



Ordinary Meeting

Council Chambers

Date: 2 March 2016

Time: 9:00am

AGENDA

THE ORDINARY MEETING OF THE MAREEBA SHIRE COUNCIL WILL BE HELD AT COUNCIL CHAMBERS, ON **WEDNESDAY, 2 MARCH 2016** AND THE ATTENDANCE OF EACH COUNCILLOR IS REQUESTED.

PETER FRANKS
CHIEF EXECUTIVE OFFICER

ORDER OF BUSINESS

MEMBERS IN ATTENDANCE

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BEREAVEMENTS/CONDOLENCES

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CORPORATE AND COMMUNITY SERVICES**REGIONAL LAND USE PLANNING**

ITEM-1 **NC CAIRD - MATERIAL CHANGE OF USE - MOTOR HOME PARK - LOT 2 SP217458 - CHEWKO ROAD, MAREEBA - DA/15/0051**

MEETING: Ordinary

MEETING DATE: 2 March 2016

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	NC Caird	ADDRESS	Chewko Road, Mareeba
DATE LODGED	25 November 2015	RPD	Lot 2 on SP217458
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Motor Home Park		

FILE NO	DA/15/0051	AREA	30.11 hectares
LODGED BY	Brazier Motti Pty Ltd	OWNER	NC Caird
PLANNING SCHEME	Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11)		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Nil		

ATTACHMENTS: 1. Proposal Plan/s
 2. Ergon Energy advice agency response dated 8 December 2015.

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is impact assessable and no properly made submissions were received in response to public notification of the application.

The applicant proposes the addition of second designated motor home park area on the subject site. The proposed motor home park area will be operated in conjunction with the sites existing motor home park approved by Council on 19 December 2013 (DA/13/0129). The proposed motor home park area is situated adjacent the eastern boundary of the site fronting Chewko Road and will include up to 10 powered parking sites.

The application and supporting material has been assessed against the relevant statutory planning instruments including the FNQ Regional Plan, the State Planning Policy and the Mareeba Shire Planning Scheme 2004 (including codes and policies). The proposed development is in conflict with the State Planning Policy State Interest - "Mining and extractive resources" as the development will result in the intensification of an existing sensitive land use within a Key Resource Area (KRA), specifically KRA No. 151 (Chewko/Paglietta Road sand mining).

It is considered that there are sufficient grounds to approve the development despite this conflict, as discussed in the officer recommendation section of this report.

Draft conditions were provided to the applicant, care of their consultant and have been agreed to. It is recommended that the application be approved in full, subject to conditions.

For development approval DA/13/0129, the applicant paid a roads contribution of \$11,370.00 based on the assumption that the motor home park would accommodate a maximum of 15 motor homes per day, for 365 days per year.

A subsequent development application for a motor home park at Fichera Road, Mareeba (DA/14/0005) was subject to a different methodology in calculating the roads contribution based on a maximum number of overnight stays permitted per annum, instead of a daily limit. The requested 1,500 overnight stay limit per annum attracted a roads contribution of \$3,115.00.

Given the motor home park industry generally experiences peak demand during tourist seasons and is otherwise quiet for the remainder of the year, the applicant has requested that this same 1,500 annual "overnight stay" limit be placed on this sites motor home park operations (both approved and proposed) which would allow the applicant to capitalise during peak tourist seasons, as other park operators do.

Applying an annual overnight stays limit would also significantly reduce the whole development's maximum number of anticipated annual vehicle movements. As discussed in the body of this report, for the purposes of consistency and fairness to the applicant, it is recommended that a revised roads contribution of \$3,546.00 be applied to the site's entire motor home park operations (capped at 1,500 overnight stays) and it is recommended that the \$7,824.00 balance of the original \$11,370.00 roads contribution be reimbursed to the applicant.

OFFICER'S RECOMMENDATION

"1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	NC Caird	ADDRESS	Chewko Road, Mareeba
DATE LODGED	25 November 2015	RPD	Lot 2 on SP217458
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Motor Home Park		

and in accordance with the Sustainable Planning Act 2009, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does consider that the assessment manager's decision conflicts with a relevant instrument.

Details of the conflict with the relevant instrument	Reason for the decision, including a statement about the sufficient grounds to justify the decision despite the conflict
<u>State Planning Policy</u> Mining And Extractive Resources (1) Development Ensures that: (a) for development within a resource/processing area for a KRA - the undertaking of an existing or future extractive industry development is not significantly impeded, and (b) sensitive land uses are avoided within the separation area for a resource/processing area of a KRA; and	<p>The subject site is situated within a resource/processing area for a key resource area (KRA), this being KRA no. 151.</p> <p>Despite being situated within the KRA, the proposed intensification of the sites existing motor home use is not likely to impede on existing and future extractive industries for the following reasons:</p> <ul style="list-style-type: none"> • The proposed motor home park is separated from existing sand extraction operations in the KRA by a distance in excess of 1 kilometre. Extensive vegetation exists within this separation distance; • The soil type/structure and topography of the site is not conducive to extractive industry operations, with the majority of the site incorporating natural well established vegetation; • The proposed development involves short term stays of no longer than 5 consecutive days and does not involve any additional <u>permanent</u> residential component (i.e. park visitors can readily leave); and • Both the existing and proposed motor home park areas contain minimal permanent infrastructure meaning should the use be abandoned, the site can easily be rehabilitated to its original pre-development state.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Motor Home Park

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
33346/0002 A	Plan of Proposed Motor Home Park	Brazier Motti	21/10/2015
33346/0003 A	Plan of Proposed Motor Home Park	Brazier Motti	21/10/2015

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
- 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.

3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges within the conditions of approval or the Adopted Infrastructure Charges Notice.
- 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
- 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.5 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

3.6 Waste Management

The applicant shall ensure there is no on site disposal of refuse associated with the motor home park use unless such refuse is disposed of in refuse bins provided in accordance with the following:

- (i) No refuse is to be stored on site outside the refuse bins at any time.
- (ii) On site refuse storage area for all refuse bins must be provided and be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer or 1.8m high solid fence.

3.7 Bushfire Management

A Bushfire Management Plan, incorporating evacuation procedures for the motor home park must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.8 Signage

- (i) No more than 1 advertising sign for the motor home park is permitted on the subject site.
- (ii) The sign must not exceed 2.4 metres x 1.2 metres or a maximum area of 2.9m².
- (iii) The sign/s must be kept clean, in good order and safe repair for the life of the approval.
- (iv) The sign/s must be removed when no longer required.
- (v) The erection and use of the advertisement must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.

3.9 The motor home park operations on site shall not accommodate more than 1,500 overnight stays per annum.

Records of all overnight stays must be kept and made available to Council upon request.

3.10 The motor home park must only accommodate self-contained motor homes/caravans. Self-contained motor homes/caravans must have an onboard toilet and shower, onboard water supply and wastewater holding tanks.

3.11 The maximum length of stay for each motor home/caravan must not exceed five (5) consecutive days.

4. Infrastructure Services and Standards

4.1 Access

The existing access crossover servicing the motor home park (Chewko Road) must be maintained to bitumen sealed standard (from the edge of the road pavement to the property boundary of the subject site) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer for the life of the development.

4.2 Stormwater Drainage/Water Quality

- (i) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- (ii) Prior to works the development commencing, the applicant must submit a Stormwater Quality Management Plan, including an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer. The plan must detail what measures will be implemented to prevent erosion in the event the surface of the motor home parking area deteriorates due to wet weather and/or high traffic.
- (iii) The applicant/developer must ensure that the Stormwater Quality Management Plan is complied with for the life of the development.

4.3 Car Parking/Internal Driveways

- (i) All car parking associated with the motor home park must be accommodated within the subject site.
- (ii) All internal roads used for the motor home park must be constructed and maintained with a gravelled surface for the life of the development, to the satisfaction of Council's delegated officer.

4.4 Lighting

Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

4.5 Landscaping

Prior to the commencement of the use, the applicant/developer must prepare and submit a landscape plan for consideration and approval by Council's delegated officer.

The landscape plan must illustrate, at minimum a 2 metre wide landscape buffer planted along the Chewko Road frontage of the site for the full length of the motor home park area, excluding access point/s.

The landscape buffer must be planted prior to the commencement of the use and should include shrubs and trees that will grow to form an effective visual buffer of no less than 3 metres in height. The landscape buffer must be mulched, irrigated and maintained for the life of the development, to the satisfaction of Council's delegated officer.

4.6 Non-Reticulated Water Supply

Any water supplied to the park visitors must be treated so as to be potable (safe for drinking in accordance with National Health Medical Research Guidelines) or if there is not any potable water, it must be clearly labelled at each tap - Non Potable Water - not safe for Human Consumption.

4.7 On-Site Wastewater Management

- (i) No black or grey water from motor homes is to be discharged on site unless discharged in an approved 'dump ezy' style holding tank.
- (ii) The design of the 'dump ezy' style holding tank must be certified by a RPEQ (Registered Professional Engineer of Queensland) and must include an overflow trench and warning/alarm system to notify the applicant when stored waste levels reach 75 percent capacity, unless otherwise approved by Council's delegated officer.
- (iii) The 'dump ezy' style holding tank must be emptied by a licensed waste collector and taken to a licensed waste water facility (sewage treatment plant).
- (iv) When in use, the 'dump ezy' style holding tank must be emptied at least once (1) per week to minimise the potential for odour nuisance, unless otherwise approved by Council's delegated officer.
- (v) The applicant must keep receipts for the transportation and dumping of waste and must make these records available for Council's inspection upon request.
- (vi) Any spills or overflows from the 'dump ezy' style holding tank must be reported to Council immediately.

4.8 Electricity Easement Requirements

- (i) The easement area is excluded from the proposed motor home park area, with no short term parking of motor homes / caravans permitted within the easement area.
- (ii) Motor home vehicle movements across the easement are limited to the area shown as proposed driveway (as amended in red on the attached plan).
- (iii) Natural ground level within the easement should not be altered without approval from Ergon Energy. Should any cut and/or fill be proposed within the easement, detailed civil drawings showing the proposed levels (and the location of Ergon Energy assets in relation to the proposed development) must be approved by Ergon Energy prior to any works commencing on site. Should changes (i.e. realignment) to Ergon Energy infrastructure be proposed or required as part of the development, those changes are made with Ergon Energy's consent and at the developer/owner's expense (unless otherwise agree to by Ergon Energy).
- (iv) Access to the easement and access along the easement must be available to Ergon Energy personnel and equipment at all times. Where fencing prohibits access to and along the easement area, gates must be supplied and installed at the developer/owner's expense.
- (v) If required, the developer will be required to negotiate electricity supply arrangements by applying in writing to Ergon Energy, or by contacting Ergon Energy on 13 10 46. Early contact is recommended. Should the development require additional onsite infrastructure (i.e. additional or upgraded pad mounted transformer), early contact with Ergon Energy (i.e. prior to detailed design) can ensure any easement requirements are accounted for in a timely and efficient manner.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) Food Premises (restaurants/bed & breakfasts etc.)

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

- (b) The change in the use of any building may also require a change in the classification of that building under the Building Act. The applicant is advised to contact a Building Certifier to establish if a change in the classification of the building is required.

- (c) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(d) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(e) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au

(f) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

(g) Motor Home Park

The applicant is advised that an application to Council for approval to operate under Council *Local Law No 1 (Administration) 2011* is required prior to the commencement of the motor home park/caravan park/camping ground.

(E) RELEVANT PERIOD

When approval lapses if development not started (s.341)

- Material Change of Use – four (4) years (starting the day the approval takes effect);

(G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

2. The Council refund \$7,824.00 of the augmentation of the road network contribution paid for development approval DA/13/0129."

THE SITE

The subject site is described as Lot 2 on SP217458, situated along Chewko Road approximately 8.5 kilometres south-west of Mareeba. The site has a total area of 30.11 hectares, is irregular in shape and is zoned Rural under the Mareeba Shire Planning Scheme.

The site has approximately 270 metres of frontage to Chewko Road and approximately 280 metres to Paglietta Road. Both roads are bitumen sealed for the entire frontage of the subject site. Access to the site is provided off both roads via modern, bitumen sealed accesses.

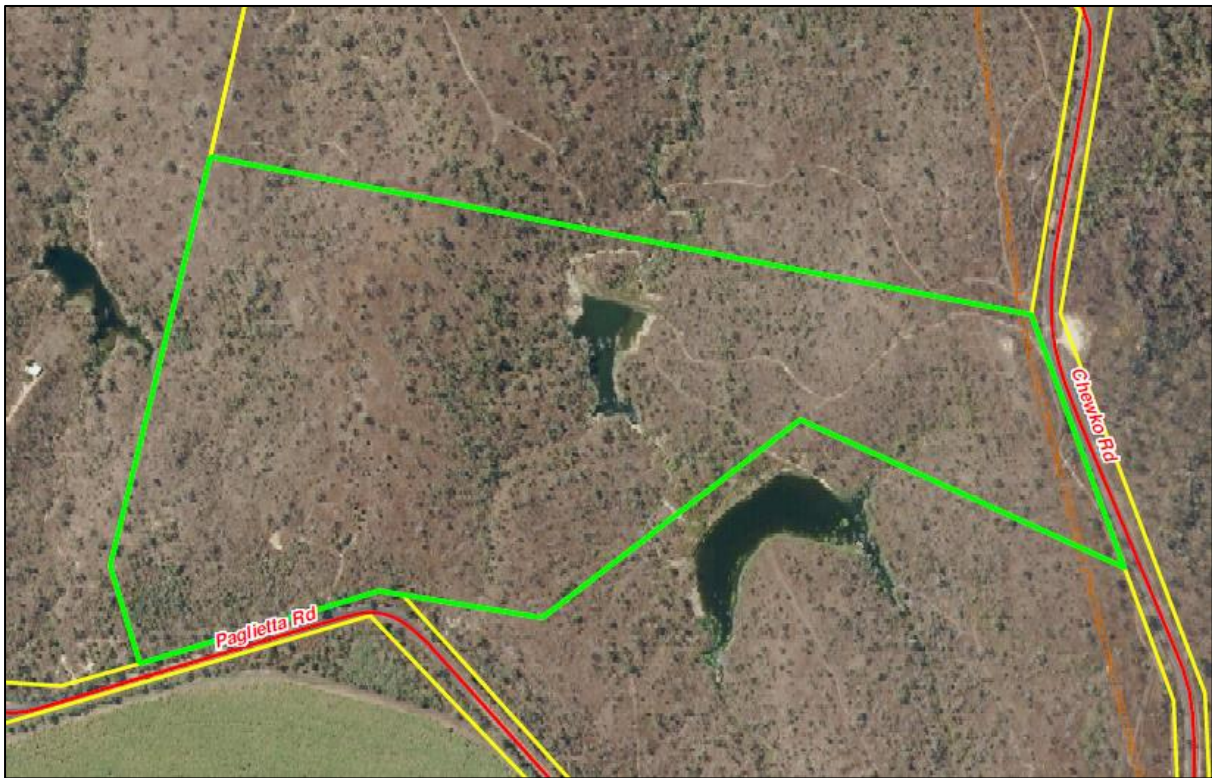
An easement for electricity supply purposes (overhead power lines) traverses the easternmost portion of the site adjacent Chewko Road. This easement and powerlines run through and over the proposed motor home park area.

The subject site is currently improved by an existing motor home park situated on a cleared ridgeline on the western side of the site. The proposed motor home park will be run in conjunction with this existing park. Other improvements include a sewerage dump-point (at existing motor home park area), and various structures within the newly proposed motor home park area.

The site is sparsely vegetated across the majority of the land by remnant vegetation containing *Of Concern Regional Ecosystem*. The only areas of the site not covered by remnant vegetation are the existing and proposed motor home park areas.

