



Fw: Plsnning Panel Hearing - WA389 - 1221 -1249 Centre Road - Oakleigh South

[SEC=UNCLASSIFIED]

Ian McLeod

to:

David Wilson

17/11/2017 03:28 PM

Hide Details

From: Ian McLeod/EER/DSD

To: David Wilson/Person/VICGOV1@VICGOV1

2 Attachments



P1914 2016 Hillview Quarries Pty Ltd v Mornington Peninsula SC (jp 27041.. ..doc McLeod_Ian.vcf

Ian McLeod

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(See attached file: McLeod_Ian.vcf)

----- Forwarded by Ian McLeod/EER/DSD on 17/11/2017 03:27 PM -----

From: "Fyfe, Daniel (Doncaster) AUS" <daniel.fyfe@hanson.com.au>

To: "Ian.McLeod@ecodev.vic.gov.au" <Ian.McLeod@ecodev.vic.gov.au>

Cc: "david.wilson@ecodev.vic.gov.au" <david.wilson@ecodev.vic.gov.au>, "Karen.Sonnekus@ecodev.vic.gov.au"

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Date: 26/10/2017 04:34 PM

Subject: RE: Plsnning Panel Hearing - WA389 - 1221 -1249 Centre Road - Oakleigh South [SEC=UNCLASSIFIED]

Ian

I have recalled our documents from archive and determined that Work Authority WA 389 is no longer a valid or current document.

The letter accompanying the Work Authority dated 20 December 2001 states that pursuant to Section 21 of the Extractive Industries Development Act 1995, this Work Authority remains in force for the period for which it is permitted under the relevant Planning Scheme, and until land owners consent is revoked, lapses or otherwise ceases to have effect.

The Planning and Environment Act Section 68 States:

PLANNING AND ENVIRONMENT ACT 1987 - SECT 68 When does a permit expire?

PLANNING AND ENVIRONMENT ACT 1987 - SECT 68

When does a permit expire?

(1) A permit for the development of land expires if—

(a) the development or any stage of it does not start within the time specified in the permit; or

S. 68(1)(aa) inserted by No. 128/1993 s. 17.

(aa) the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or

S. 68(1)(b) amended by No. 53/1988 s. 45(Sch. 2 item 34) (as amended by No. 47/1989 s. 19[aj]).

(b) the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

(2) A permit for the use of land expires if—

(a) the use does not start within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or

(b) the use is discontinued for a period of two years.

(3) A permit for the development and use of land expires if—

(a) the development or any stage of it does not start within the time specified in the permit; or

(b) the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or

(c) the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or

(d) the use is discontinued for a period of two years.

In the recent Hillview Quarries v Mornington Peninsula Shire VCAT Decision (attached in full) , VCAT Member Judith Perlstein states:

7 With respect to the second issue, I find that the permit has expired either because the use of the land for extractive industry did not start within two years after the issue of the permit or because, once started, it was then discontinued for a period of more than two years.

Quite clearly there is no Planning Instrument that enacts the Work Authority.

On the issue of land owner consent, the property was divested by Consolidated Quarries around 2001 and Hanson and its related companies have not any ongoing right of access to the site.

Further, we would contest that the use of the site has specifically not been for the purposes of an Extractive Industry since that time.

Best Regards

Daniel Fyfe

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From: Ian.McLeod@ecodev.vic.gov.au [mailto:Ian.McLeod@ecodev.vic.gov.au]
Sent: Tuesday, 24 October 2017 4:43 PM
To: Fyfe, Daniel (Doncaster) AUS <daniel.fyfe@hanson.com.au>
Cc: david.wilson@ecodev.vic.gov.au; Karen.Sonnekus@ecodev.vic.gov.au; sanjive.narendranathan@ecodev.vic.gov.au
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Hi Daniel,

Further to our discussions regarding this matter, this confirms that Earth Resources Regulation has been requested to attend and make submissions to Planning Panels Victoria on the 30 October 2017 regarding the above site.

The Panel has asked ERR for submissions regarding the status and obligations of the Work Authority WA389.

ERR seeks your consent to refer to and potentially provide copies of the Work Authority, Work Plan and associated documents at the panel:

Please advise if you consent to ERR providing these documents at the panel.

I have an electronic copy of the documents and could email them to you.....however, some of the documents are large and consequently, may need to be transmitted in several emails.

Regards,

Ian

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