

Appendix 3

Development Consent DA283/97

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Planning &
Infrastructure

Mining & Industry Projects

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Our Ref: N96/00196

Mr Charles Kennett
Pacific Blue Metal Pty Limited
PO Box 6
NABIAC NSW 2312

Dear Mr Kennett,

**Possum Brush Quarry Modification (DA 283/97 MOD 3)
Notice of Determination**

I wish to advise you that on 12 December 2012, the Director, Mining and Industry Projects, as delegate for the Minister for Planning and Infrastructure, approved the modification application for the Possum Brush Quarry (DA 283/97 MOD 3) under Section 75W of the Environmental Planning and Assessment Act 1979.

The Notice of Modification and Consolidated Consent are attached for your information. These documents and the Department's assessment report are also available from the Department's website at <http://majorprojects.planning.nsw.gov.au/page/determinations/>.

If you wish to discuss this matter further, please contact Sophie Butcher.

Yours sincerely


Paul Freeman
Senior Planner
Mining Projects

13-12-12

Cc: Arnna Fotheringham
Greater Taree City Council

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure, I modify the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

David Kitto
Director, Mining and Industry Projects

Sydney 12 DECEMBER 2012

SCHEDULE 1

The Development Consent for the Possum Brush Quarry, granted by the Minister for Urban Affairs and Planning on 25 May 1998 (DA 283/97).

SCHEDULE 2

1. Delete condition 1 of Schedule 2, and replace with the following:

1. The development is to be carried out generally in accordance with the:
 - (a) Development Application 283/97 lodged with Greater Taree City Council on 12 September 1997, and accompanying Environmental Impact Statement prepared by ERM Mitchell McCotter dated September 1997;
 - (b) modification application MOD 52-7-2002, dated 18 July 2002;
 - (c) modification application MOD 105-8-2006, dated 29 August 2006;
 - (d) modification application DA 283/97 MOD 3 and accompanying Environmental Assessment titled "Environmental Assessment for An Additional Minor Area of Extraction at the Possum Brush Quarry", prepared by R W Corkery and Co Pty Limited and dated November 2012; and
 - (e) conditions of this consent.

Note: This Consent allows for continued quarrying activities in Area A (as shown in Figure 1); processing and related activities in the vicinity of the processing plant; product stockpiling in the Southern Stage of Area B (as shown in Figure 1) and product transportation; as set out in the applications and associated documents listed above, except as varied by the conditions imposed in this consent.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

**DETERMINATION OF DEVELOPMENT APPLICATION UNDER
SECTIONS 89, 91AB AND 101(08) OF THE ACT**

I, the Minister for Urban Affairs and Planning, under sections 89, 91AB and 101(8) of the Environmental Planning and Assessment Act 1979 ('the Act') determine the development application referred to in Schedule 1 by granting consent to that application subject to the conditions set out in Schedule 2.

The reason for the imposition of conditions generally is to minimise any adverse effects from the development, consistent with the objectives of the Act. These conditions are listed in Schedule 2.

Craig Knowles MP
Minister for Urban Affairs and Planning
Minister for Housing

Sydney, 25 May 1998

File No: N96/00196

SCHEDULE 1

Application made by:	Pacific Blue Metal Pty Ltd
To:	Greater Taree City Council
In respect of:	Lot 109 DP 753195, Lot 3 DP 701903 and Lot 66 DP 608957, 113/115 Possum Brush Road, Possum Brush, Greater Taree City
For the following:	Expansion of existing hard rock quarry
Development Application:	Development Application No. 283/97 lodged with Greater Taree City Council on 12 September 1997, accompanied by an Environmental Impact Statement prepared by ERM Mitchel McCotter dated September 1997

Ministerial direction issued under section 101 of the Act on 14 November 1997, directing Greater Taree City Council to refer the development application to the Secretary of the Department of Urban Affairs and Planning

Determination:

(1) To ascertain the date upon which this consent becomes effective, refer to section 101(9)(b) of the Act;

(2) To ascertain the date upon which this consent lapses, refer to section 99 of the Act.

(3) Section 101(9)(a) of the Act provides that the Minister's determination shall be final and that the provisions of sections 97 and 98 shall not apply to or in respect of the determination.