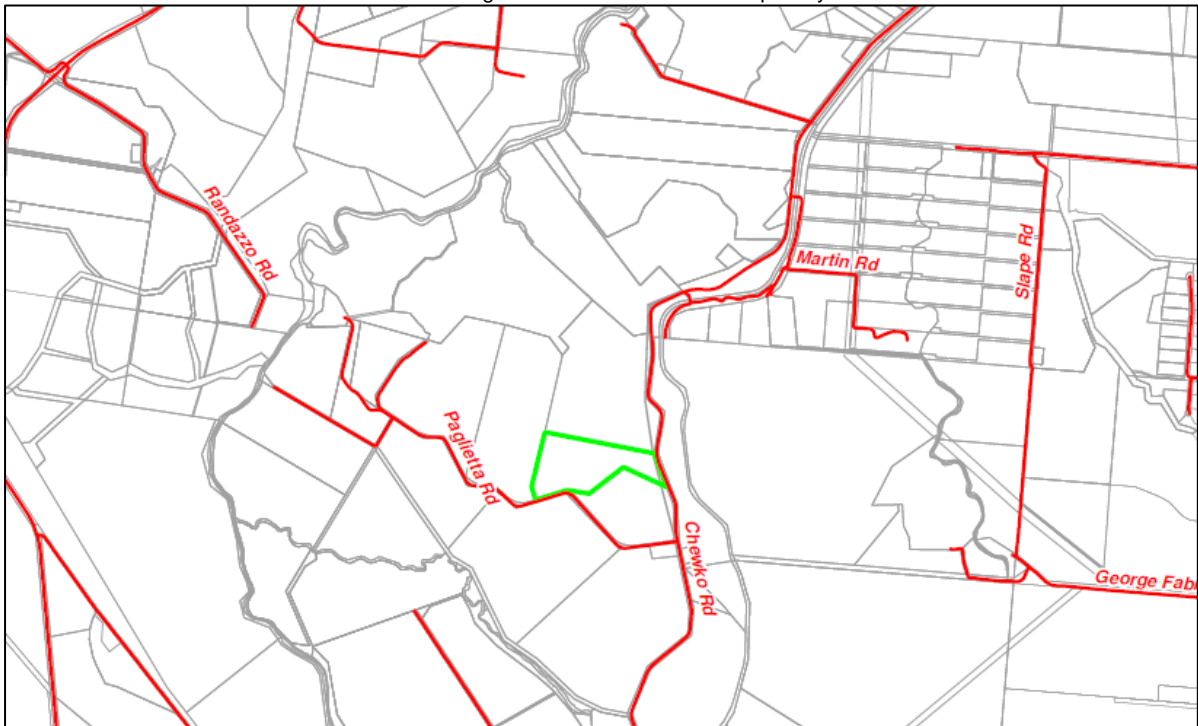
Land uses within the area are consistent with rural zone and include the following:

- North: Allotments directly to the north are relatively large, sparsely vegetated and generally used for rural living purposes.
- South: Land to the south is used for agricultural (sugar cane) purposes and an extractive industry (sand extraction).
- East: Land to the east of the site is used for grazing and limited agricultural purposes.
- West: Land to the west is used for agricultural (sugar cane) purposes and an extractive industry (sand extraction). Granite Gorge Nature Park is located approximately 2 kilometres west of the subject land, at the end of Paglietta Road.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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BACKGROUND AND CONTEXT / PREVIOUS APPLICATION & APPROVALS

Council, at its Ordinary Meeting on 19 December 2013, resolved to issue a development permit for material change of use - motor home park over land described as Lot 2 on SP217458 and Lot 10 on SP254832, situated at Paglietta Road and Chewko Road, Mareeba (DA/13/0129).

The Decision Notice was issued on 23 December 2013.

Development approval DA/13/0129 permitted the use of the subject site for the keeping of self-contained motor homes only with the premise that the keeping of caravans required a development permit for a "caravan park" as defined under the Planning Scheme, regardless of whether or not the caravans were self-contained.

Following multiple compliance issues regarding various motor home parks accommodating both self-contained motor homes and caravans, a formal request from a motor home park operator was put forward for Council to reconsider the interpretation of the Planning Scheme's "motor home park" land use definition to include self-contained accommodation vehicles in general (inclusive of caravans).

Council, at its Ordinary Meeting on 19 August 2015 resolved the following:

"That Council confirm the interpretation of Council officers that motor home parks as defined under the Mareeba Shire Planning Scheme 2004 are able to accommodate self-contained accommodation vehicles in general, provided such vehicles have an onboard toilet and shower, onboard water supply and wastewater holding tanks."

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Motor Home Park in accordance with the plans shown in **Attachment 1**.

The applicant proposes the establishment of a second motor home park area on the site to accommodate self-contained motor homes and caravans. Essentially, the proposed motor home park area represents an intensification of the existing motor home park use already established on the western half of the site.

The proposed motor home park area will be situated adjacent the eastern boundary of the site which fronts Chewko Road and will include up to ten (10) powered parking sites. The proposed additional motor home park area is proposed in response to the increasing demand for self-sufficient travellers for cheaper overnight parking than that traditionally offered in a caravan park.

The additional motor home park area will be run in line with the 'Leave No Trace' principle which encourages users to leave a site in the same or better condition than when arriving.

The proposed motor home park area will provide motor home/caravan guests with views to the west and north of the site. Access to the designated motor home park area will be from Chewko Road via an existing sealed access crossover in the north-east corner of the site. From this existing crossover, the applicant proposes the construction of an internal loop road formalised by compacted gravel (or similar) being suitable for heavy vehicles. The applicant has stated that each of the ten powered sites will be readily accessible from this proposed access road.

No formal parking arrangements will be provided, instead, park guests will be able to choose their preferred location within the perimeter of the permissible parking area which will be clearly identified (see site plan). A caretaker's office will be established within the existing cluster of buildings situated in proximity to the park entrance. Park fees will be payable at this location or at the existing home based site office situated on adjoining Lot 10 on SP254832.

Users of the proposed additional motor home park area will have access to the site's existing 'Dump Ezy' black/grey water disposal system which is situated in the confines of the site's existing motor home park area. Additional wheelie bins will be provided in a screened enclosure in proximity to the Chewko Road access point for use by park occupants. It is anticipated that these wheelie bins will be collected by Council's weekly garbage collection service.

The applicant maintains existing firebreaks throughout the property which will continue to be maintained as part of this proposal. These firebreaks were established as part of the subject lands original reconfiguration approval.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Mareeba Dimbulah Irrigation Area
Zone:	Rural zone
Overlays:	Natural and Cultural Heritage Features Overlay Airport and Aviation Facilities Overlay Natural Disaster Bushfire Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Motor home park means the use of premises for the parking of self-contained motor homes for short stays without requiring facilities normally associated with a caravan park. The term does not include Caravan park as otherwise defined.

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Assessment against the Regional Plan is required because the plan is not reflected in the planning scheme. The application is assessed as being capable of substantially complying with the relevant provisions of the Regional Plan, provided reasonable and relevant conditions are applied.

The following Desired Regional Outcome Land Use Policies are relevant to the assessment of the application:

DRO 1.1 Biodiversity Conservation			
Land Use Policy		Complies	Comments
1.1.1	<i>Urban development within the regional landscape and rural production area is located outside of areas of high ecological significance (see map 3).</i>	n/a	The Regional Plan does not define the proposed use as an urban activity; instead, it is defined as Tourist Activity.

DRO 2.1 Regional Landscape Values			
Land Use Policy		Complies	Comments
2.1.1	<i>The value of the landscape for nature conservation, primary production, renewable energy resource areas, priority carbon sequestration, cultural heritage, outdoor recreation and scenic amenity is given appropriate recognition in land use planning and development assessment.</i>	✓	The subject land has significant scenic amenity values due to its extensive remnant vegetation coverage. The proposed development will make use of an established cleared area and no further vegetation clearing is necessary to facilitate the development of the additional motor home park area.

DRO 2.4 Primary Production & Fisheries			
Land Use Policy		Complies	Comments
2.4.1	<i>Good quality agricultural land is protected from urban development outside the urban footprint.</i>	✓	The Regional Plan does not define the proposed use as an urban activity; instead, it is defined as Tourist Activity. Planning Scheme Map S2 identifies the subject land as not good quality agricultural land. Good quality agricultural land does exist approximately 500 metres to the south of the proposed motor home park area. This separation distance is considered adequate in terms of protecting this nearby GQAL. Due to topographical, vegetation and soil quality constraints, it is improbable that any other allotment adjoining the subject land will ever be developed for agriculture.
2.4.2	<i>Appropriate buffer distances between incompatible uses and agricultural operations on good quality agricultural land are provided through sensitive land use planning in accordance with State Planning Policy 1/92.</i>	✓	The proposed motor home park area is situated approximately 500 metres from any nearby GQAL, exceeding SPP 1/92's desired separation distance of 300 metres. Due to topographical, vegetation and soil quality constraints, it is improbable that any other allotment adjoining the subject land will ever be developed for agriculture.

DRO 2.5 Extractive Industries and Mineral Resources			
Land Use Policy		Complies	Comments
2.5.1	Key resource areas and associated transport infrastructure are protected in accordance with State Planning Policy 2/07.	✓/x	<p>State Planning Policy 2/07 has lapsed. However, the Single State Planning Policy does include assessment provisions to protect key resource areas and associated transport infrastructure as follows:</p> <p>"Mining And Extractive Resources</p> <p>(1) Development Ensures that:</p> <p>(a) for development within a resource/processing area for a KRA - the undertaking of an existing or future extractive industry development is not significantly impeded, and</p> <p>(b) sensitive land uses are avoided within the separation area for a resource/processing area of a KRA;"</p> <p><u>Comment</u></p> <p>The subject site is situated within a resource/processing area for key resource area (KRA) No. 151.</p> <p>Despite being situated within the KRA, the proposed development is not likely to impede on existing and future extractive industries for the following reasons:</p> <ul style="list-style-type: none"> • The proposed motor home park is separated from existing sand extraction operations in the KRA by a distance in excess of 1 kilometre. Extensive vegetation exists within this separation distance; • The soil type/structure and topography of the site is not conducive to extractive industry operations, with the majority of the site incorporating natural well established vegetation; • The proposed development involves short terms stays of no longer than 5 consecutive days and does not involve any additional <u>permanent</u> residential component (i.e. park visitors can readily leave); and • Both the existing and proposed motor home park areas contain minimal permanent infrastructure meaning should the use be abandoned; the site can easily be rehabilitated to a pre-development state.

DRO 5.4 Primary Industries			
Land Use Policy		Complies	Comments
5.4.2	Threats to primary production from incompatible development are identified and managed through land use planning and where appropriate, by developer established buffers.	✓	<p>The proposed motor home park area is situated approximately 500 metres from any nearby GQAL.</p> <p>Due to topographical, vegetation and soil quality constraints, it is improbable that any other allotment adjoining the subject land will ever be developed for agriculture.</p>

DRO 5.5 Tourist Development			
Land Use Policy		Complies	Comments
5.5.2	<p><i>Tourist development, including development that incorporates short-term accommodation for tourists, may be undertaken within the regional landscape and rural production area where there is an identified need in a subregion and the accommodation:</i></p> <p>(a) <i>is of a nature and scale that is sympathetic to the maintenance of the regional landscape and rural production values</i></p> <p>(b) <i>minimises the impact on good-quality agricultural land</i></p> <p>(c) <i>avoids areas of high ecological significance and coastal hill slopes and headlands (see sections 1.1 and 2.3).</i></p>	✓	<p>The subject land is located within the Regional Landscape and Rural Production Area.</p> <p>The subject site contains an existing motor home park. The applicant proposes the establishment of this additional motor home park area due to an increase in demand for self-sufficient accommodation for motor homes and other self-contained caravans.</p> <p>The scale of the proposed development is such that it will remain sympathetic to the values of the locality. The proposed use can be carried out without the need for further clearing and significant site disturbance.</p> <p>Planning Scheme Map S2 identifies the subject land as not good quality agricultural land.</p> <p>The proposed motor home park area is appropriately separated from nearby GQAL.</p> <p>Due to topographical, vegetation and soil quality constraints, it is improbable that any other allotment adjoining the subject land will ever be developed for agriculture.</p>
5.5.3	<p><i>Where tourist development is located within a strategic rehabilitation area, the development should result in an increase in ecological connectivity or habitat extent through rehabilitation of native vegetation cover.</i></p>	✓	<p>The vast majority of the proposed motor home park area is situated outside the identified strategic rehabilitation area which follows the Chewko Road road reserve.</p> <p>Conditions will be attached to any approval requiring the planting of landscape buffering along the Chewko Road frontage of the site, for the full length of the proposed motor home park area.</p>

DRO 7.1 Protection of Waterways, Wetlands and Water Quality			
Land Use Policy		Complies	Comments
7.1.1	<p>Development is planned, designed, constructed and managed in accordance with best practice environmental management to protect environmental values and meet water quality objectives of the Environmental Protection Policy (Water) 1997 (EPP Water) for regional surface water, groundwater and wetlands.</p>	✓	<p>The development can be conditioned to comply. Given the nature of the proposed use and minimal site disturbance, the proposed development is not likely to have a significant impact on surface or groundwater resources.</p>

(b) State Planning Policy

The Department of State Development, Infrastructure and Planning has introduced a single State Planning Policy (SPP) to replace the various SPP's previously in place. As such, this State Planning Policy is not reflected in the Planning Scheme and is therefore applicable to the assessment of the application.

An officer assessment of the proposed development against the provisions contained within the SPP is shown in the table below.

Queensland State Planning Policy - July 2014		
State Interest	Complies	Assessment Requirements & Comments
Mining and extractive resources <u>For extractive resources</u> (1) a development application for: (a) reconfiguring a lot within a KRA, or (b) a material change of use within the resource/ processing area of a KRA or the separation area for the resource/processing area of a KRA, or (c) a material change of use within the transport route separation area of a KRA that will result in an increase in the number of people living in the transport route separation area, and (2) requirements of (1) above do not apply to the assessment of a material change of use for a: (a) dwelling house on an existing lot, or (b) home-based business (where not employing more than two non-resident people on a full-time equivalent basis), or (c) caretaker's accommodation (associated with an extractive industry), or (d) animal husbandry, or (e) cropping.	✓/x	(1) the development ensures that: (a) for development within a resource/processing area for a KRA – the undertaking of an existing or future extractive industry development is not significantly impeded, and (b) sensitive land uses are avoided within the separation area for a resource/processing area of a KRA, and (c) for development within the transport route separation area of a KRA – the number of residents adversely affected by noise, dust and vibration generated by the haulage of extractive materials along the route does not increase, and (d) for development adjacent to the transport route – the safe and efficient use of the transport route by vehicles transporting extractive resources is not adversely affected. Comment The subject site is situated within a resource/processing area for key resource area (KRA) No. 151. Despite being situated within the KRA, the proposed intensification of the existing motor home park use is not likely to impede on existing and future extractive industries for the following reasons: <ul style="list-style-type: none"> • The proposed motor home park is separated from existing sand extraction operations in the KRA by a distance in excess of 1 kilometre. Extensive vegetation exists within this separation distance; • The soil type/structure and topography of the site is not conducive to extractive industry operations, with the majority of the site incorporating natural well established vegetation; • The proposed development involves short terms stays of no longer than 5 consecutive days and does not involve any additional <u>permanent</u> residential component (i.e. park visitors can readily leave); and • Both the existing and proposed motor home park areas contain minimal permanent infrastructure meaning should the use be abandoned; the site can easily be rehabilitated to a pre-development state.

<p>Biodiversity</p> <p>A development application where the land relates to a matter of state environmental significance, if the application is for:</p> <ul style="list-style-type: none"> (a) operational work, or (b) a material change of use other than for a dwelling house, or (c) reconfiguring a lot that results in more than six lots or lots less than five hectares. 	✓	<p>Development:</p> <ul style="list-style-type: none"> (1) identifies any potential significant adverse environmental impacts on matters of state environmental significance, and (2) manages the significant adverse environmental impacts on matters of state environment significance by, in order of priority: <ul style="list-style-type: none"> (a) avoiding significant adverse environmental impacts, and (b) mitigating significant adverse environmental impacts where these cannot be avoided, and (c) where applicable, offsetting any residual adverse impacts. <p>Comment</p> <p>The proposed development is for an additional motor home park area. The motor home park area will utilise an already cleared section of the site and will not involve any additional clearing or major earthworks.</p> <p>Site disturbance will be minimal and is not likely to significantly impact on the sites ecological values or matters of state environmental significance.</p>
<p>Natural hazards</p> <p>A development application for a material change of use, reconfiguring a lot or operational works on land within:</p> <ul style="list-style-type: none"> (1) a flood hazard area, or (2) a bushfire hazard area, or (3) a landslide hazard area, or (4) a coastal hazard area. 	✓	<p>For all natural hazards:</p> <p>Development:</p> <ul style="list-style-type: none"> (1) avoids natural hazard areas or mitigates the risks of the natural hazard, and (2) supports, and does not unduly burden, disaster management response or recovery capacity and capabilities, and (3) directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties, and (4) avoids risks to public safety and the environment from the location of hazardous materials and the release of these materials as a result of a natural hazard, and (5) maintains or enhances natural processes and the protective function of landforms and vegetation that can mitigate risks associated with the natural hazard, and <p>Comment</p> <p>The subject site is not situated within a natural hazard area for flood, landslide or coastal hazard.</p> <p>The subject site is situated within a bushfire hazard area. Conditions will be attached to any approval requiring the submission of a Bushfire Management Plan.</p>

(c) Mareeba Shire Planning Scheme 2004 (amendment no. 01/11)
Relevant Desired Environmental Outcomes

DEO	Complies	Comments
(a) Significant natural features such as the dense tropical rainforest adjoining the Wet Tropics area, the savannas, the major river systems, wetlands and wildlife corridors, areas identified in the Areas of Regional significance for the Conservation of Biodiversity under the FNQ Regional Plan are protected	✓	The proposed motor home park area will utilise an existing cleared grassed area and will involve minimal site disturbance.
(c) Adverse effects from development on the natural environment are minimised with respect to the loss of natural vegetation, soil degradation, air and water pollution due to erosion, dust and chemical contamination, dispersal of pollutants, effluent disposal and the like.	✓	The proposed motor home park area will utilise an existing cleared grassed area and will involve minimal site disturbance.
(d) Good quality agricultural land is conserved and protected from fragmentation and alienation.	✓	<p>The proposed motor home park area is adequately separated from nearby GQAL.</p> <p>Due to topographical, vegetation and soil quality constraints, it is improbable that any other allotment adjoining the subject land will ever be developed for agriculture.</p>
(e) Agricultural and forestry resources, mining, extractive activity in the rural sector are encouraged, facilitated and protected.	✓	<p>The proposed motor home park area is adequately separated from nearby GQAL.</p> <p>Due to topographical, vegetation and soil quality constraints, it is improbable that any other allotment adjoining the subject land will ever be developed for agriculture.</p>
(h) All members of the community have appropriate access to relevant services and facilities that meet their needs and create a sense of community satisfaction.	✓	The proposed motor home park will be available for use by both locals and the traveling public seeking accommodation for self-contained motorhomes, caravans and the like.

