

Annexure A

DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Modification Application No:	Land and Environment Court Proceedings 327172 of 2020
Development Consent modified:	Development consent granted by the Land and Environment Court on 30 June 2017 in proceedings 108663 of 2017 (State Significant Development Application - 7090).
Description of development to be carried out under the consent (as previously modified):	<ul style="list-style-type: none">• Development of a hard rock quarry as an extension of the existing quarry footprint (previously approved pursuant to MP07_0074);• transportation from the site of no more than 2 million tonnes per annum (Mtpa) of quarry products from the site per year by road;• transporting quarry products by truck via two approved transport routes (the Primary Transport Route and the Secondary Transport Route);• additional overburden emplacements;• supporting infrastructure;• 24 hour per day crushing & processing; and• blasting.
Address and particulars of title of land on which development to be carried out:	715 Brayton Road, Marulan (contained in Lot 13 DP1123374, Lot 271 DP750053, Lot 1 DP1246715, Lot 12 DP1123374 and Lot 1 DP841147)
Description of modification to the development consent:	Increase the truck movements, amend the averaging of truck movements so that it is “averaged over the working days in each quarter” and increase the annual quarry product transport from the site to be no more than 2.6 million tonnes in any calendar year.

Determination: The development consent is modified as follows:

In the Definitions section

1. Amend the Definitions section as follows:

a. Insert the following definitions in alphabetical order:

<u>SEE MOD 2</u>	<u>Statement of Environmental Effects prepared by EMM Consulting dated November 2020, the Response to Submissions dated March 2021 and supplementary noise and air quality impact assessments prepared by EMM Consulting dated 23 April 2021</u>
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b. Amend the definition for 'Site' as follows:

Site	The land identified in Schedule 1 <u>Lot 13 in Deposited Plan 1123374</u> <u>Lot 271 in Deposited Plan 750053</u> <u>Lot 1 in Deposited Plan 1246715</u> <u>Lot 2 in Deposited Plan 841147</u> <u>Lot 12 in Deposited Plan 1123374</u> <u>Lot 1 in Deposited Plan 841147</u>
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In Schedule 2

2. Amend condition 2 to read as:

2. The Applicant must carry out the development:

(a) generally in accordance with the EIS **and SEE MOD 2**; and

(b) in accordance with the conditions of this consent, the Development Layout Plan and the Statement of Commitments.

Notes: The Development Layout Plan is included in Appendix 1

The Statement of Commitments is included in Appendix 2

3. Amend condition 7 to read as:

7. The Applicant must not transport more than **2.6** million tonnes of quarry products from the site in any calendar year.

4. Amend condition 9 to read as:

~~9. The Applicant must limit laden and unladen truck movements, taken together, as follows:~~ **The Applicant must limit truck movements to:**

(a) an average of 220 inbound movements and 220 outbound movements, including no more than 25 outbound movements on the secondary transport route, per working day (averaged over the working days in each quarter); and

(b) a maximum of 295 inbound movements and 295 outbound movements, including no more than 38 outbound truck movements on the secondary transport route, per working day.

~~(a) where road works required by condition 26 of Schedule 3 of this consent have not been completed to the satisfaction of the relevant roads authorities:~~

- ~~i. no more than 164, including no more than 25 outbound laden movements on the secondary transport route, per working day (averaged over the working days in each calendar month); and~~
- ~~ii. a maximum of 320, including a maximum of 38 outbound laden truck movements on the secondary transport route, on any working day;~~

~~(b) until annual quarry production exceeds 1 million tonnes:~~

- ~~i. no more than 196, including no more than 25 outbound laden movements on the secondary transport route, per working day (averaged over the working days in each calendar month); and~~
- ~~ii. a maximum of 440, including a maximum of 38 outbound laden truck movements on the secondary transport route, on any working day;~~

~~(c) after annual quarry production exceeds 1 million tonnes and until annual quarry production exceeds 1.5 million tonnes:~~

- ~~i. no more than 292, including no more than 25 outbound laden movements on the secondary transport route, per working day (averaged over the working days in each calendar month); and~~
- ~~ii. a maximum of 470, including a maximum of 38 outbound laden truck movements on the secondary transport route, on any working day; and~~

~~(d) after annual quarry production exceeds 1.5 million tonnes and until and whenever annual quarry production is 2 million tonnes:~~

