style="list-style-type: none"> 1. been reasonably avoided; or 2. been reasonably minimised where it cannot be reasonably avoided; and 3. mitigated the impacts of the interfering with koala habitat values. 	No acceptable outcome is prescribed.
Koala safety from construction activities PO4 The construction of the development does not increase the risk of injury or death of koalas.	AO4.1 A koala management plan is provided that includes: <ol style="list-style-type: none"> 1. activities that may cause injury or death of koalas from construction activities; and 2. acceptable measures to avoid and mitigate injury or death of koalas from construction activities <p>Note: To demonstrate compliance with this acceptable outcome, a koala management plan must be prepared by a suitably qualified and experienced person.</p> <p>AND</p> AO4.2 Interfering with koala habitat complies with the sequential clearing and koala spotter requirements under section 10 and 11 of the Nature Conservation (Koala) Conservation Plan 2017.
Matters of State Environmental Significance PO5 Development: <ol style="list-style-type: none"> 1. avoids impacts on matters of state environmental significance; or 2. minimises and mitigates impacts on matters of state environmental significance after demonstrating avoidance is not reasonably possible; and 3. provides an offset if, after demonstrating all reasonable avoidance, minimisation and mitigation measures are undertaken, the development results in an acceptable significant residual impact on a matter of state environmental significance that is a prescribed environmental matter. <p>Note: Guidance for determining if development will have a significant residual impact on koala habitat areas is provided in Chapter 2A of the Queensland Environmental Offsets Policy. Guidance for determining if development will have a significant residual impact on all other matters of state environmental significance is provided in the Significant Residual Impact Guideline, Department of State Development, Infrastructure and Planning, 2014.</p>	No acceptable outcome is prescribed.
Category C and R vegetation PO6 Development: <ol style="list-style-type: none"> 1. avoids impacts on category C areas of vegetation and category R areas of vegetation; or 2. minimises and mitigates impacts on category C areas of vegetation and category R areas of vegetation after demonstrating avoidance is not reasonably possible. 	No acceptable outcome is prescribed.

Attachment H1 - Site Entrance - claimed to be 'Approved Extraction Boundary'