(j) Threats to public safety and health associated with the natural and built environments, including flooding in the catchments of the Barron River and Mitchell River are minimised.	✓	The subject site is not subject to flooding from the Barron or Mitchell Rivers. Existing firebreaks will be maintained and the conditions of approval will require the preparation of a Bushfire Management Plan incorporating the proposed motor home park area.
(n) Mareeba's role and identity as the main business, economic centre and regional service centre and gateway to the Cape is consolidated.	✓	The proposed development reinforces Mareeba's role and function as a regional service centre.
(q) The establishment of new industries such as value adding agricultural industries as well as ecotourism and tradeable services beyond agriculture.	✓	The proposed motor home park area is essentially an expansion or intensification of the existing motor home park use carried out on the subject site.
(t) The protection of exiting heavy vehicle routes as shown on Maps R1 and R2 and existing and proposed extraction haulage routes from incompatible land use.	✓	Chewko Road already caters for significant volumes of tourist, farming and extractive industry traffic. The additional traffic associated with the proposed development is not likely to detrimentally impact on the functionality of Chewko Road.

Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

Part 4, Division 14	Rural Zone Code
Part 5, Division 2	Natural and Cultural Heritage Features Overlay Code
Part 5, Division 8	Natural Disaster - Bushfire Overlay Code
Part 6, Division 5	Car Parking Code
Part 6, Division 14	Tourist Facility Code
Part 6, Division 15	Landscaping Code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural Zone Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.
Natural and Cultural Heritage Features Overlay Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.
Natural Disaster Bushfire Overlay Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.
Car Parking Code	<p>The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code apart from the following:</p> <ul style="list-style-type: none"> ▪ Acceptable Solution AS6 ▪ Acceptable Solution AS9.1 ▪ Acceptable Solution AS13.1 <p>Refer to planning discussion section of report.</p>
Tourist Facility Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.
Landscaping Code	The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

No. 1 - Water Supply (Outside Reticulated Water Supply Area)

A condition will be attached to any approval ensuring that any water proposed to be supplied to motor home park users will be made potable in accordance with the National Health Medical Research Guidelines.

No. 4 - Development Manual

A condition will be attached to any approval requiring all relevant development works (access) to be constructed in accordance with FNQROC Development Manual standards.

(f) Additional Trunk Infrastructure Condition - Road Infrastructure (Section 650 of SPA)

The original motor home park approval over the subject site (DA/13/0129) incurred an \$11,370.00 augmentation of the road network (roads) contribution based on the following methodology:

"The development is capable of accommodating a maximum of 15 motor homes per day. Assuming each motor home represents 2 vehicle movements per day, the daily increase in vehicle movements is likely to be no more than 30 per day."

Under this policy, the base contribution of \$3,790 is equivalent to the traffic from a standard allotment or 10 vehicle movements per day. The applicable contribution for 30 vehicles per day is 3 x \$3,790 or \$11,370.00."

A subsequent development application for motor home park at Fichera Road, Mareeba (DA/14/0005) was approved subject to a significantly less roads contribution of \$3,115.00 based on the following alternative methodology:

"For this application the applicants do not propose a maximum number of motor homes to be accommodated per day. Instead, they wish to be able to capitalise during peak tourist seasons as well as accommodate large 'motor home chapters' of between 10-30 motor homes. As such, the applicants have proposed an annual (as apposed to a daily) control over the number of motor homes accommodated on site, nominating a maximum of 1,500 overnight motor home stays per year which equates to 3,000 vehicle movements per year or 8.219 vehicle movements per day.

Under Planning Scheme Policy No. 6, the base contribution of \$3,790 is equivalent to the traffic from a standard allotment or 10 vehicle movements per day. As such the contribution applicable to this development should be 82.19% of the standard contribution as calculated below:

- $\$3,790.00 \times 82.19\% = \underline{\$3,115.00}$

*Therefore the applicable contribution for 1,500 overnight motor home stays per year is **\$3,115.00."***

Applying this same methodology to the \$11,370.00 roads contribution already paid by the applicant under development approval DA/13/0129 would permit 5,475 overnight stays per annum. This is considered unrealistic.

Considering the motor home park industry is one that experiences peak demand for only short periods of the year and is otherwise quiet, the applicant has come to the realisation that placing a cap on the maximum number of overnight stays per annum is more appropriate than placing a daily cap on the number of motor homes/caravans permitted on-site.

This would also allow the motor home park operator to capitalise, as other park operators do, during peak tourist seasons.

Applying a maximum number of overnight stays for the entire site, encompassing both the approved and the proposed motor home park area would also result in a significantly less roads contribution than what was originally paid.

The applicant has nominated a limit of 1,500 overnight stays per annum.

1,500 overnight stays per year would equate to 3,000 vehicle movements per year or 8.219 vehicle movements per day.

Under Planning Scheme Policy No. 6, the 2015/2016 base contribution of \$4,315.00 is equivalent to the traffic from a standard allotment or 10 vehicle movements per day. As such, the contribution applicable to this development should be 82.19% of the standard contribution as calculated below:

- $\$4,315.00 \times 82.19\% = \underline{\$3,546.00}$

Therefore the applicable contribution for 1,500 overnight stays per year is **\$3,546.00**.

Conditions will be attached to any approval limiting the number of overnight stays over the entire site to 1,500 per annum.

For the purposes of consistency and fairness to the applicant, it is recommended that a partial refund of the original \$11,370.00 roads contributions be granted as follows:

- $\$11,370.00 - \$3,546.00 = \underline{\$7,824.00}$

REFERRALS

Concurrence

This application did not trigger referral to a Concurrence Agency.

Advice

The application triggered referral to Ergon Energy as an Advice Agency.

Ergon Energy advised in a letter dated 8 December 2015, that conditions should be included on any approval to reduce the risk of contact/collision with electricity infrastructure (**Attachment 2**).

Internal Consultation

Technical Services

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 7 January 2016 to 1 February 2016. The applicant submitted the notice of compliance on 2 February 2016 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

PLANNING DISCUSSION

Non-compliance with the relevant acceptable/probable solutions contained within the following development codes are summarised as follows:

Car Parking Code

Car Parking Design

- S6** *Car parking spaces are of adequate dimensions and standard to meet user requirements.*

- AS6** *Car parking spaces meet the design requirements of Australian Standards AS2890.1-1986 and AS2890.2-1989 (as amended) provided that the minimum car parking space width is no less than 2.6 metres.*

Comment

Acceptable solution AS6 is not considered particularly relevant to motor home park developments. The application proposes to utilise a designated cleared and grassed area to accommodate the informal parking of up to 10 motorhomes or self-contained caravans at any one time.

A gravelled internal loop road will provide access between this grassed area and the sites Chewko Road access point.

Sufficient area exists within the grassed area to adequately accommodate the informal parking of 10 motor homes/caravans. Furthermore, the peak season for motor home / caravan travellers in this area is not during the regions wet season. The proposed development is considered to comply with S6.

Car Parking Numbers

- S9** *Sufficient car parking spaces are provided to accommodate the demand likely to be generated by the use.*

- AS9.1** *The number of car parking spaces provided is in accordance with the Car Parking Schedule.*

Comment

The Planning Scheme includes the following car parking rate for motor home park:

"eleven (11) spaces per 10 sites plus one (1) space per 10 sites as visitor spaces"

This is the same rate as a caravan park. Council officers consider the use of the caravan park car parking rate inappropriate for motor home parks. Caravan parks may include long term and permanent residents and it is appropriate to require visitor parking spaces.

Motor home parks are restricted to short term stays only and it would be rare for a non-guest to visit the site.

Notwithstanding this, the proposed motor home park area is of an adequate size to accommodate up to ten motor homes/caravans as well as the informal parking of any visitor vehicles. Given the nature of the development, any surface treatment of informal parking spaces is not considered necessary.

It is considered the proposed development can satisfy S9.

Movement and Access

- S13** *Access is safe, functional, convenient and located in accordance with the Road Hierarchy Map R3.*

AS13.1 *Lots with two or more street frontages have their access on the lower class of street in accordance with Road Hierarchy Map R3;*

Comment

The subject site contains frontages to both Paglietta Road and Chewko Road. The proposed motor home park area is accessed from Chewko Road which is the higher order road and is therefore non-compliant with AS13.1.

Given the topography of the subject site, practical access to the proposed motor home park area cannot be achieved from Paglietta Road. Given the motor home park area is immediately adjacent the eastern boundary of the site, which fronts Chewko Road, access is more practical and convenient from Chewko Road via an existing bitumen sealed crossover in the north-east corner of the site. Furthermore, this existing access point is able to achieve minimum sight distances along Chewko Road and the proposed internal loop road will allow vehicles to enter and leave the site in a forward gear.

Access from Chewko Road is considered safe, functional and convenient, therefore the development is considered to comply with S13.

Date Prepared: 18 February 2016

ATTACHMENT 1



APPROVED PLANS (ECM VS# 3740458)



This plan is conceptual and for discussion purposes only. All areas, dimensions and land uses are preliminary, subject to aerial photography, survey, engineering, and local authority and agency approvals.



**PLAN OF PROPOSED
MOTOR HOME PARK**
Lot 2 on SP 21 74158
Chewko Road, Mareeba

 Proposed Motor Home Park Area
(Within RMV Category X Area)
 Proposed Driveway
(5m wide)

Note:
Image provided by Google Earth
Image date - September 2013
© Christ Metlum

brozier mcm
1300 267 878
www.broziermcm.com.au
Phone: 33344000 A

Date: 21st October, 2015
Scale: 1:1000 @ A3
Drawn: MTL
Job No: 201506-1
Plan No: 33344000 A

Images | Scan files | Icons | Images | Images and 48

ATTACHMENT 2

825 Ann Street Fortitude Valley 4006
PO Box 264 Fortitude Valley 4006

ergon.com.au

8 December 2015

Chief Executive Officer
Mareeba Shire Council
(sent via email: info@msc.qld.gov.au)

Attention: Brian Millard, Senior Planner

cc Norman Christie Caird
C/- Brazier Motti Pty Ltd
(sent via email: cairns@braziermotti.com.au)

Attention: Charlton Best

Dear Brian

ADVICE AGENCY RESPONSE

**MATERIAL CHANGE OF USE
MOTOR HOME PARK (SELF CONTAINED ACCOMMODATION VEHICLES)**

LOT 2 SP217458

CHEWKO ROAD MAREEBA

COUNCIL REFERENCE: DA/15/0051
ERGON REFERENCE: EE15/070589

This submission is made on behalf of Ergon Energy Corporation Limited ACN 087 646 062 (*Ergon Energy*) pursuant to section 292 (advice agency response) of the *Sustainable Planning Act 2009*. In accordance with section 292 (3), we request that the assessment manager treats this response as a properly made submission.

Ergon Energy operates a 22kV overhead distribution line (accommodated within registered easements) that traverses the development site, roughly parallel with Chewko Road and setback approximately 15 metres from the front boundary. The use of the site as a motor home park as proposed will see an increase in the frequency of large vehicle movements under and around the

Ergon Energy Corporation Limited ABN 50 087 646 062
Ergon Energy Queensland Pty Ltd ABN 11 121 177 802

existing electricity infrastructure. To reduce risk of contact, collision with electricity infrastructure, it is requested that council apply the following conditions to any approval:

1. The easement area is excluded from the proposed motor home park area, with no short term parking of motor homes / caravans permitted within the easement area.
2. Motor home vehicle movements across the easement are limited to the area shown as proposed driveway (as amended in red on the attached plan).
3. Natural ground level within the easement should not be altered without approval from Ergon Energy. Should any cut and/or fill be proposed within the easement, detailed civil design drawings showing proposed levels (and the location of Ergon Energy assets in relation to the proposed development) must be approved by Ergon Energy prior to any works commencing on site. Should changes (ie. realignment) to Ergon Energy infrastructure be proposed or required as part of the development, those changes are made with Ergon Energy's consent and at the developer/owner's expense (unless otherwise agreed to by Ergon Energy).
4. Access to the easement and access along the easement must be available to Ergon Energy personnel and equipment at all times. Where fencing prohibits access to and along the easement area, gates must be supplied and installed at the developer/owner's expense.
5. If required, the developer will be required to negotiate electricity supply arrangements by applying in writing to Ergon Energy, or by contacting Ergon Energy on 13 10 46. Early contact is recommended. Should the development require additional onsite infrastructure (ie. additional or upgraded pad mounted transformer), early contact with Ergon Energy (ie. prior to detailed design) can ensure any easement requirements are accounted for in a timely and efficient manner.

We respectfully request that a copy of the decision be provided in accordance with section 334 (1) (b) of the *Sustainable Planning Act 2009*.

Please contact me on 3851 6530 or via email address: ian.turton@ergon.com.au for any further information.

Yours sincerely,



Ian Turton
Principal Town Planner
Ergon Energy

ITEM-2 **EXTENSION TO RELEVANT PERIOD - LANDGOLD PTY LTD - MATERIAL CHANGE OF USE - MOTEL - LOT 1 RP725711 - CNR KENNEDY HIGHWAY, MAREEBA CONNECTION ROAD & KENNEALLY ROAD, MAREEBA - MCU/08/0063**

MEETING: Ordinary

MEETING DATE: 2 March 2016

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION		PREMISES	
APPLICANT	Landgold Pty Ltd	ADDRESS	Cnr Kennedy Highway, Mareeba Connection Road & Kenneally Road, Mareeba
DATE REQUEST FOR EXTENSION OF RELEVANT PERIOD LODGED	30 January 2016	RPD	Lot 1 on RP725711
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Motel		

FILE NO	MCU/08/0063	AREA	1.389 hectares
LODGED BY	Landgold Pty Ltd	OWNER	Landgold Pty Ltd
PLANNING SCHEME	Mareeba Shire Planning Scheme 2004 (amendment no. 01/11)		
ZONE	Residential Zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Nil		

ATTACHMENTS:

1. Decision Notice dated 9 February 2010
2. Applicant's request to extend relevant period dated 30 January 2016
3. Department of Infrastructure, Local Government and Planning response dated 10 February 2016

EXECUTIVE SUMMARY

Council, at its Ordinary Meeting on 3 February 2010 approved in part only a development application made by Peter Robinson Planner on behalf of Landgold Pty Ltd for Material Change of Use - Motel and Drive Through Fast Food Outlet. The 'drive through fast food outlet' component of the development application was refused by Council. The approval in part was granted subject to various conditions.

The application was impact assessable and no properly made submissions were received in response to public notification of the application.

To date, no development works have commenced in relation to the approved development.

One previous request to extend the relevant period of the approval has been lodged and approved by Council. The relevant period is set to expire on 9 February 2016.

*The applicant has subsequently lodged this request to further extend the relevant period by four (4) years from 9 February 2016 to 9 February 2020 (**Attachment 2**). The four (4) year extension is sought to facilitate the sale of the site to another developer.*

An informal policy position has been established by Council officers whereby any request for extensions beyond the initial extension be granted for a maximum of one year. A one year extension would encourage the developer to act on the approval and also allow Council to reconsider the appropriateness of un-commenced development approvals on a more regular basis.

Given that a previous extension has been granted, it is recommended that the relevant period be extended for a period of one (1) year only, from 9 February 2016 to 9 February 2017.

Notwithstanding the officer's recommendation, Council may approve the requested four year extension if it chooses.

OFFICER'S RECOMMENDATION

- “1. That in relation to the application to extend the relevant period for the following development approval:

APPLICATION		PREMISES	
APPLICANT	Landgold Pty Ltd	ADDRESS	Cnr Kennedy Highway, Mareeba Connection Road & Kenneally Road, Mareeba
DATE REQUEST FOR EXTENSION OF RELEVANT PERIOD LODGED	30 January 2016	RPD	Lot 1 on RP725711
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Motel		

and in accordance with the Sustainable Planning Act 2009, the following

- (A) The relevant period be extended for *one (1) year from 9 February 2016 to 9 February 2017*.
2. A Notice of Council's decision be issued to the applicant/ Department of Infrastructure, Local Government and Planning, State Assessment and Referral Agency (SARA) via email CairnsSARA@dilgp.gov.au (reference: SPD-0216-024766) advising of Council's decision”.