MOD 1 in green type

MOD 2 in blue Type

MOD 3 in red type

SCHEDULE 2

CONDITIONS OF DEVELOPMENT CONSENT

LIST OF ABBREVIATIONS

The Applicant.....	Pacific Blue Metal Pty Ltd
Council.....	Greater Taree City Council
The Department.....	The Department of Urban Affairs and Planning
The Director-General.....	Director-General of the Department of Urban Affairs and Planning
DLWC.....	Department of Land and Water Conservation
EPA.....	Environment Protection Authority
NPWS.....	National Parks and Wildlife Service

GENERAL

1. The development is to be carried out generally in accordance with:
 - (a) the Development Application 283/97 lodged with Greater Taree City Council on 12 September 1997, and accompanying Environmental Impact Statement prepared by ERM Mitchell McCotter dated September 1997;
 - (b) modification application MOD 52-7-2002, dated 18 July 2002;
 - (c) modification application MOD 105-8-2006, dated 29 August 2006;
 - (d) modification application DA 283/97 MOD 3 and accompanying Environmental Assessment titled "*Environmental Assessment for An Additional Minor Area of Extraction at the Possum Brush Quarry*", prepared by R W Corkery and Co Pty Limited and dated November 2012; and
 - (e) the conditions of this consent.

Note: This Consent allows for continued quarrying activities in Area A (as shown in Figure 1 attached); processing and related activities in the vicinity of the processing plant; product stockpiling in the Southern Stage of Area B (as shown in Figure 1 attached); and product transportation, except as varied by the conditions imposed in this consent.

2. In accordance with section 91AB(1)(c) of the EP&A Act, this consent is issued for Stage 1 of the development. Stage 1 comprises the first 21 years of quarrying activity on the site following the issue of this consent.
3. In accordance with section 91AB(2) of the EP&A Act, a further consent shall be obtained for Stage 2 of the development. Stage 2 comprises the subsequent 29 years of quarrying activity on the site.
4. A consent granted in accordance with Condition No. 3 does not require a further development application under section 77 of the EP&A Act. However, any such

consent will be subject to the Applicant preparing a report(s) on the environmental performance of Stage 1 of the development and additional information relating to proposed Stage 2 operations. The report(s) is to be prepared to the satisfaction of the Director-General and shall be made publicly available. Any public submissions received in response to the report(s) shall be taken into consideration prior to the granting of a consent for Stage 2 of the development.

5. Following the cessation of the 29 year period referred to Condition No. 3, a new DA will need to be lodged to enable continued quarrying activity on the site.

SURRENDER OF CONSENT

6. Pursuant to Section 91(7) of the Environmental Planning and Assessment Act 1979 and Clause 80 of the Environmental Planning and Assessment Regulation 1994, the Applicant shall within one week of the granting of this consent, surrender to the Minister for Urban Affairs and Planning the consent for DA No. 431/1986 issued on 23 September 1987 by the Land and Environment Court for the use of Lot 3 DP 701903 and Lot 66 DP 608967 and Portion 109 or the Parish of Talawahl for the establishment of a hard rock quarry and crushing plant.
7. During Stage 1 of the development:
 - (i) extraction shall be confined to Area A and the area known as the Northern Stage in Area B, as shown in Figure 1 attached,
 - (ii) extraction sequences shall generally follow Figures 2 and 3 attached or as modified by the EMP referred in Condition No. 27, and
 - (iii) the depth of extraction shall be restricted to AHD 90m,

unless otherwise approved by the Director-General.

Nothing in this condition affects extraction sequence and depth during Stage 2 of the development. Any restrictions on extraction sequence and depth during Stage 2 are to be determined prior to the issuing of any consent in accordance with Condition No. 3.

STATUTORY REQUIREMENTS

8. The Applicant shall ensure that all statutory requirements including but not restricted to those set down by the Local Government Act 1993, Pollution Control Act 1970, Clear Air Act 1961, Clean Water Act 1970, Noise Control Act 1975, Protection of the Environment Administration Act 1991, and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements issued pursuant to statutory powers by the Greater Taree City Council (Council), Environment Protection Authority (EPA), Department of Mineral Resources (DMR), National Parks and Wildlife Service (NPWS), Department of Land and Water Conservation (DLWC) and Roads and Traffic Authority (RTA) are fully met.