- ~~i. no more than 370, including no more than 25 outbound laden movements on the secondary transport route, per working day (averaged over the working days in each calendar month, except for the 2-monthly periods of November/December and January/February, during which it may be averaged over the working days in the relevant 2-monthly period); and~~
- ~~ii. a maximum of 490, including a maximum of 38 outbound laden truck movements on the secondary transport route, on any working day.~~

~~The Applicant must advise the Secretary in writing of the satisfaction of the relevant roads authorities under paragraph (a) above and its intention to undertake truck movements in accordance with the production limits specified in paragraphs (b), (c) or (d) above.~~

Note: In this condition:

'working day' means any day on which the Applicant may load and despatch trucks (see condition 4 of Schedule 3); **and**

'quarter' means a three-monthly period, comprising January to March, April to June, July to September and October to December (inclusive) in each calendar year.

~~'annual quarry production' means annual quarry production as shown in the production data report to be provided to DRG and the Secretary in condition 17 of schedule 2.~~

In Schedule 3

5. Amend condition 9 to read as:

9. A noise compliance assessment of the traffic noise impacts of the project must be undertaken within two months of annual dispatches of quarry products exceeding 1 million, 1.5 million, ~~and 1.9 million~~ **and 2.5 million** tonnes. The assessment must be conducted by a suitably qualified and experienced acoustical practitioner and must assess compliance of the traffic noise impacts against the predictions in the ~~EIS documents listed in condition 2(a) of Schedule 2~~ **and relevant road noise criteria, to the satisfaction of the Secretary.** The traffic noise compliance assessment reports must be provided to the Department within 1 month of each assessment.

6. Amend condition 14 to read as:

14. The Applicant must ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the development do not cause exceedances of the criteria in Table 6 at any residence on privately-owned land.

Table 6: Air quality criteria

<u>Pollutant</u>	<u>Averaging period</u>	<u>Criterion</u>	
<u>Particulate matter < 10 µm (PM₁₀)</u>	<u>Annual</u>	<u>^{a, d} 25 µg/m³</u>	
	<u>24 hour</u>	<u>^b 50 µg/m³</u>	
<u>Particulate matter < 2.5 µm (PM_{2.5})</u>	<u>Annual</u>	<u>^{a, d} 8 µg/m³</u>	
	<u>24 hour</u>	<u>^b 25 µg/m³</u>	
<u>Total suspended particulate (TSP) matter</u>	<u>Annual</u>	<u>^{a, d} 90 µg/m³</u>	
<u>^c Deposited dust</u>	<u>Annual</u>	<u>^b 2 g/m²/month</u>	<u>^{a, d} 4 g/m²/month</u>

<u>Pollutant</u>	<u>Averaging Period</u>	<u>Criterion</u>	
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Particulate matter < 10 µm (PM₁₀)	Annual	a,d 30 µg/m³	
Particulate matter < 10 µm (PM₁₀)	24 hour	b 50 µg/m³	
Total suspended particulates (TSP)	Annual	a,d 90 µg/m³	
^e Deposited dust	Annual	b 2 g/m²/month	a,d 4 g/m²/month

Notes to Table 6:

a Cumulative impact (ie increase in concentrations due to the development plus background concentrations due to all other sources).

b Incremental impact (ie increase in concentrations due to the development alone, with zero allowable exceedances of the criteria over the life of the development).

c Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.

d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents or any other activity agreed by the Secretary.

e "Reasonable and feasible avoidance measures" includes, but is not limited to, the operational requirements in conditions 14, 15 and 16 to develop and implement an air quality management system that ensures operational responses to the risks of exceedance of the criteria.

In Appendix 4

7. Modify condition 4 to read as:

4. Unless the Secretary agrees otherwise, this monitoring is to be carried out in accordance with the relevant requirements for reviewing performance set out in the NSW Industrial Noise Policy (as amended from time to time), in particular the requirements relating to:

(a) monitoring locations for the collection of representative noise data;

(b) meteorological conditions during which collection of noise data is not appropriate;

(c) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and

(d) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration,

with the exception of applying appropriate modifying factors for low frequency noise during compliance testing. This should be undertaken in accordance with Fact Sheet C of the NSW Noise Policy for Industry (EPA, 2017).

~~(b) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and~~

~~(c) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration.~~