THE SITE

The subject land has an area of 1.087 hectares and is described as Lot 7 on SP265039 (formerly Lot 1 on RP725711), Parish of Tinaroo, County of Nares. The land has a triangular shape and is bounded on its three (3) sides by roads. The northern boundary of the land fronts the Mareeba Connection Road. The south-eastern boundary fronts the Kennedy Highway and the south-western boundary fronts Kenneally Road.

The subject land remains flat and fully cleared and grassed.

The subject land is positioned at the eastern entrance to the Mareeba Township, approximately 2.3 kilometres from the Mareeba Post Office.

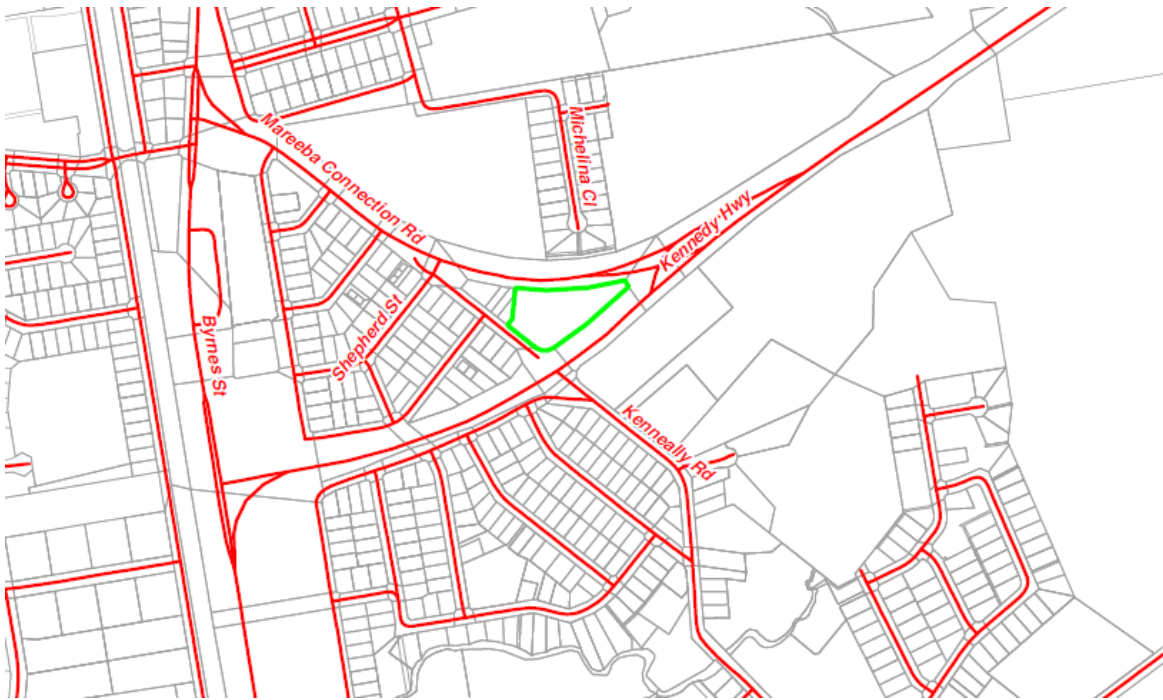
To the immediate north of the site, across the Mareeba Connection Road, are a reserve for school purposes and a residential subdivision (The Edge subdivision), which are both zoned Residential under the Planning Scheme. Land to the south and south-east of the subject land has been developed for single dwelling residential allotments. Land to the south-west has been developed as a caravan park.

The subject land is able to connect to town water supply and town sewerage on the northern side of Mareeba Connection Road and is capable of being serviced by all other urban infrastructure including telecommunications, electricity, refuse disposal, drainage and road access.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

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BACKGROUND AND CONTEXT

Council, at its Ordinary Meeting held on 3 February 2010, approved in part only, a development application made by Peter Robinson Planner on behalf of the applicant for a Material Change of Use - Motel and Drive Through Fast Food Outlet on land described as Lot 1 on RP725711, Parish of Tinaroo, situated at corner of Kennedy Highway, Mareeba Connection Road and Kenneally Road, Mareeba. The 'drive through fast food outlet' component of the proposal was refused by Council.

The in-part approval was issued subject to various conditions in a Decision Notice dated 9 February 2010 (**Attachment 1**).

To date, no works have commenced on site in relation to the approved development, nor has the applicant paid any of the required infrastructure charges/contributions.

On 19 March 2014, Council approved a two (2) year extension to the relevant period from 9 February 2014 to 9 February 2016.

The applicant has subsequently lodged a second application to extend the relevant period of the approval for a further four (4) years from 9 February 2016 to 9 February 2020 (**Attachment 2**).

The four (4) year extension is sought to facilitate the sale of the site to another developer.

An informal policy position has been established by Council officers whereby any request for extensions beyond the initial extension be granted for a maximum of one year. A one year extension would encourage the developer to act on the approval and also allow Council to

reconsider the appropriateness of un-commenced development approvals on a more regular basis.

Given that a previous extension has been granted, it is recommended that the relevant period be extended for a period of one (1) year only, from 9 February 2016 to 9 February 2017.

ASSESSMENT AND DECISION REQUIREMENTS

Section 388 of SPA requires that Council must have regard to:

- *the consistency of the approval, including its conditions, with the current laws and policies applying to the development, including, for example, the amount and type of infrastructure contributions, or charges payable under chapter 8, part 1.*

If a new application was lodged for this proposal it would be assessed against essentially the same planning instruments as was the 2008 development application, with the exception of the single State Planning Policy (SPP) which commenced on 2 December 2013.

A new application for this proposal would not be in conflict with the intent of the SPP.

Applicable Infrastructure Charges/Contributions

Development Approval MCU/08/0063 was not subject to fixed headworks charges/contributions.

- *the community's awareness of the development approval*

The original development application was Impact Assessable and subject to public notification. No submissions were made in relation to the original development application.

- *whether, if the request were refused –*

- (i) *further rights to make a submission may be available for a further development application; and*
- (ii) *the likely extent to which those rights may be exercised;*

A further development application would be Impact Assessable and subject to public notification. No submissions were made in relation to the original development application.

- *the views of any concurrence agency for the approval given under section 385.*

The original application triggered referral to the Department of Transport and Main Roads as a Concurrence Agency.

On 1 July 2013, the State Assessment and Referral Agency (SARA) commenced. Under these changes, the Department of State Development, Infrastructure and Planning is the assessment manager or referral agency for all relevant development applications and has become the single lodgement and assessment point where the State has a jurisdiction under SPA.

The Department of Infrastructure, Local Government and Planning (SARA) advised in a letter dated 10 February 2016 that they have no objection to the proposed extension to the relevant period (**Attachment 3**).

Date Prepared: 11 February 2016

ATTACHMENT 1

Atherton Service Centre
PO Box 573, Atherton QLD 4883
Telephone: 1300 362 242

Urban & Regional Planning Group
Gary Searle, Planning Officer
Telephone: (07) 4043 4372
Facsimile: (07) 4092 3323
Email: info@trc.qld.gov.au

File Ref: MCU/08/0063
Our Ref: BN:GPS:mh

9 February 2010

Landgold Pty Ltd
c/- Peter Robinson
PO Box 4751
CAIRNS QLD 4870

Decision Notice Approval

Integrated Planning Act 1997 S 3.5.15

Dear Sir

**APPLICATION FOR MATERIAL CHANGE OF USE – MOTEL AND DRIVE THROUGH FAST
FOOD OUTLET
LOT 1 ON RP725711
SITUATED AT CNR KENNEDY HIGHWAY, MAREEBA CONNECTION ROAD AND KENNEALLY
ROAD, MAREEBA**

I wish to advise that, at Council's Ordinary Meeting held 3 February 2010, the above development application was -

- Approved in part for the following, with conditions -
 - Motel only

The conditions relevant to this approval are detailed in section 4 of this notice. These conditions are clearly identified to indicate whether the Assessment Manager or a Concurrence Agency imposed them.

1. Details of the approval –

This Decision Notice approves a **Development Permit for Material Change of Use – Motel made assessable by the Mareeba Shire Planning Scheme 2004.**

2. The relevant period for the approval -

The relevant periods stated in section 3.5.21 of the *Integrated Planning Act 1997* (IPA) apply to each aspect of development in this approval, as outlined below—

- Material Change of Use – four (4) years;

If there is one (1) or more subsequent related approvals' for a development approval for a Material Change of Use or a reconfiguration, the relevant period for the approval will be taken to have started on the day the latest related approval takes effect.

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3. Conditions –
(A) DETAILS OF PREMISES AND APPROVED USE

LOCATION: Cnr Kennedy Highway, Mareeba Connection Road and Kenneally Road, Mareeba
PROPERTY DESCRIPTION: Lot 1 on RP725711, Parish of Tinaroo
AREA OF LAND: 1.389 hectares
MATERIAL CHANGE OF USE: Motel (Approved)
 Drive Through Fast Food Outlet (Refused)

(B) APPROVED PLANS

The approved plans and/or documents for this development approval are listed in the following table:

Plan/Document Number	Plan/Document Title	Prepared by	Dated	Date received by Council
628_DD A-101-A	Site Plan	CA Architects	14/05/2009	28/10/2009
628_DD A-201	Plan	CA Architects	20/01/2009	19/08/2009
628_DD A-202	First Floor	CA Architects	20/01/2009	19/08/2009
628_DD A-203	Typical Room Layouts	CA Architects	20/01/2009	19/08/2009
628_DD A-301	Site Elevations / Section	CA Architects	20/01/2009	19/08/2009
628_DD A-302	Elevations & Section	CA Architects	20/01/2009	19/08/2009

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

1. The Drive Through Fast Food Outlet part of the application is refused.
2. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
3. Timing of Effect
 - 3.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 3.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
 - 3.3 Prior to the commencement of use, the applicant must provide a letter from the Department of Transport and Main Roads confirming that all conditions of that Department have been complied with to the Departments satisfaction.

DECISION NOTICE - APPROVAL**3**
9 February 2010**4. General**

- 4.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 4.2 All payments required to be made to Council (including contributions, charges and bonds) pursuant to any condition of this approval must be made prior to the issue of a building permit and at the rate applicable at the time of payment.
- 4.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

4.4 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

The applicant/developer must install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

4.5 Waste Management

An on-site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer or a 1.8m high solid fence.

Certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicle to enter and exit the site in a forward gear, prior to the issue of a building permit.

4.6 Flood Immunity

All buildings must be located such that the freeboard of the floor levels of all habitable rooms are a minimum of 300mm above 100 ARI year level.

4.7 Privacy

The buildings, including orientation of windows, are to be designed to ensure the use does not intrude on the privacy of residential neighbours, in accordance with the following:

- No windows have direct views into adjoining buildings.

5. Infrastructure Services and Standards**5.1 Access**

Access to the proposed site shall be as per Department of Transport and Main Road's requirements.

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9 February 2010

5.2 Stormwater Drainage

Prior to works commencing, the developer must apply for and receive an approval for Operational Works. A stormwater management plan must be lodged with Council demonstrating "No net increase in the rate of stormwater discharge from the development" to the satisfaction of Council's delegated officer. The plan must be accompanied by a report prepared and certified by a suitably qualified design engineer (RPEQ) clearly indicating measures taken and calculated impact. The design and construction of stormwater drainage for the proposed development is to be in accordance with the requirements of the Queensland Urban Drainage Manual (QUDM) (as amended) and the FNQROC Development Manual (as amended).

The applicant/developer (at their cost) must video all stormwater lines and submit the video for inspection by Council's delegated officer prior to the development being taken "off maintenance" to ensure that no defects have occurred during the 12 month maintenance period.

5.3 Car Parking/Internal Driveways

- (a) The developer must ensure that the development is provided with a minimum of 73 on-site car parking spaces which are available for use solely for the parking of vehicles associated with the use of the premises. All car parking spaces must be sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.
- (b) Prior to works commencing, the developer must submit engineering plans and specifications for the construction of proposed car parking facilities and internal driveways demonstrating:
 - Compliance with Australian Standard AS2890;
 - Compliance with Australian Standard AS1428:2001 – Design for Access and Mobility.
- (c) Parking must be easily identifiable from the internal access road, and
 - illuminated at night; and
 - as close as possible to the units to be served.
- (d) Disabled parking is to be appropriately signed or marked.
- (e) A mini-bus set down area must be designed and constructed on site in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- (f) Shading of car parking areas
 - Trees that will grow to provide shade must be planted throughout the car park area and around its perimeter at the rate of one (1) tree per ten (10) car parking spaces or part thereof; or
 - Shade structures are provided over 40% of the car parking spaces.

5.4 Landscaping and Fencing

- (a) Prior to the issue of the Development Permit for Building Works, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval. The plan is to include the following:
 - Planting of a 3 metre wide buffer strip along all road boundaries, excluding driveways;

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- Planting of 1 metre wide landscaping strips adjacent to car parking areas, including appropriate edging to protect the landscaping from damage from vehicles;
 - Planting of shade trees adjacent to car parking areas, unless shade structures are provided as an alternative;
- (b) The landscaping of the site must be carried out in accordance with an endorsed landscaping plan, and irrigated, mulched and maintained to the satisfaction of Council's delegated officer.

5.5 Lighting

Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land must not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

NOTE: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly, i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces

5.6 Frontage Works

The developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) for the applicable planning scheme area to the satisfaction of Council's delegated officer:-

- 5.6.1 Kerb and channel for the Kenneally Road frontage of Lot 1 on RP725711 from the approved subdivision boundary approximately 77.5 metres from the western boundary of Lot 1 to the new culdesac;
- 5.6.2 Widen the existing bitumen on Kenneally Road for the frontage of Lot 1 on RP725711 from the approved subdivision boundary approximately 77.5 metres from the western boundary of Lot 1 to the new culdesac by two (2) metres to the new kerb and channel;
- 5.6.3 Construct a concrete footpath from the eastern proposed driveway into the development, along the Mareeba Connection Road to Kenneally Road.
- 5.6.4 Construct a concrete footpath for the full Kenneally Road frontage.

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works application.

5.7 Water Supply

The developer must connect the proposed development to the Council's reticulated water supply system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend and augment the reticulated water supply infrastructure to connect the site to Council's existing

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infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended). The applicant is to connect the development to the 300mm AC water main located at the top of Haren Street.

The applicant is to provide calculations detailing the maximum rate of potable water draw off for the development and to provide hydraulic modelling to demonstrate that the distribution system has capacity or can be augmented to provide the required capacity to the development site.

5.8 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend and augment the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended). The applicant is to connect the development to the sewer at Manhole 10146, located on Lot 157 on NR5658.

The applicant is to provide calculations detailing the maximum rate of wastewater discharge from the development to the wastewater reticulation system and to demonstrate that the wastewater reticulation system has capacity or can be augmented to provide the required capacity to dispose of wastewater generated by the development.

The Contractor is to allow in his contract price the cost for video checking (and rectification if necessary) of all new sewer work to the satisfaction of Council's delegated officer.

6. CONTRIBUTIONS/HEADWORKS**6.1 Water Headworks**

The developer must pay a contribution for 43.3 EDC's for water supply headworks to Council in accordance with Mareeba Shire Planning Scheme Policy 2 (Headworks Charges for Water Supply and Sewerage) at the rate applicable at time of payment.

6.2 Sewerage Headworks

The developer must pay a contribution for 50.6 EDC's for sewerage supply headworks to Council in accordance with Mareeba Shire Planning Scheme Policy 2 (Headworks Charges for Water Supply and Sewerage) at the rate applicable at time of payment.

(D) REFERRAL AGENCY RESPONSE

Department of Transport and Main Roads response dated 30 October 2009.

(E) ASSESSMENT MANAGER'S ADVICE**(a) Cultural Heritage**

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the

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proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.nrw.qld.gov.au.

(b) **Compliance with applicable codes/policies**

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(c) **Food Premises**

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(d) **A Trade Waste Permit will be required prior to the commencement of use.**

(e) **Compliance with Acts and Regulations**

The erection and use buildings must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

4. Other necessary development permits –

Listed below are other development permits that are necessary to allow the development to be carried out –

- Development Permit for Building Work
- Development Permit for Plumbing and Drainage Work
- Development Permit for Operational Works

5. IDAS referral agencies –

The IDAS Referral Agencies applicable to this application are –

For an application involving	Name of referral agency	Status	Address
MATERIAL CHANGE OF USE			
On land contiguous to a <u>State-controlled road</u>	Department of Main Roads	Concurrence or Advice	Department of Main Roads Peninsula District PO Box 6185 CAIRNS QLD 4870

6. Submissions -

There were no properly made submissions about the application.

7. Appeal rights –

In accordance with the *Integrated Planning Act 1997* you may negotiate with Council or appeal to the Planning and Environment Court. A copy of the **Implementation Note, Note 16 – Negotiated Decision Notices and Implementation Note, Note 20 – Appeal and Declaratory Powers under the IPA** and the form 'Notice of Appeal' is enclosed for your information.