WORKING HOURS

9. The Applicant shall undertake all works at the quarry site within the hours specified in (a) to (d) below:
- (a) 6:30am to 6:00pm Monday to Friday and 7:00am to 3:00pm Saturday;
 - (b) 6:00am to 9:00pm Monday to Saturday for maintenance of equipment strictly in the plant and workshop areas. All maintenance outside approved working hours shall be inaudible at any residence (other than the one owned by the Applicant).
 - (c) No trucks used for the transport of product are to enter the site prior to 6:15am Monday to Friday and 6:45am Saturday. In respect to unloaded trucks entering the site, the Applicant shall erect a gate across the site access road 200 m from the product stockpile area, or in another location agreed by Council, which shall not be opened to allow truck access until either 6:30am Monday to Friday or 7:00am Saturday.
 - (d) No works shall be carried out on Sundays or public holidays.

However, the Director-General may, in consultation with Council, review these hours and direct that they be modified in the event that noise disturbances are identified as an issue of concern in the Environmental Management Report (Condition No. 38) or through the Community Consultative Committee (Condition No. 42).

10. The hours specified in Condition No. 9(a) to (d) above can be extended only for an emergency or circumstances involving the upgrading of the Pacific Highway with the approval of Council. The Applicant shall keep a log of all such work and report on same in the Environmental Management Report (EMR) referred to in Condition 38.

BLASTING

11. Blasting shall only be carried out between 9:00am and 3:00pm Monday to Friday. Blasting shall not be allowed on public holidays unless the Council in special circumstances and in consultation with the EPA, approves other times.
12. Blasting in the early morning hours (between 6:00am and 9:00am) and early evening hours (between 3:00pm and 8:00pm) shall only be approved by Council in exceptional circumstances and where justification is made and noise monitoring demonstrates acceptable blast levels at nearby residences as determined by the EPA.
13. Air blast overpressure and vibration monitoring and control shall generally be carried out in accordance with the recommendations of Australia Standard AS-2187-1993 or its latest version and in terms of ANZECC Guidelines, to the satisfaction of the EPA.

14. The Applicant shall design all blasts to minimise air blast over pressure and vibration using the NONEL system or the equivalent such that any one blast has less than a five percent probability of exceeding an air blast over pressure of 115dB (Linear) and vibration with a peak particle velocity of 5mm/sec at any residence outside the quarry not owned by the Applicant.
15. Blasting shall not be carried out at times of adverse environmental and atmospheric conditions.
16. Upon written request of the owner of any existing dwelling house located within two (2) kilometres of the proposed quarry, the Applicant shall arrange at its own costs, for the inspection by a technically qualified person agreed to by both parties, to record the material condition of any existing dwelling house. The Applicant shall supply a copy of any inspection report, certified by the person who undertook the inspection, to the relevant property owner within fourteen (14) days of receipt of the report.

Should the inspection report find that structural damage to the dwelling house has occurred as a result of blasting at the quarry, the owner of that dwelling house may request the Applicant to carry out works to remedy or mitigate that damage. Such works shall be carried out at the Applicant's expense and shall be agreed to by the owner of the dwelling house.

In the event of a dispute between the Applicant and the owner of an existing dwelling house arising from the requirements of this condition, the Applicant shall refer the matter for the consideration and decision of the Director-General.

17. The Applicant shall give notice of proposed blasting times to residents within two (2) kilometres of the active quarry face if requested by residents.

LOAD LIMITS OF TRUCKS

18. All trucks leaving the site shall comply with the legal weight limitations for classes of vehicles established by the Roads and Traffic Authority and local councils for the particular roads used to deliver products to customers.
19. The Applicant shall submit a quarterly report to Council detailing on a daily basis all loads over its weigh bridge.

VEGETATION REMOVAL

20. No trees or native vegetation shall be destroyed, cut down, or removed from the property outside the limit of the extraction area shown in Figure 2 attached without the prior written approval of the Council.

NOISE LEVELS

21. The Applicant shall ensure that the $L_{A10(15\text{minute})}$ noise levels due to the normal operation of the quarry, when measured or computed at any residence (other than one owned by the Applicant), shall not exceed a noise level of 35 dB(A).

22. Noise measurement shall be undertaken under prevailing weather conditions, in the absence of temperature inversions and over a period of time sufficient to be representative of the noise levels being emitted from the quarry.

SECONDARY BREAKAGE OF OVERSIZED BLOCKS

23. Secondary rock breaking shall be confined to Area A and the area known as the Northern Stage in Area B. Secondary rock breaking shall be conducted such that the vibration and blast overpressure levels recommended in ANZECC guideline “Technical Basis for Guidelines to Minimise Annoyance Due to Blasting Overpressure and Ground Vibration” are not exceeded at any existing residential property.

Prior to excavation to a level where benches can provide shielding effect, an area shall be designated for such operation and temporary bunds be constructed to minimise noise impact.

The annual EMR referred to in Condition No. 38 shall indicate the equipment and locations used for secondary rock breaking in the past year, and nominated equipment and locations to be used in the forthcoming year, together with an assessment of any complaints received in the past year.

MONITORING PROGRAM

24. Within 3 months of the date of this consent or within such further period as the Council may require, the Applicant shall submit, in consultation with the EPA, for the approval of the Council a program to monitor for noise, dust and water pollution, indicating sampling locations, frequencies and parameters to be tested.

WATER MANAGEMENT

25. Within 3 months of the date of this consent, or within such further period as the Council may require, the Applicant shall submit, in consultation with the DLWC, a comprehensive site water management plan to the satisfaction of the Council.
26. The plan shall include, but not be limited to:
- i. the measures for the management of the quality and quantity of surface and ground water within and around the quarry site.
 - ii. storm water diversion and the effective management of clean and dirty water on the site,
 - iii. identification of any possible adverse effects on water supply sources of surrounding and downstream land holders as a result of the quarry operations and the measures necessary to mitigate such adverse effects,
 - iv. the demonstration of adequate on-site storage and capacity for off-site discharge, and
 - v. a strategy for water management at the end of 21 years and at the cessation of quarry operations in the longer term.

ENVIRONMENTAL MANAGEMENT PLAN (EMP)

27. Within 3 months of the date of this consent, or such further period as the Council may require, the Applicant shall prepare in consultation with the NPWS and submit for Council's approval an EMP. The Plan shall be reviewed every 5 years and generally follow the format as outlined in Appendix 8 of the Commission of Inquiry report. The following shall also be included in the appropriate sections of the EMP and each subsequent review.
- (a) The extraction sequence plans as shown in Figures 2 and 3 attached or included in any five year review of the EMP.
 - (b) A rehabilitation and revegetation plan as detailed in the section "Landscaping and Site Rehabilitation" of the Commission of Inquiry report.
 - (c) A program to progressively improve the structure and floristic composition of the proposed wildlife corridor in accordance with recommendations of the NPWS. The corridor shall be established to the satisfaction of the Director-General and in consultation with the NPWS.
 - (d) Proposed staging and indicative timing of regeneration activities.
 - (e) A weed removal program
 - (f) Proposed enrichment planting of pre-existing plant species within the quarry and the proposed 50m buffer zone.
 - (g) A plan of planting of Rudder's Box within the Applicant's property to enhance the local abundance of the species.
 - (h) Erection of fence to exclude cattle and other exotic grazing stock to the proposed wildlife corridor.
 - (i) A program to mitigate the potential loss of habitat of the Brush-tailed Phascogale.
 - (j) A program to mitigate the impact of the development of Rudder's Box.
 - (k) A program to control foxes, cats and dogs.
 - (l) A program to remove and destroy feral bee hives from habitat tree hollows.
 - (m) Implementation of speed limits and provisions of wildlife warning signs on internal roads.
 - (n) The condition and safety of Possum Brush Road and any measures required to improve the condition and/or safety of the road.

ARCHAEOLOGY

28. The Applicant shall, within one (1) month of the date of the consent, or within such further period as agreed to by Council, prepare a report, in consultation with the NPWS, updating the findings of the 1984 Brayshaw Report and submit it for Council's approval. The report shall include proposed mitigation measures, if necessary, to protect Aboriginal heritage value of the site.
29. In the event that artefacts are identified on the site during development through earthworks, construction or operation of the quarry, the Applicant, shall contact the NPWS and cease work in the relevant location pending investigation and assessment of its heritage value.

ROADWORKS

30. The Applicant shall bear the cost of widening Possum Brush Road, from the intersection of the Pacific Highway to the quarry entrance to 8 metres total width including lanes and shoulders. Engineering plans, including longitudinal sections and cross sections, are to be submitted to and approved by Council prior to work commencing.
31. The Applicant shall bear the cost of rehabilitation of the existing pavement of Possum Brush Road from the intersection of the Pacific Highway to the quarry entrance by an appropriate treatment. Details of the proposed treatment are to be submitted to and approved by the Council prior to work commencing.

This work shall be completed before 31 July 2003 by Council or a contractor approved by Council and are to be undertaken with materials supplied free-of-charge from the quarry.