8. When the development approval takes effect -

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9 February 2010

This development approval takes effect –

- from the time the decision notice is given, if there is no submitter and the applicant does not appeal the decision to the court

OR

- subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.

This approval will lapse if—

- for a Material Change of Use, the first change of use under the approval does not start within the relevant period stated in section 2 of this decision notice;
- for a reconfiguration, a plan for the reconfiguration is not given to the local government within the relevant period stated in section 2 of this decision notice;
- for a development approval other than a Material Change of Use or reconfiguration, the development does not substantially start within the relevant period stated in section 2 of this decision notice.

Note that in the case of a development approval for a Material Change of Use or for Reconfiguring a Lot, if there is one or more subsequent related approvals the relevant period for the Material Change of Use or reconfiguration will restart from the date of the related approval taking effect. Please refer to section 3.5.21 of IPA for further information.

Should you require any further information please contact Council's **Planning Officer, Gary Searle** on the above telephone number.

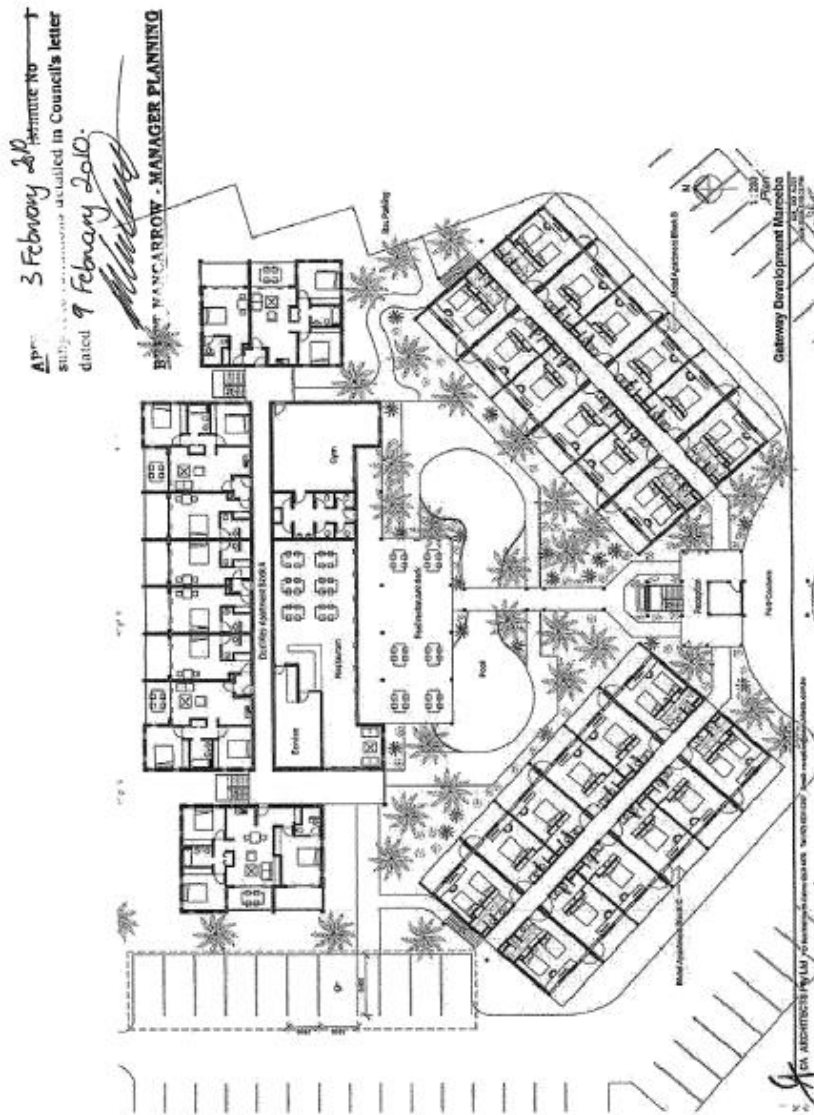
Yours faithfully

BRETT NANCARROW
MANAGER URBAN & REGIONAL PLANNING

Enclosures – Approved plan/s of development, Implementation Note, Note 16 – Negotiated Decision Notices and Implementation Note, Note 20 – Appeal and Declaratory Powers under the IPA and the form 'Notice of Appeal'

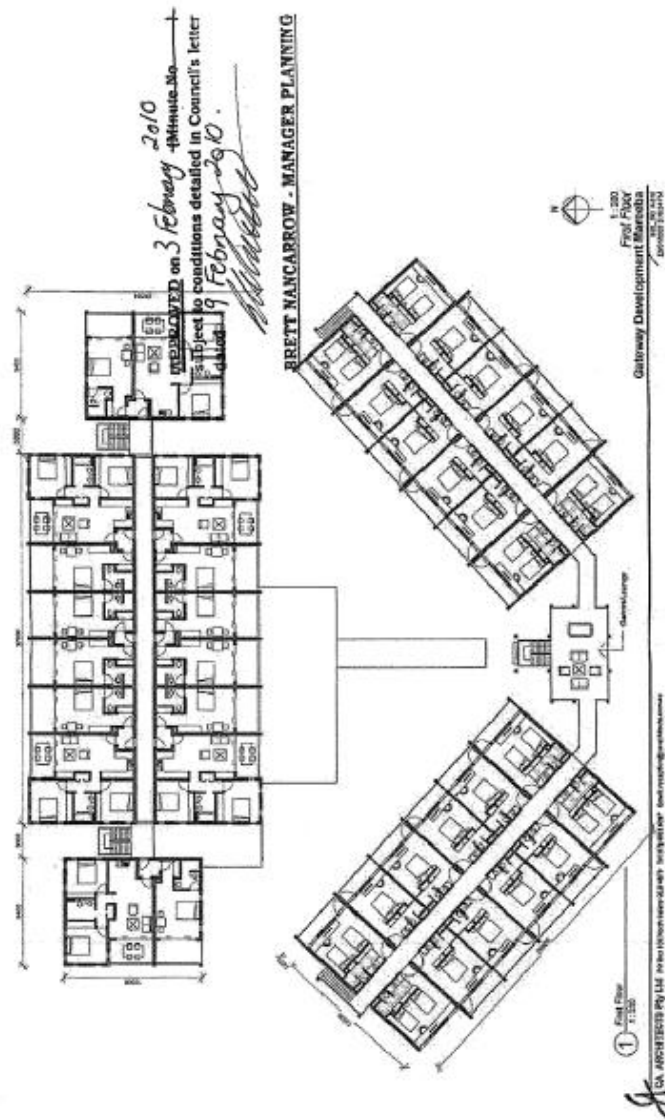
Copy: **Mr Malcolm Hardy**
Department of Main Roads
Peninsula District
PO Box 6185
CAIRNS QLD 4870

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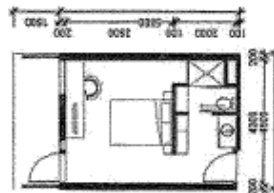


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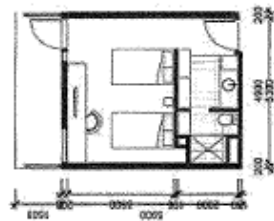
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APPROVED on 3 February 2010 (Minute No. 1)
subject to conditions detailed in Council's letter
dated 9 February 2010

BRETT NANCARROW - MANAGER PLANNING



1 Model Rooms Layouts Given 1:100



2 Metal Room Layout Console
1:100



3 Dual Key Apartment Layout
1 : 100

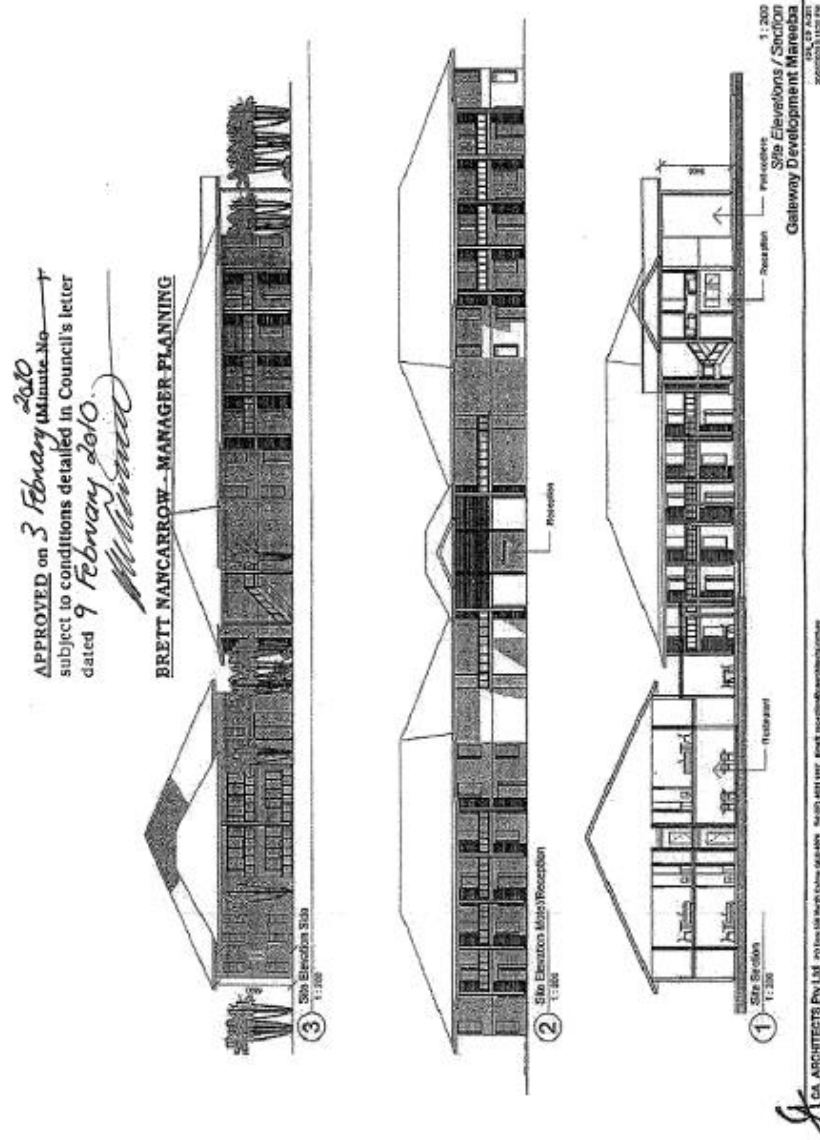
1-800-843-7269
Typical Room Layouts
Gateway Development Mareeba
4350 4350 4350
4350 4350 4350

~~CA~~

CA ARCHITECTS Pty Ltd PO Box 101 North Cairns QLD 4879 Tel (07) 4911 4147 Email ca@caarchitects.com.au

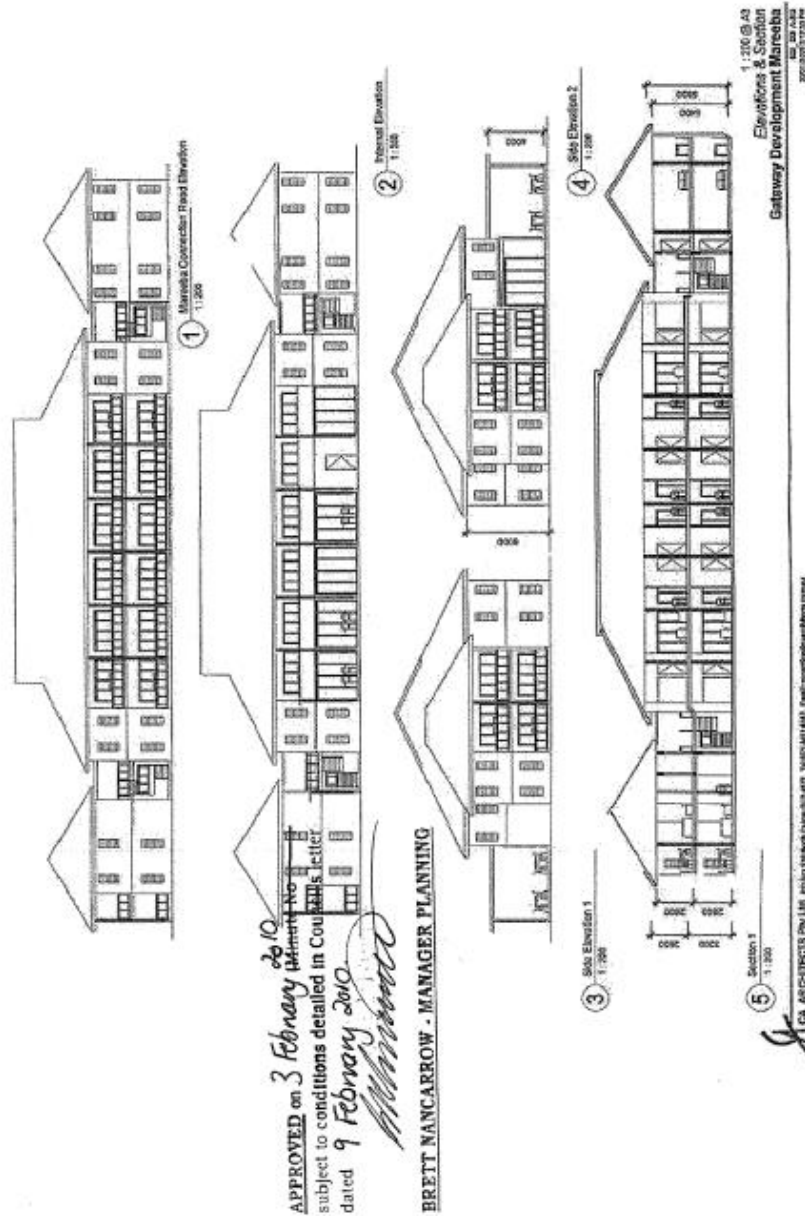
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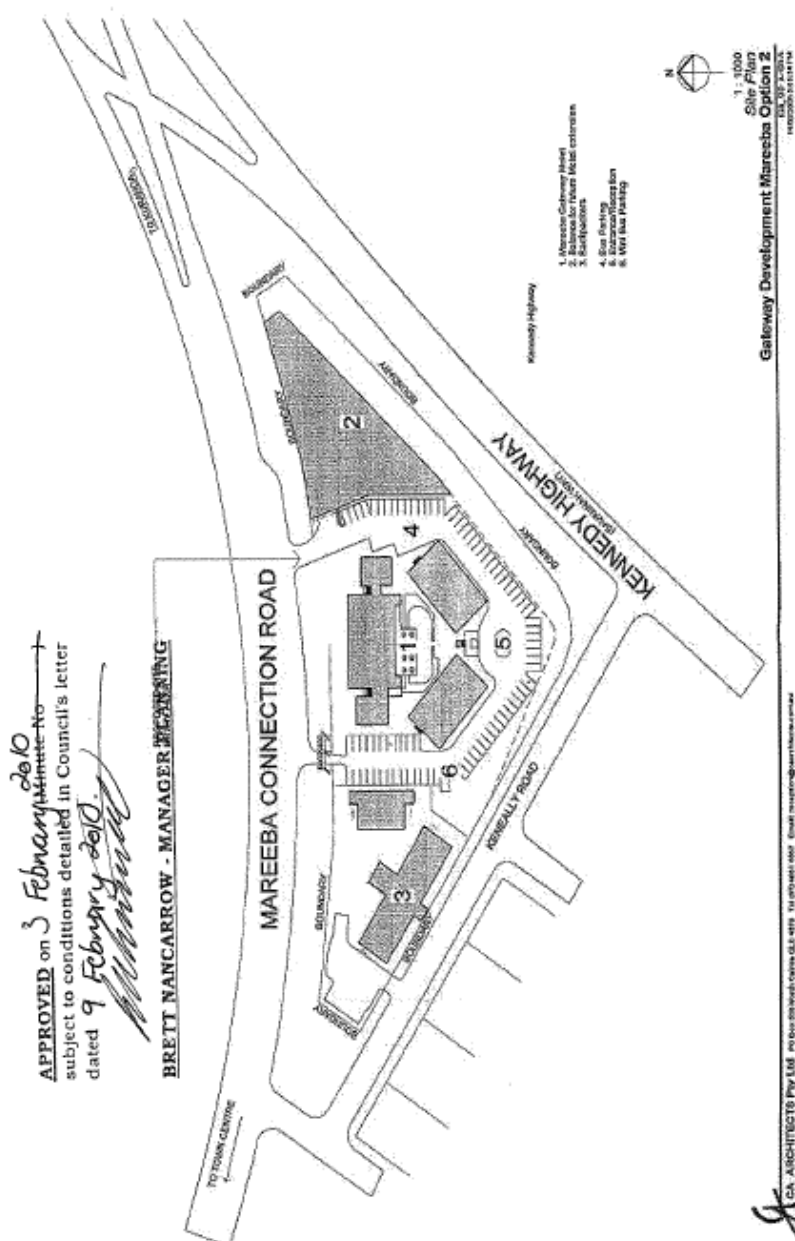


Tablelands Regional Council:

Atherton, Herberton, Kuranda, Malanda, Mareeba and Ravenshoe



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9 February 2010

Council Ref: MCU/08/0063

30 October 2009

Chief Executive Officer
Tablelands Regional Council
PO Box 154
Mareeba Qld 4880

Attention Brian Millard

Dear Mr Millard

THE ORIGINAL OF THIS DOCUMENT
CAN BE FOUND ON PHYSICAL FILE

MCU/08/0063

LOCATION: Planning - M&A

Department of Main Roads

**Integrated Planning Act 1997 – Review of Referral Agency Response**

Applicant: Landgold Pty Ltd

Application: Material Change of Use (Motel & Drive Through Fast Food Outlet)

Location: Lot 1 on RP 725711, Parish of Tinaroo
At intersection of Highway & Mareeba Connection Road, Mareeba

I refer to:

- the above application received at Roads Assets & Operations (the part of the Department of Transport & Main Roads formerly known as the Department of Main Roads) 3 February 2009 requesting consideration of the above development,
- RAO letter of 18 February 2009 of conditions of development,
- an amended application received at RAO 19 March 2009 ignoring RAO conditioned "Exclusion Area",
- RAO letter of 23 March 2009 of retained conditions of development,
- an amended application received at RAO 8 May 2009 of staged development,
- RAO letter of 11 May 2009 of amended conditions of development,
- written representations from the applicant's consultant received at RAO 29 June 2009 concerning condition 4,
- RAO letter 22 July 2009 of retained conditions of development, and
- written representations from the applicant's consultant received at RAO 28 October 2009 with a revised site plan, deleting the drive through fast food outlet.