32. The Applicant shall place a Stop Sign on the central island at the quarry entrance, with the existing Stop Sign being relocated to the north to coincide with the new sign.
33. The Applicant shall place a raised threshold to Council's specifications on the quarry access road at the Stop Sign.
34. Following rehabilitation works completed on Possum Brush Road in accordance with Conditions Nos. 30 and 31, the Applicant is to provide material to Council free of cost for ongoing maintenance works on that road.
35. The Applicant shall improve the sight distances at the intersection of the quarry access road and Possum Brush Road by the removal of obstructing roadside vegetation to the satisfaction of Council. The approved sight distance is to be regularly maintained.
36. (1) The Applicant shall pay to Council a contribution for the maintenance of Possum Brush Road between the quarry entrance and the Pacific Highway. The rate of the contribution for all extractive materials transported from the quarry is:
 - (a) 7.5 cents per tonne for the first five years;
 - (b) 10 cents per tonne for the next five years; and
 - (c) a further increase of 5 cents per tonne at the commencement of each subsequent five year period thereafter.

(2) The payment of the road maintenance contribution shall commence ten years from the date of the consent and be paid monthly to Council.

(3) The Applicant shall provide a summary of the maintenance work undertaken on Possum Brush Road by Council or an approved contractor in each EMR required under condition 38.
37. The condition and safety of Possum Brush Road shall be subject to the review of the Community Consultative Committee established in accordance with Condition No. 42.

ENVIRONMENTAL MANAGEMENT REPORT (EMR)

38. The Applicant shall submit an Environmental Management Report to the Council on an annual basis following the date of this consent or at such longer periods as the Council shall nominate. This report is to be prepared by an independent person as approved by the Council.
39. The Report shall:
- (a) review compliance with conditions of consent and other statutory licence conditions,
 - (b) review effectiveness of environmental management in terms of EIS objectives and EMP requirements,
 - (c) report the activities during the reporting period, including road maintenance activities,
 - (d) provide an overview of the activities during the following reporting period, including road maintenance activities,
 - (e) set out environment management targets during the following reporting period,
 - (f) detailed environmental monitoring results which includes interpretation and discussion by a suitably qualified person, and
 - (g) detail any complaints made concerning operation of the quarry during the previous reporting period.
40. The Applicant shall ensure that copies of the EMR are submitted to Council and are available to the Community Consultative Committee (referred to in condition No. 42) and any interested person for perusal and copy, upon application to the Council.
41. The Council may notify the applicant of any requirements with regard to the recommendations of the EMR. The Applicant shall comply with those reasonable requirements within such time as the Council may require.

COMMUNITY CONSULTATIVE COMMITTEE

42. The Applicant shall participate and co-operate in the establishment by the Council of a Community Consultative Committee. The purpose of the Committee is to review the EMR, provide an interface with the community in relation to the ongoing mitigation of any environmental impacts of the quarry, and convey concerns of the local community to the Applicant and the Council.
43. The Applicant shall be responsible for such administrative support and financial contributions as may reasonably be required by the Council for the Committee to undertake its functions.
44. The Committee shall be chaired by a Councillor and include 2 representatives each of the quarry operating company and the residents in the Possum Brush

locality selected by the Council and a Council staffer. The Committee may seek additional members or technical advice from time to time from public authorities or relevant individuals.

DISPUTE RESOLUTION

45. Any dispute arising between any of the parties in respect of these conditions shall be referred to the Director-General of Urban Affairs and Planning, whose determination of the dispute shall be final and binding on the parties.

ADDITIONAL CONDITIONS

46. Liquid fuel, explosives and chemical storage areas shall be constructed and bunded in accordance with the requirements of the Dangerous Goods Act. Details of the measures to deal with storage of such materials shall be included in the EMP for Council's approval.
47. The Applicant shall limit production and transportation of finished quarry products to an average of 200,000 tonnes per annum. Materials provided to Council free of charge for roadworks on Possum Brush Road in accordance with Condition No. 31 shall be excluded from this limit.
48. The Applicant shall erect and maintain barriers around the periphery of the operational quarry faces sufficient to clearly delineate top of batters to the satisfaction of the Council.
49. The boundaries of the "extraction area" as referred to in Condition No. 7 shall be defined by survey and pegged by a registered surveyor to the satisfaction of the Council. Appropriate measures shall be taken to protect survey pegs at all times.
50. Unless delivering products to a property owner or lessee fronting Bullocky Way, no trucks travelling to or from the quarry site shall travel along Bullocky Way without the written agreement of Council.
51. No trucks associated with the development are to travel via Tritton Road or via the section of Possum Brush Road to the west of intersection with the quarry access road unless delivering products to a property owner or lessee fronting onto these roads or providing materials for the maintenance of the road themselves.
52. The Applicant shall consult and comply with reasonable requirements of the Council concerning means to prevent and fight fires.
53. The Applicant shall continue to provide a bank guarantee in the sum of \$50,000 in favour of the Council being the sum necessary to ensure due completion of the rehabilitation and landscaping works referred to in Condition 27.
54. The Applicant shall retain a water cart on site and shall keep damp any surfaces generating dust to the satisfaction of the Council.