Pursuant to section 3.3.17 of the *Integrated Planning Act 1997*, the Department of Transport & Main Roads, as a Concurrence Agency, has reviewed the impact of the proposed development on the State-controlled road network and requires that Council include the following attached amended conditions of development for the subject application

Should you have any queries regarding the response please contact Malcolm Hardy on telephone 4050 5511.

Council is requested to reflect the conditions on its Rates Record, to ensure that the planning intentions of the conditions are secured.

Roads Business Group
Far North Regional Office
Floor 4 Cairns Corporate Tower 15 Lake Street
PO Box 8188 CAIRNS Queensland 4870
ABN 67 836 727 791Our ref: 26432A/102/1931.02
Your ref: MCU08/0063
Enquiries MALCOLM HARDY
Telephone +61 7 4050 5511
Facsimile +61 7 4050 5438

Tablelands Regional Council:

Atherton, Herberton, Kuranda, Malanda, Mareeba and Ravenshoe



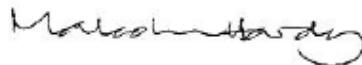
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This Department would appreciate a copy of Council's decision notice regarding the application.

A copy of this letter has been sent to the applicant.

Yours sincerely



Malcolm Hardy
Senior Planner (Road Assets & Operations) Far North

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Conditions of Development and Statement of Reasons

Council Ref: MCU/08/0063
State-controlled road: Kennedy Highway (Cairns-Mareeba)
Proposal: Material Change of Use (Motel & Drive Through Fast Food Outlet)
Real property description: Lot 1 on RP 725711, Parish of Tinaroo
Site locality: Intersection of Highway & Mareeba Connection Road, Mareeba
Applicant: Landgold Pty Ltd
Date: 30 October 2009

Conditions of Development	Reasons	Condition Basis
Layout 1. Unless otherwise approved in writing by Main Roads the development site layout must generally comply with CA Architects Gateway Development Mareeba Option 2, dated 14/03/2009. Land Requirement for Road Purposes 2. MR Plan No PD 266 Rev B dated 25/1/06 (copy attached) identifies the portion of the Subject Land required to accommodate future transport infrastructure along Kennedy Highway. This area is hereafter referred to as the 'Exclusion Area'. 3. The applicant/landowner shall not construct any structure's nor commence any development under, on or over the 'Exclusion Area' without the written approval of Main Roads.	To ensure the development proceeds in accordance with the proposal Main Roads has determined the land described in the condition as being within a proposed future land requirement area.	

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Conditions of Development	Reasons	Condition Basis
<p>4. Should the State of Queensland not have acquired the 'Exclusion Area' within twelve (12) months of:</p> <ul style="list-style-type: none"> The commencement of the approved Model use, and The applicant/landowner formally requesting in writing the Regional Director of the Cairns office of Main Roads, or its successor or assign, to acquire/resume the land, then conditions 2 and 3 shall cease to have effect. <p>Permitted Road Access Location</p> <p>5. Vehicular access between the state-controlled road (Mareeba Connection Road) and the Subject Land shall be via:</p> <ul style="list-style-type: none"> (i) A new driveway located about 85m west of the eastern boundary of the Subject Land, and (ii) A new ingress only driveway located about 155m west of the eastern boundary of the Subject Land. <p>6. No additional direct vehicular access between the state-controlled road (Mareeba Connection Road) and the Subject Land is permitted.</p> <p>7. No direct vehicular access between the state-controlled road (Kennedy Highway) and the Subject Land is permitted.</p> <p>8. Vehicular access between the Mareeba Connection Road and the Kennedy Highway and the approved accommodation units on the Subject Land shall be via Kencally Road, to the satisfaction of Tablelands Regional Council.</p> <p>Road Access Works</p> <p>9. Road access works at the permitted road access location, pursuant to Condition 5 (ii), are required and shall be constructed in accordance with:</p> <ul style="list-style-type: none"> Main Roads Road Planning and Design Manual, and Current Main Roads standards 	<p>Main Roads must ensure that access between the Subject Land does not adversely impact the safe and efficient operation of the state-controlled road</p>	<p>s. 62 Transport Infrastructure Act 1994 (Qld)</p>
	<p>Access works at the permitted access location are required to mitigate the impacts of development generated traffic onto the state-controlled road.</p>	<p>s. 23 Transport Infrastructure Act 1994 (Qld) Main Roads Road Planning and Design Manual</p>

Tablelands Regional Council:

Atherton, Herberton, Kuranda, Malanda, Mareeba and Ravenshoe



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Conditions of Development	Reasons	Condition Basis
<p>A recent site inspection indicates the access works require the provision of the following within the state-controlled road reserve (Mareeba Connection Road):</p> <p>(i) A sealed driveway, in-only, to a minimum width of 6 metres from the edge line to the property boundary and a radius of 10m.</p> <p>(ii) Signage at the frontage of the Subject Land advising Entry Only visible to Mareeba Connection Road traffic and advising No Exit visible to on-site traffic.</p> <p>10. The applicant/landowner shall obtain the written approval of Main Roads for road access works prior to works commencing within the state-controlled road reserve (Mareeba Connection Road).</p> <p>11. All required road access works must be completed to the written approval of Main Roads prior to the commencement of the approved Motel use.</p> <p>Intersection Works</p> <p>12. Road intersection works at the permitted road access location, pursuant to Condition 5 (i), are required and shall be constructed in accordance with:</p> <ul style="list-style-type: none"> • Main Roads Road Planning and Design Manual, and • Current Main Roads standards. 	<p>Access works at the permitted access location are required to mitigate the impacts of development generated traffic onto the state-controlled road.</p>	<p>s. 50 Transport Infrastructure Act 1994 (Qld)</p> <p>s. 33 Transport Infrastructure Act 1994 (Qld) Main Roads' Road Planning and Design Manual</p>

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9 February 2010

Conditions of Development	Reasons	Condition Basis
<p>A recent site inspection indicates the intersection works require the provision of the following within the state-controlled road reserve (Mareeba Connection Road):</p> <ul style="list-style-type: none"> (i) A channelised intersection including right turn lane from Mareeba Connection Road, left turn deceleration lane from Mareeba Connection Road and 30m tapered left turn acceleration lane from the Subject Land. (ii) Raised concrete islands with painted concrete infill extending to the existing median east of the intersection and extending at least 100m west of the intersection to Tablelands Regional Council requirements. (iii) Appropriate streetlighting, linemarking, signage and other associated works. <p>A recent site inspection indicates the intersection works require the provision of the following within the state-controlled road reserve (Kennedy Highway):</p> <ul style="list-style-type: none"> (i) A left turn deceleration lane from Kennedy Highway into Mareeba Connection Road located about 2m clear of the existing road frontage of the Subject Land. (ii) Kerbside pedestrian refuge islands on both sides of Kennedy Highway to the east of the closed Kennedy Road intersection. (iii) Appropriate streetlighting, linemarking, signage and other associated works. <p>To this end:</p> <ul style="list-style-type: none"> (i) The applicant/landowner shall obtain Main Roads approval prior to commencing any works within the state-controlled road reserves. (ii) The applicant/landowner shall submit to Main Roads for approval engineering drawings, certified by a Registered Professional Engineer of Queensland (RPEQ), of the proposed works. (iii) Subject to Main Roads approval of the engineering designs the applicant/landowner shall construct the works. (iv) All required access works within the state-controlled road reserves must be completed prior to the commencement of the approved Model use. 	<p>Any works within the state-controlled road reserve must have the written approval of the Chief Executive Officer</p>	<p>s. 50 Transport Infrastructure Act 1994 (Qld)</p>

DECISION NOTICE - APPROVAL

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9 February 2010

Conditions of Development	Reasons	Condition Basis
Road Traffic Noise & Visual Treatments 13. Visual Amenity Works <p>The applicant/landowner shall provide landscaping along the Subject Land's frontages to the Kennedy Highway and Mareeba Connection Road, except for the access driveways, to screen the onsite vehicular circulation. The landscaping shall be designed and planted such that when the landscaping matures, it provides a minimum 1m high screening and complementary screen trees approximately 6m tall at 7m spacings.</p> <p>The species of plants used in the landscaping works shall be in accordance with Council's standards. If Council does not have standards, then the only requirements are that the species are native, low maintenance species that are effective at providing the necessary screening specified above and do not create a safety risk (that is, no thorns, poisonous fruits or berries or large nuts).</p> <p>All landscaping works shall be completed prior to the commencement of either the approved Motel use or approved Drive Through Fast Food Outlet use to the written approval of Main Roads.</p>	<p>To screen onsite vehicular circulation.</p>	<p>Main Roads' Road Landscape Manual</p>
14. Location of Road Traffic Noise Ameliorative Works <p>Road traffic noise ameliorative works shall be incorporated into the design of the development and the applicant/landowner shall have regard to the design criteria specified within AS3671. A noise barrier fence shall be located on the Subject Land, and suitably screened from the State-controlled roads with landscaping on the Subject Land. An acceptable alternative would be a noise barrier fence on the boundary of the Subject Land, with every second panel of the fence indicated a minimum of one metre with landscaping of the indicated areas. The fence would need to be suitably designed and painted to create a visually pleasing appearance.</p>	<p>The development is creating a noise sensitive use within the vicinity of the state-controlled road, a significant source of road traffic noise. Noise amelioration measures, such as architectural treatments, may reduce but not eliminate the impact of road traffic noise.</p>	<p>Main Roads' Road Traffic Noise Management: Code of Practice</p>

DECISION NOTICE - APPROVAL

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9 February 2010

Conditions of Development	Reasons	Condition Basis
<p>15. Maximum Noise Levels and Time Horizons</p> <p>The following maximum road traffic noise levels are not to be exceeded before 10 years after the time of completion of the full development:</p> <ul style="list-style-type: none"> External noise levels must not exceed 60dB(A) L_{10} (18 hour), where existing levels measured at the local government deemed-to-comply dwelling setback distances are greater than 40dB(A) L_{90} (8 hour) between 10pm and 6am; or External noise levels must not exceed 57dB(A) L_{10} (18 hour), where existing levels measured at the local government deemed-to-comply dwelling setback distances are less than or equal to 40dB(A) L_{90} (8 hour) between 10pm and 6am; and Internal noise levels (that is, within buildings above ground floor level only) must not exceed the maximum noise levels specified in AS2107-2000. <p>External noise shall be defined as being all open space including verandahs, balconies, pool areas and gardens.</p> <p>16. Noise Testing</p> <p>The following parameters shall be used to determine the required noise mitigation works:</p> <ul style="list-style-type: none"> External noise levels shall be those predicted to occur on the Subject Land in areas likely to be frequently occupied by people for significant periods. Internal noise levels shall be determined in accordance with AS2107-2000 Noise monitoring shall be carried out in accordance with AS2702-1984 Noise predictions shall be carried out in accordance with Calculation of Road Traffic Noise (CRTNR8) United Kingdom Department of Transport. 		

DECISION NOTICE - APPROVAL

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 9 February 2010

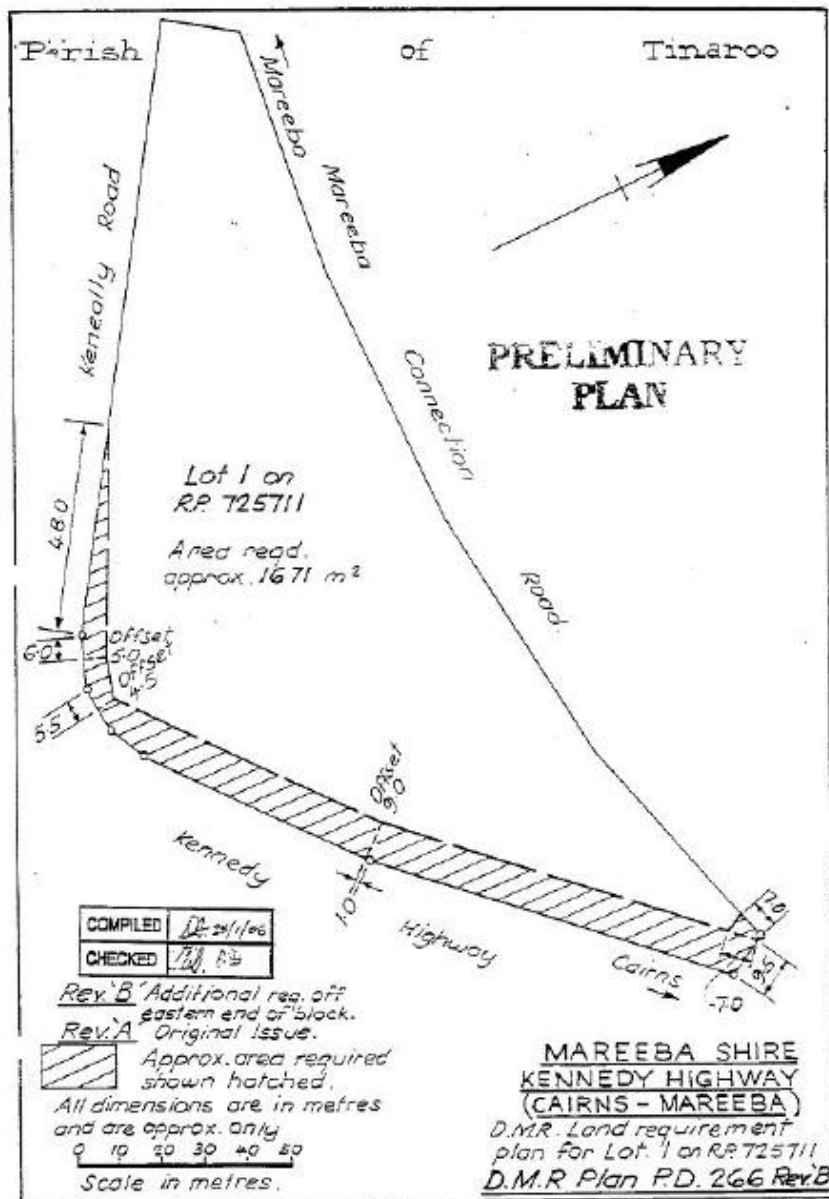
Conditions of Development	Reasons	Condition Basis
<p>17. Road Traffic Noise Report</p> <p>The applicant/landowner shall prepare a road traffic noise report, which demonstrates how the development is to be designed to conform to the requirements, pursuant to conditions 15 - 16. The report shall:</p> <ul style="list-style-type: none"> • Predict the road traffic noise levels • Identify the ameliorative works required within the Subject Land and the relevant buildings • Contain all relevant information and calculations upon which the calculations are based. <p>The applicant/landowner shall submit the report to Main Roads and if necessary, shall amend the report until Main Roads considers that the report reflects the requirements of this condition. The report and any subsequent amendments shall be completed prior to the applicant/landowner seeking Council or private certifier approval for a development permit to commence building works for the approved Motel use on the Subject Land.</p> <p>18. Incorporation of Works into the Development</p> <p>All noise ameliorative works required external to the building(s) on the Subject Land shall be completed prior to the commencement of the approved use.</p> <p>All ameliorative works required within the relevant building(s) shall be:</p> <ul style="list-style-type: none"> • Incorporated into the building design(s) prior to the applicant/landowner seeking Council or private certifier approval for a development permit to commence building works for the approved Motel use on the Subject Land, and • Incorporated into the building(s) prior to the commencement of the approved Motel use of the building. 		

DECISION NOTICE - APPROVAL

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 9 February 2010

Conditions of Development	Reasons	Condition Basis
Stormwater & Drainage 19. To protect the existing flood immunity of the state-controlled roads (Kennedy Highway and Mareeba Connection Road), the applicant/landowner shall seek the written approval of Main Roads prior to any works commencing on the Subject Land which may involve modifying the existing drainage flows on the Subject Land.	Changing the location, level or flow of water runoff to, across or along the state-controlled road can adversely impact the road in terms of safety, efficiency and planning.	s. 33 of the <i>Transport Infrastructure Act 1994</i> (Qld)
Advertising 20. No advertising device for the proposed development is permitted within the state-controlled road reserves (Kennedy Highway and Mareeba Connection Road).	Advertising devices may obscure signage and distract motorists.	s. 50 <i>Transport Infrastructure Act 1994</i> (Qld)
Parking 21. No parking associated with the development is permitted within the state-controlled road reserves (Kennedy Highway and Mareeba Connection Road).	Lack of on-site parking can cause vehicle queuing and conflict at an access to the state-controlled road.	

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9 February 2010



ATTACHMENT 2

From: Tony Fiorenza [mailto:t.fiorenza@gmail.com]
Sent: Saturday, 30 January 2016 2:53 PM
To: Brian Millard
Subject: extension to motel D.A

Mareeba Shire Council.

This letter is a formal request for an extension of motel D.A. MCU/08/ 0063.

My understanding is that M.S.C. policy on extensions is one(1) year.As I have intentions of selling the site, and having spoken to several real estate agents specialling in motels/site sales(Cairns),without exception,their opinion is that it virtually be impossible to sell with a one year (assuming sale was to take place day one of renewal) D.A.. This would be due to the time frame involved in fleasability,searches,planning etc. .this would most likely results in further extensions,which in reality could possibly be rejected due to changes in council policies, and as main road is involved,further complication could arise.A sale could be affected subject to "options and conditions".Having being involved ,both in sales and purchases, I know how frustrating this can be as it inevitably results in costly delays.

I am, and always been of the opinion,that the site is ideally suited for a resort style motel;demonstrated in the fact that I've persisted with it for eight years at considerable costs.Unfortunately,time moves on.I'm eight years older and priorities change;hence the wish to sell.irrispective,sooner or later someone will build a motel on the site.,benefiting the town as there would nothing comparable to it;enticing tourists to stay overnight instead of driving to cairns.To my knowledge,existing motel are outdated ,with facilities a tourist would find difficult to accept.

For all the above reasons and possibly many others,I Ask the council to consider a four year(4) extension.

YOURS FAITHFULLY
TONY FIORENZA(DIRECTOR: LANDGOLD PTY LTD-THE APPLICANT)

<http://cam.mcg.local/direct/directorio/ctools/default/default/ctools/docid/3757052/mcg> 4/02/2016

ATTACHMENT 3

Department of Infrastructure,
Local Government and Planning

Our reference: SPD-0216-024766
Your reference: MCU/08/0063

10 February 2016

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba QLD 4880
info@msc.qld.gov.au

Dear Sir / Madam

Notice about request to extend relevant period

Development permit for material change of use (motel) located on land at cnr Kennedy Highway and Mareeba Connection Road, Mareeba and more particularly described as Lot 1 on RP725711
(Given under section 385 of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning received written notice under section 383(1)(a) of the *Sustainable Planning Act 2009* (the act) on 3 February 2016 advising the department, as a concurrence agency, of the request to extend the relevant period. The proposed extension to the relevant period is for a further four (4) years.

The department has considered the request to extend the relevant period and advises that it has no objection to the extension being approved.

If you require any further information, please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 4037 3228 or via email joanne.manson@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
A/Manager (Planning)

cc: Tony Fiorenza, email: t.fiorenza@gmail.com

Far North Queensland Regional Office
Ground Floor, Cairns Port Authority
PO Box 2358
Cairns QLD 4870

**ITEM-3 B & F COPLAND - RECONFIGURING A LOT -
SUBDIVISION (1 INTO 2 LOTS) - LOT 64 N157400 - 38
COPLAND ROAD, KOAH - DA/16/0005****MEETING:** Ordinary**MEETING DATE:** 2 March 2016**REPORT OFFICER'S
TITLE:** Planning Officer**DEPARTMENT:** Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	B & F Copland	ADDRESS	38 Copland Road, Koah
DATE LODGED	1 February 2016	RPD	Lot 64 on N157400
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 Lots)		

FILE NO	DA/16/0005	AREA	16.187 Ha
LODGED BY	B & F Copland	OWNER	B & F Copland
PLANNING SCHEME	Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11)		
ZONE	Rural		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code assessment only		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is code assessable and was therefore not required to undergo public notification.

The applicants propose the excision of approximately 2.55 Ha of land from the north-west corner of the site to form a separate allotment (proposed Lot 1), leaving a balance allotment of approximately 13.64 Ha (proposed Lot 2).

The application and supporting material has been assessed against the relevant statutory planning instruments including the FNQ Regional Plan, the State Planning Policy, and the Mareeba Shire Planning Scheme (including codes and policies) and is in conflict with the

rural subdivision provisions contained within both the Planning Scheme and the Regional Plan.

Both proposed allotments (particularly Lot 1) are significantly smaller than the Planning Scheme's desired minimum resultant lot size of 30 Ha for land within the Rural zone (where not GQAL). The proposed subdivision conflicts with an overall intent of the Rural Zone as it would result in further fragmentation of rural land, the ad-hoc creation of an additional rural lifestyle allotment, and an increase in dwelling densities within the Rural zone.

Council officers have not identified sufficient planning grounds to justify an approval despite these conflicts.

It is recommended that the application be refused.

OFFICER'S RECOMMENDATION

"1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	B & F Copland	ADDRESS	38 Copland Road, Koah
DATE LODGED	1 February 2016	RPD	Lot 64 on N157400
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Subdivision (1 into 2 Lots)		

and in accordance with the Sustainable Planning Act 2009, the applicant be notified that the application for a development permit for the development specified in (A) is:

Refused by Council for reasons set out in (B).

(A) REFUSED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 Lots)

(B) ASSESSMENT MANAGER'S REASONS FOR REFUSAL:

That Council considers:-

- The proposed development is in conflict with Part 4, Division 14, Overall Outcomes for Rural Zone Code:

(b) where agricultural production and the raising of animals are protected from incompatible land uses
- The proposed development is in conflict with Part 4, Division 14, 4.80 of the Rural Zone code:

Reconfiguring a Lot

S1 *The viability of the farming industry throughout the shire and Good Quality Agricultural Land, and future opportunities for farming pursuits are not compromised.*

PS1.2 *Allotments to have a minimum area of 30 hectares and road frontage of 150 metres if outside the area identified on Agricultural Land Quality Maps S2, S3, S4 and S5.*

3. The proposed development is in conflict with land use policies 2.4.1, 2.6.1, 5.4.2 and 5.4.3 of the Far North Queensland Regional Plan 2009-2031.
4. That there are not sufficient grounds to justify approval of the application, despite the identified conflicts."

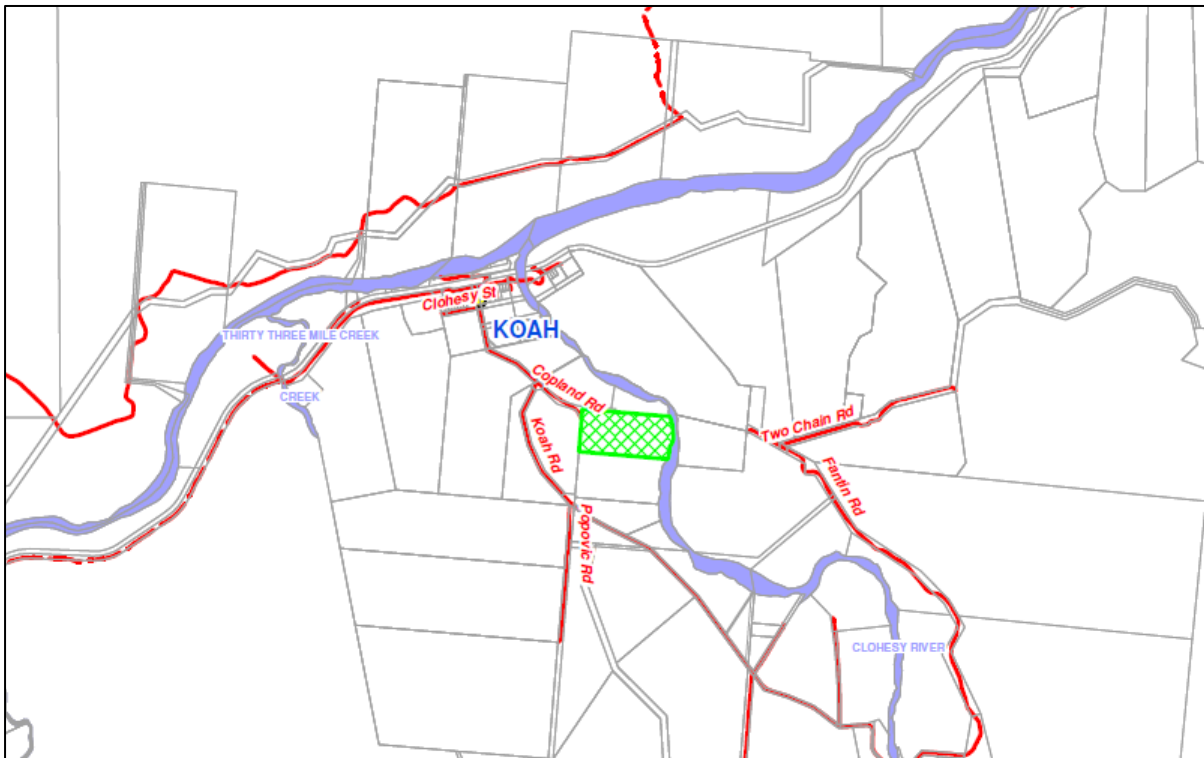
THE SITE

The subject site is situated at the very end of Copland Road, Koah and is described as Lot 64 on N157400. The site has a total area of 16.187 Ha, is generally regular in shape and is zoned Rural under the Mareeba Shire Planning Scheme.

The site is accessed from Copland Road which terminates at the sites western boundary. Copland road is constructed to a formed gravel standard of reasonable quality as it appears to experience very low daily traffic movements.

The site is improved by a single dwelling and multiple ancillary outbuildings clustered towards the eastern end of the property. Topographically, the site slopes consistently down to the east towards the Clohesy River which is situated immediately behind the site. Approximately two thirds of the site is cleared and grassed while the other third of the site remains vegetated by mature *Remnant Vegetation of Least Concern Regional Ecosystem*.

The site is currently used for animal keeping/husbandry (Arabian Stud horse) and small scale hobby farming. All surrounding properties are zoned Rural and are used for rural lifestyle purposes.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 Lots) in accordance with the plans shown in **Attachment 1**.

The applicants propose the excision of approximately 2.55 Ha of land from the north-west corner of the site to form a separate allotment. For the purposes of this report, the newly proposed lots are described as Lots 1 and 2 as follows:

- Proposed Lot 1 - area of approximately 2.55 Ha, 150 metres of frontage to an undeveloped section of Copland Road road reserve; and
- Proposed Lot 2 - area of approximately 13.64 Ha, 130 metres of frontage to Copland Road (mostly undeveloped road reserve).

Access to Lot 1 is proposed via the undeveloped section of the Copland Road road reserve while access to Lot 2 will continue to be gained from the constructed section of Copland Road which terminates at the property boundary.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *State & Regional Conservation Corridors*
- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Rural
Zone:	Rural
Overlays:	Natural Disaster - Bushfire Overlay

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Assessment against the Regional Plan is required because the plan is not reflected in the planning scheme.

The following Desired Regional Outcome Land Use Policies are relevant to the assessment of the application:

DRO 2.4 Primary Production & Fisheries			
Land Use Policy		Complies	Comments
2.4.1	<i>Good quality agricultural land is protected from urban development outside the urban footprint.</i>	×	<p>The subject site and immediate surrounding allotments are not mapped as Good Quality Agricultural Land (GQAL).</p> <p>Despite the marginal quality of the subject land for conventional agricultural uses (cropping, grazing), the creation of yet another 'rural lifestyle' allotment may constrain the future rural development options of the surrounding area.</p> <p>The future development of intensive rural uses such as meat poultry farms and kennels are dependent on achieving separation distances from sensitive receptors (dwelling houses) which will in turn be made more difficult by the creation of the proposed additional lot and the subsequent additional dwelling.</p>

DRO 2.6 Rural Subdivision			
Land Use Policy		Complies	Comments
2.6.1	<i>Further fragmentation of agricultural land in the regional landscape and rural production area is avoided to maintain economically viable farm lot sizes.</i>	×	<p>The proposed subdivision will result in the fragmentation of land within the RLRPA to create a 2.5 Ha allotment.</p> <p>Regardless of whether or not the existing lot is considered to be economically viable in terms of farming, excising a further 2.5 Ha of cleared land will further compromise the properties viability as a rural holding.</p>

DRO 5.4 Primary Industries			
Land Use Policy		Complies	Comments
5.4.2	<i>Threats to primary production from incompatible development are identified and managed through land use planning and where appropriate, by developer established buffers.</i>	×	<p>The proposed development will result in the creation of an additional rural lifestyle allotment and subsequent increase in dwelling densities within the rural zone.</p> <p>The future development of intensive rural uses such as meat poultry farms and kennels are dependent on achieving separation distances from sensitive receptors (dwelling houses) which will be made more difficult by the creation of the proposed additional lot and the subsequent additional dwelling house.</p>
5.4.3	<i>Potential conflict between primary industries and urban activities is managed through land use planning and, where appropriate, developer-established buffers.</i>	×	<p>The proposed development will result in the creation of an additional rural lifestyle allotment and subsequent increase in dwelling densities within the rural zone.</p> <p>The future development of intensive rural uses such as meat poultry farms and kennels are dependent on achieving separation distances from sensitive receptors (dwelling houses) which will be made more difficult by the creation of the proposed additional lot and the subsequent additional dwelling house.</p>

(b) State Planning Policy

The Department of State Development, Infrastructure and Planning has introduced a single State Planning Policy (SPP) to replace the various SPP's previously in place. As such, this State Planning Policy is not reflected in the Planning Scheme and is therefore applicable to the assessment of the application.

An officer assessment of the proposed development against the provisions contained within the SPP has been undertaken and it is not considered to be in conflict with any relevant aspect of the SPP.

Queensland State Planning Policy - July 2014		
State Interest	Complies	Assessment Requirements & Comments
Natural hazards A development application for a material change of use, reconfiguring a lot or operational works on land within: (1) a flood hazard area, or (2) a bushfire hazard area, or (3) a landslide hazard area, or (4) a coastal hazard area.	✓	For all natural hazards: Development: (1) avoids natural hazard areas or mitigates the risks of the natural hazard, and (2) supports, and does not unduly burden, disaster management response or recovery capacity and capabilities, and (3) directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties, and (4) avoids risks to public safety and the environment from the location of hazardous materials and the release of these materials as a result of a natural hazard, and (5) maintains or enhances natural processes and the protective function of landforms and vegetation that can mitigate risks associated with the natural hazard, and Comment The subject site is not situated within a hazard area for flood or landslide. The development can be conditioned to comply with this aspect of the SPP for bushfire hazard.

(c) Mareeba Shire Planning Scheme 2004 (amendment no. 01/11)

Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

Part 4, Division 14	Rural Zone Code
Part 5, Division 8	Natural Disaster - Bushfire Overlay Code
Part 6, Division 12	Reconfiguring a Lot Code

The application did not include a planning report and assessment against the planning scheme.

Relevant Codes	Comments
Rural Zone Code	<p>The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code apart from the following:</p> <ul style="list-style-type: none"> 4.80 Reconfiguring a Lot - Probable Solution PS1.2 <p>Refer to planning discussion section of report.</p>
Natural Disaster - Bushfire Overlay Code	<p>The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.</p>
Reconfiguring a Lot Code	<p>The application can be conditioned to comply with the relevant acceptable/probable solutions contained within the code.</p>

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

No. 4 - Development Manual

The applicants propose to provide access to Lot 1 via a poorly constructed section of road reserve that fronts the northern boundary of the site. This road within this section of road reserve is constructed to an unformed gravel standard and is used to access two allotments to the north of the subject site.

Should Council approve this application against the officer's recommendation, it is recommended that this poorly constructed road be upgraded to a formed gravel standard in accordance with the FNQROC Development Manual, to a point 10 metres past the access to proposed Lot 1.

Alternatively, a short access easement within proposed Lot 2 could be used to gain access to proposed Lot 1. Copland road itself is constructed to a reasonable formed gravel standard up to its point of termination at the subject sites western boundary.

REFERRALS

Concurrence

This application did not trigger referral to a Concurrence Agency.

Advice

This application did not trigger referral to an Advice Agency.

Internal Consultation

Development Engineering - Access/road construction standard.