55. Water spraying apparatus shall be maintained in conjunction with the processing plant and stockpile area to minimise the emission of dust during processing and stockpiling to the satisfaction of the Council.
56. The Applicant shall ensure all truck loads of product/material transported off site are suitably covered or contained so that no spillage can occur at any stage.
57. The Applicant shall comply with Council's requirements for supplementary tree and shrub planting to further screen the quarry operation should Council consider such screening is required to further ameliorate the visual impact of the quarry as it develops when viewed from public roads and adjoining properties.

Note: The above conditions do not relieve the Applicant of the obligation to obtain other approvals required under any other Act.

FIGURE 1 Site Layout Plan and Proposed Extraction Areas

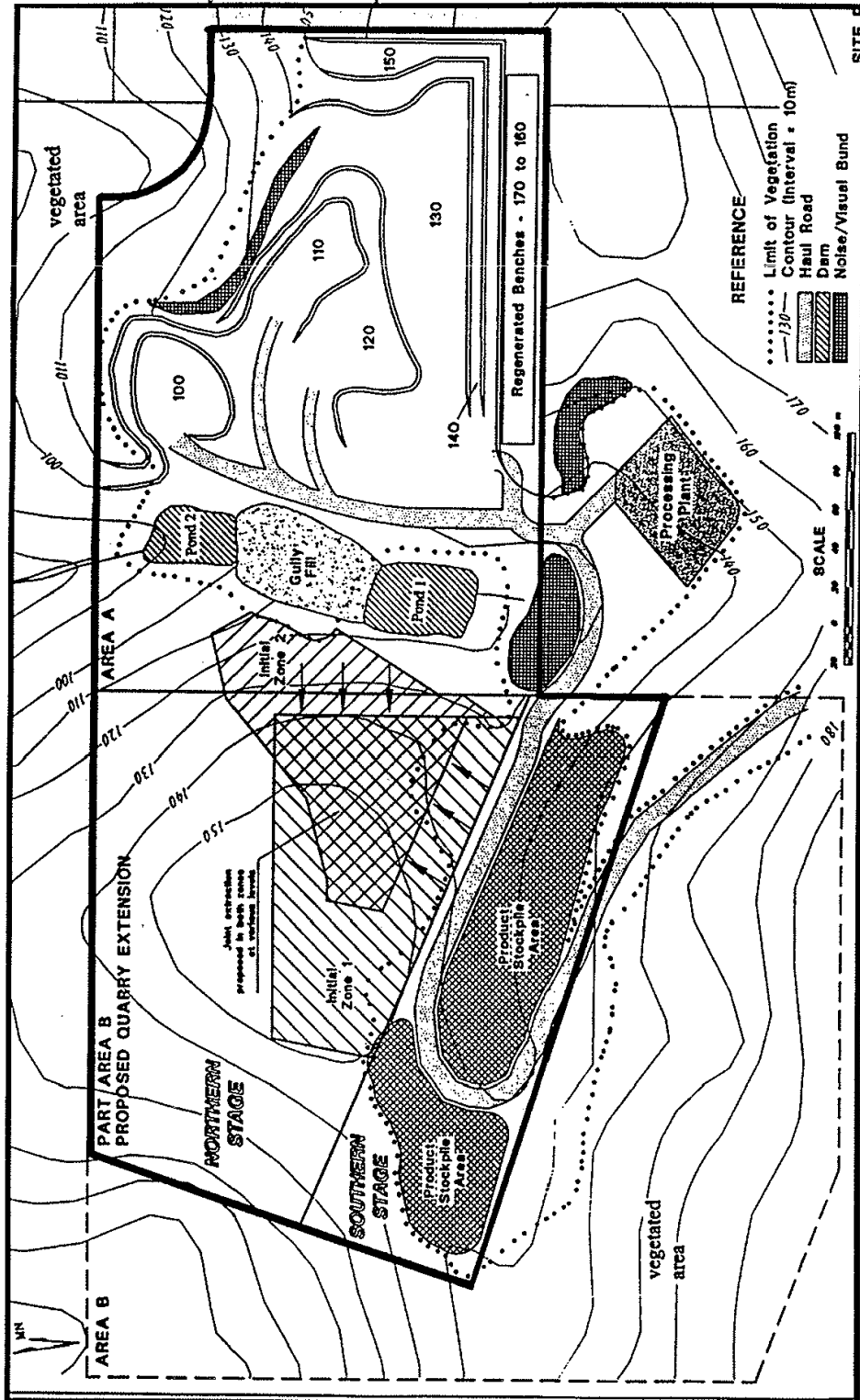


FIGURE 2 Indicative Quarry Sequence - Current to Year 10

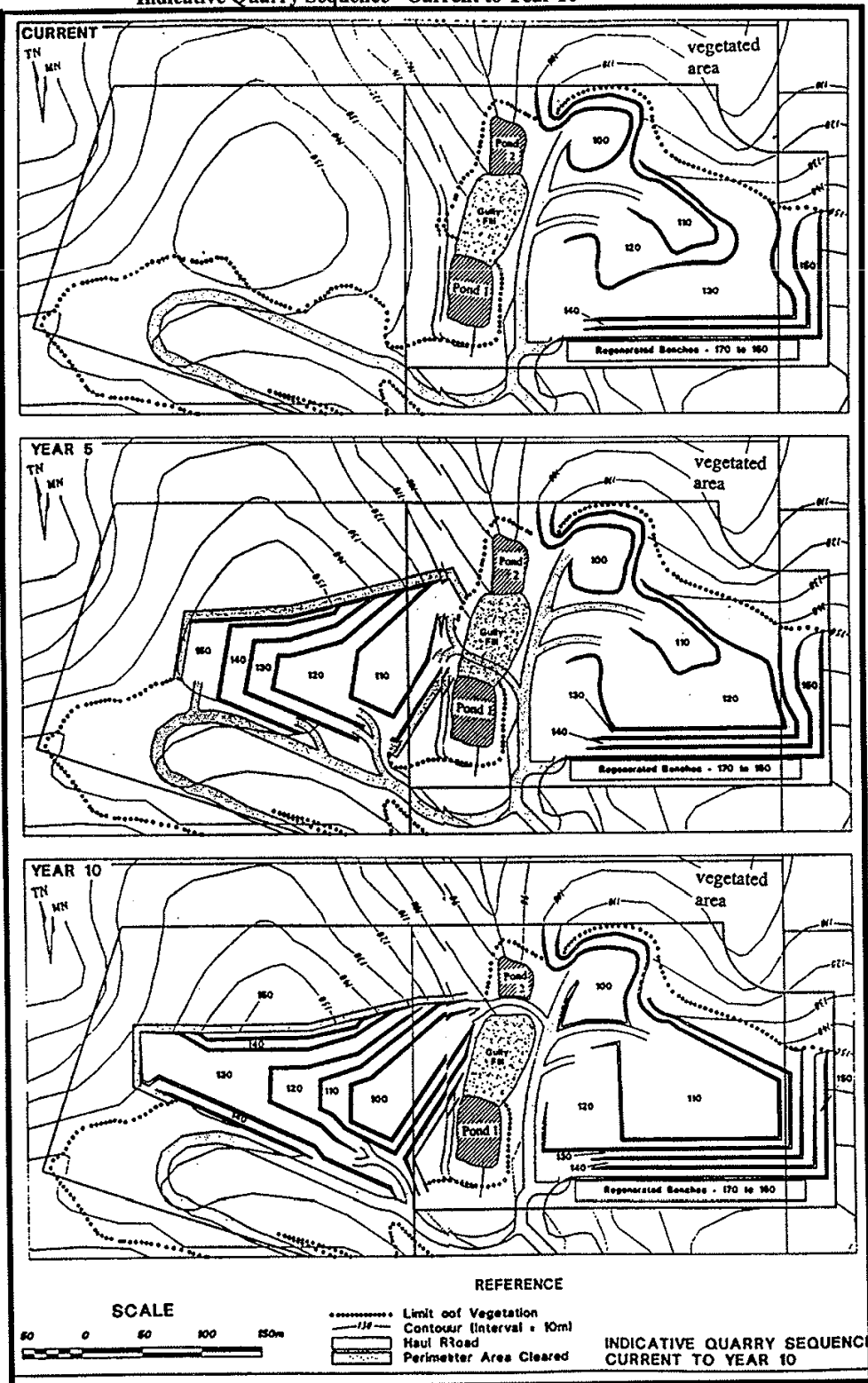
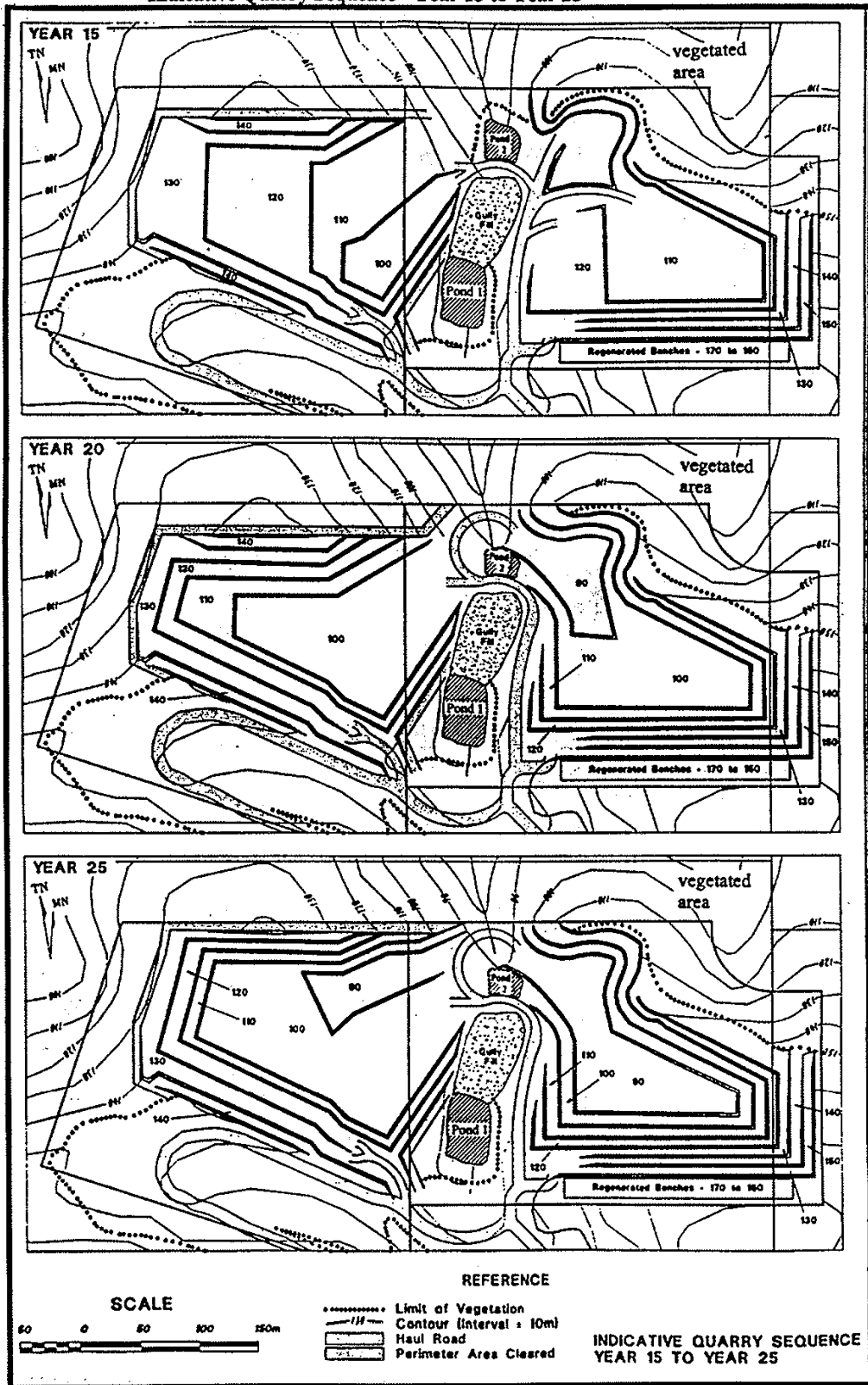


FIGURE 3 Indicative Quarry Sequence - Year 15 to Year 25



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