PLANNING DISCUSSION

Noncompliance with the relevant overall outcomes and acceptable/probable solutions contained within the relevant development codes are summarised as follows:

The overall outcomes sought for the Rural Zone code are to achieve an area:

- (b) *where agricultural production and the raising of animals are protected from incompatible land uses;*

Comment

The rural zone is intended for agricultural and primary production purposes. Fragmenting rural allotments below the Planning Scheme's minimum lot size will generally lead to higher than anticipated dwelling density within the rural zone, increasing the probability of land use conflict with bona fide rural uses.

The future development of intensive rural uses such as meat poultry farms and kennels are dependent on achieving separation distances from sensitive receptors (dwelling houses) which could be made more difficult by the creation of the proposed additional lot and the subsequent additional dwelling house.

The proposed development conflicts with Overall Outcome (b).

4.80 Reconfiguring a Lot

- S1** *The viability of the farming industry throughout the shire and including Good Quality Agricultural Land, and future opportunities for farming pursuits are not compromised.*

PS1.1 ...

PS1.2 *Allotments to have a minimum area of 30 hectares and road frontage of 150 metres if outside the area identified on Agricultural Land Quality Maps S2, S3, S4 and S5.*

Comment

The proposed subdivision will result in the creation of a 2.5 hectare allotment which is significantly smaller than the desired minimum resultant lot size of 30 hectares for land within the Rural zone (where not GQAL).

An overriding intention of the Planning Scheme is to minimise further fragmentation of agricultural land within the Rural zone and to maintain economically viable farm lots sizes. Although the subject site is not mapped as containing GQAL, and is of a size that puts in questions its viability as a farming property, the proposed development would still result in the fragmentation and dissipation of rural land and the ad-hoc creation of yet another rural living allotment.

Although the subdivision may benefit the applicant, there is not considered to be any overriding benefit to the community as a result of the development. In fact, the development creates further opportunity for land use conflicts to occur and may further hinder the development of rural uses including animal husbandry-intensive uses which are dependent on separation distances only achievable within lesser developed rural areas.

The proposed development conflicts with PS1.2 and Specific Outcome S1.

Conclusion

An intention of the Planning Scheme for the rural zone is to discourage the creation of further small rural lots, and the proposal is in conflict with this intention.

The proposed development is in conflict with both the Mareeba Shire Planning Scheme and the FNQ Regional Plan and sufficient planning grounds have not been identified to justify an approval, despite this conflict.

It is therefore recommended that the application be refused.

Date Prepared: 17 February 2016

ATTACHMENT 1

APPROVED PLANS (ECM VS# 3758001)



GOVERNANCE AND COMPLIANCE

ITEM-4 BAR BARRUM CLAIM NO 5 AND CONSENT DETERMINATIONS

MEETING: Ordinary

MEETING DATE: 2 March 2016

REPORT

OFFICER'S TITLE: Manager Development & Governance

DEPARTMENT: Corporate and Community Services

EXECUTIVE SUMMARY

The purpose of this report is to consider the resolution of Federal Court native title proceedings to which Council is a respondent party.

At the meeting of Council held on 2 December 2015, the Bar Barrum People Claims No's 2, 3, 4 and 6 were considered and Council resolved to accept the State's tenure analysis for the various land parcels contained within the claim areas.

The State has also undertaken a tenure analysis of the Bar Barrum People Claim No 5 which covers land and waters in and around the Walsh River near Herberton and which is subject to a longstanding dispute between the Bar Barrum People, the State and certain Walsh River residents (referred to as the Walsh River Respondents).

The report seeks Council's resolution to:

- (a) accept the State's tenure analysis of the parcels of land in the No 5 Claim area; and*
- (b) consent to the determination of native title for all claims (2, 3, 4, 5 and 6).*

OFFICER'S RECOMMENDATION

"That:

1. Council accept the State's tenure analysis for the various land parcels contained within the Bar Barrum People No 5 Claim area as per the updated Streamlined Tenure Analysis Table provided for that claim.
2. Council consent to a determination of native title in the Bar Barrum People Claims No's 2, 3, 4, 5, and 6 (QUD6015/2001, QUD6017/2001, QUD6030/2001, QUD6031/2001 and QUD6032/2001) substantially in the terms of the draft consent determinations provided by MacDonnells Law and considered by Council, with such amendments as may be required to enable the consent determinations to be made by the Federal Court.

3. Council delegate to the Chief Executive Officer the power to negotiate and agree, on behalf of Council, to such changes to the draft consent determinations, referred to in 2. above, as are required to enable the Federal Court to make the consent determinations."

BACKGROUND

The Bar Barrum People claim to hold native title over land and waters in and around Mt Garnet and Herberton in far north Queensland. There are currently 7 claims filed in the Federal Court on their behalf. Each claim covers specific parcels of land.

The land covered by Claims 2, 3, 4 and 6 and the native title rights and interests to be recognised was previously considered by Council at its meeting held on 2 December 2013 where Council accepted the State's tenure analysis for the various land parcels contained within the claim areas.

The State has now also prepared a tenure analysis for the No 5 claim area and a resolution is sought from Council to accept the State's tenure analysis for the various land parcels contained within the No 5 claim area as well as to consent to the determination of native title for Claims 2, 3, 4, 5 and 6.

According to a previous analysis undertaken by the Tablelands Regional Council in 2012, Council does not have any tenure interests in any parcel of land within the No 5 Claim area.

A detailed confidential report in relation to the Bar Barrum People Claims has been prepared by MacDonnells Law and has been forwarded separately to Councillors. Council should refer to the advice provided in that report when considering this matter.

LINK TO CORPORATE PLAN

ENV 3 - Appropriate consideration is given to planning and development controls, design guidelines, traditional ownership and sustainable development principles when making planning decisions.

CONSULTATION

Internal

Council has previously considered information relative to Claim No's 2, 3, 4 and 6.

External

MacDonnells Law

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

This matter is subject to Native Title legislation and the determination of the Federal Court.

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS

Capital
Nil

Operating
Nil

Is the expenditure noted above included in the 2015/2016 budget?
Nil

If not you must recommend how the budget can be amended to accommodate the expenditure
Nil

IMPLEMENTATION/COMMUNICATION

Advice of Council's decision will be communicated immediately to MacDonnells Law as Council's decision has to be provided to the State by 4 March 2016.

ATTACHMENTS

1. Letter from MacDonnells Law dated 15 February 2016.
2. Streamlined Tenure Process Table - Bar Barrum People Claim No 5

Date Prepared: 16 February 2016

ATTACHMENT 1

Our Ref: Jenny Humphris:150634

15 February 2016

Chief Executive Officer
Mareeba Shire Council
PO Box 154
MAREEBA QLD 4880

Email: alanl@msc.qld.gov.au

Dear Alan

Bar Barrum People #5 Native Title Claim: Tenure Analysis

A timetable towards a consent determination of the above Bar Barrum People #5 Claim (the **Claim**) has been filed with the Federal Court (the **Timetable**).

In accordance with the Timetable, the State has now circulated a streamlined Tenure Analysis Table for the Bar Barrum People #5 claim area. Council is to advise whether it agrees with the State's circulated Streamlined Tenure Analysis Tables for this Claim by 26 February 2016. We understand that the next opportunity that Council will have to consider tenure is the meeting of 2 March 2016. We will therefore ask that the parties and Court agree to extend the time for Council's response until **4 March 2016**.

In 2012, prior to the de-amalgamation of Mareeba Shire Council from the Tablelands Regional Council, the Tablelands Regional Council advised that it agreed in principle with the State's analysis.

We have been provided with updated tenure material from the State. It differs from the 2012 information only in the respect that some tenure descriptions have been updated.

We **attach** to this letter a copy of the most recent updated Streamlined Tenure Analysis Table for the #5 Claim (the **Table**).

You will recall that streamlined tenure tables were previously provided to Council for claims #2, #3, #4 and #6. These were considered by Council at its meeting of 2 December 2015. On that date Council resolved to accept the State's tenure analysis for the various parcels within those claims.

Council will now be required to consider the attached tenure table for the #5 claim and a similar resolution is requested.

Exclusive vs Non-exclusive Native Title

The State proposes to recognise exclusive native title and non-exclusive native title over various parcels of land within the Claim area.



CHW_150634_2939859

Level 9 120 Edward Street Brisbane QLD 4000 | GPO Box 79 Brisbane QLD 4001 | DX 121 Brisbane
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Liability limited by a scheme approved under professional standards legislation

ABN 13 315 585 268

Chief Executive Officer

MacDonnells Law
15 February 2016
Page 2

Where exclusive native title is recognised, the Bar Barrum People will be able to exercise native title rights and interests to the exclusion of all others. That means that they can exclude others from entering or using the land.

These are the parcels in relation to which under the column of the Table entitled "State's Preliminary Position" it is recorded that "The State is prepared to agree to exclusive native title without reference to prior tenures".

Where non-exclusive native title rights and interests is recognised, native title co-exists with any other existing interests in the land, for example Council's interests as a trustee of a reserve. To the extent that there is any inconsistency between the exercise of native title rights and the exercise of other non-native title interests, the other non-native title interests prevail.

Council's Interests

According to the previous analysis undertaken by the Tablelands Regional Council in 2012, Council does not have any tenure interests in any parcel of land within this Claim area.

Assuming that that is still the case, Council can agree to the State's analysis and the recognition of exclusive or non-exclusive native title over the parcels listed in the Tables.

This is with the possible exception of any parcels in which Council infrastructure is located. In 2012 we were instructed by the Tablelands Regional Council that there was no Council infrastructure within parcels where exclusive native title was to be recognised.

Would Council please advise if it is prepared to rely on that analysis or wishes to make its own enquiries. If so, could Council please advise if it holds any infrastructure in the parcels of land where the State is prepared to recognise exclusive native title.

Public Works

The recognition of exclusive or non-exclusive native title does not prevent Council from asserting, in the future, that native title does not exist where public works have been constructed.

The determination of native title will provide that native title exists over the relevant parcels (either of an exclusive or non-exclusive nature) but will provide that it does not exist over areas where there are public works. The determination is unlikely to list these specific public works (unless a particular party presses for that) but will deal with them generally in a "catch all" public works clause. This means that Council may, in the future, assert that native title is extinguished over any particular works provided they fall within the definition of public works (i.e. constructed on or before 23 December 1996 and for a public purpose).

If Council wishes to assert that public works extinguish native title in the future it will need to provide, to the satisfaction of the Bar Barrum People, and possibly the State if Council is seeking tenure from the State at that time, relevant evidence of construction of the public works; including the area over which they were constructed - the type of public works, who constructed the public works and that they were constructed validly.

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Chief Executive Officer

MacDonnells Law
15 February 2016
Page 3

It is possible for Council to assert the extinguishment of public works now (i.e. prior to a consent determination) however the work that would be required from Council's perspective to do so would be substantial. Tablelands Regional Council previously instructed us not to assert extinguishment by specific public works but rather to preserve its position to do so in the future if and when required. That is the position that Council may also wish to adopt.

Summary

We have reviewed the State's Streamlined Tenure Process Tables for the Claim. We have also considered the State's position in relation to whether it is prepared to recognise exclusive or non-exclusive native title or whether it considers that native title has been extinguished for any particular purpose.

We agree with the State's position on the basis that Council does not have:

- (a) any tenure interest; or
- (b) infrastructure,

in parcels where exclusive native title is to be recognised. We understand in fact that Council does not hold any tenure in the Claim area.

Going Forward

The #5 Claim may move towards a consent determination in June 2016 depending upon the timing for resolution of the Walsh River Respondent's interests. The Timetable requires that all parties reach in principle agreement on the tenure analysis as recorded in the Tables by 26 February 2016. Again, we will ask for an extension until 4 March on behalf of Council.

Would Council please be able to confirm by **4 March**:

- (a) it holds no tenure in the Claim area;
- (b) it has no infrastructure in areas over which the State is prepared to recognise exclusive native title; and
- (c) it is prepared to accept the State's position on tenure.

Please do not hesitate to contact Jenny Humphris if you wish to discuss.

Yours faithfully
MacDonnells Law



Writer: Jenny Humphris | Partner
Direct: + 61 7 3031 9720
Email: jhumphris@macdonnells.com.au

Enclosure

CHW_150634_2939859

ATTACHMENT 2

WITHOUT PREJUDICE AND CONFIDENTIAL

BAR-BARRUM PEOPLE #5 NATIVE TITLE DETERMINATION APPLICATION (application date 28/09/01)

STREAMLINED TENURE PROCESS TABLE - Tenure Spreadsheet amended to reflect amended Form 1 filed 29/10/2013 Updated 28 January 2016

Note:
This document has been prepared for the purposes of claim negotiations only and does not contain legal advice. The Department of Natural Resources and Mines reserves the right to obtain legal advice in regards to the information contained within this document.
The information below has been sourced direct from the State's Land Registry.

The conclusions below about the notional effect that the tenure at the date of claim had on native title and the extent to which the State will recognise native title as a result have been reached having regard to the State's Tenure Process only.
Public roads validly granted on or before 23 December 1996 are not claimed and therefore not evidenced in this report.

Area No.	Description at Time of Claim 28/09/2001			Current Description 8/10/2015			Additional Tenure Information	No. of Annexures	State's Preliminary Position	Parties Comments
	Lot	Plan	Tenure Type	Lot	Plan	Tenure Type				
1	10	HG651	SL	10	HG651	SL	Not Applicable	1. Smart Map 2. Title 47022298 3. Plan HG651	The State is prepared to agree to exclusive native title without reference to prior tenures	
2	157	USL21437	SL	157	USL21437	SL	Not Applicable	1. Smart Map 2. Title 47021625 3. Plan USL21437	The State is prepared to agree to exclusive native title without reference to prior tenures	
3	194pt	FTY1776	SF	194pt	FTY1870 AP19246	SF FR	Not Applicable	1. Smart Map 2. Smart Map 3. Title 47542424 4. Title 47522125 5. Plan FTY1870 6. Plan AP19246	The State is prepared to agree to non-exclusive native title without reference to prior tenures	Part parcel removed from application - Agreement between Applicant and Jirral
4	2	CP891168	RE	2	CP891168	RE	Reserve for Fire Brigade	1. Smart Map 2. Title 49100122 3. Plan CP891168 4. Government Gazette dated 18 October 1996	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
5	B	AP2150 (strata)	LL	B	AP2150 (strata)	LL	Permit To Occupy (Grazing) No. PO210634 under 24LA of the NTA	1. Smart Map 2. Title 400163925 3. Plan AP2150 4. Permit to Occupy PO210634	The State is prepared to agree to exclusive native title without reference to prior tenures. See Area 2. This permits is over Lot 157 on USL 21437	
6	8	HG836166	LL	8	HG836166	LL	Special Lease (Rural Residential) No. 09/52128	1. Smart Map 2. Title 17725205 3. Plan HG836166 4. Special Lease 17725205	State considers native title has been wholly extinguished on the basis of s23B(2)(c)(v) of the Native Title Act 1993	
7	9	HG690	LL	9	HG690	LL	Permit To Occupy (Residential & Primary Industry) No. 09/6248	1. Smart Map 2. Title 17689078 3. Plan HG690 4. Permit to Occupy 17689078	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
8	10	CP889851	LL	10	CP889851	FH	Special Lease (Rural Residential) No. 0/202244	1. Smart Map 2. Plan 3. Title Search 4. Special Lease 17771245	State considers native title has been wholly extinguished on the basis of s23B(2)(c)(v) of the Native Title Act 1993	

8/10/2015

Bar Barrum People #5 Tenure Table

1 of 2

WITHOUT PREJUDICE AND CONFIDENTIAL

Area No.	Description at Time of Claim 28/09/2001			Current Description 8/10/2015			Additional Tenure Information	No. of Annexures	State's Preliminary Position	Parties Comments
	Lot	Plan	Tenure Type	Lot	Plan	Tenure Type				
9	1	PER4790	LL	1	PER4790	LL	Permit To Occupy (Rural Residential) No. 09/4790	1. Smart Map 2. Title 17682226 3. Permit to Occupy 17682226	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
10	1	PER4789	LL	1	PER4789	LL	Permit To Occupy (Rural Residential) No. 09/4789	1. Smart Map 2. Title 17682225 3. Permit to Occupy 17682225	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
11	8	HG686	LL	8	HG686	LL	Special Lease (Rural Residential) No. 09/51663	1. Smart Map 2. Title 40061477 3. Plan HG686 4. Term Lease 40061477 5. Special Lease 17719067	State considers native title has been wholly extinguished on the basis of s23B(2)(c)(v) of the Native Title Act 1993	
12	11	CP860907	LL	11	GP860907	LL	Special Lease (Rural Residential) No. 09/53111	1. Smart Map 2. Title 17746035 3. Plan CP860907 4. Special Lease 17746035	State considers native title has been wholly extinguished on the basis of s23B(2)(c)(v) of the Native Title Act 1993	
13	1	PER5540	LL	1	PER5540	LL	Permit To Occupy (Rural Residential) No. 09/5540	1. Smart Map 2. Title 17685133 3. Permit to Occupy 17685133	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
14	7	HG647	LL	7	HG647	SL	Not Applicable	1. Smart Map 2. Title 17728165 3. Plan HG647 4. Occupation License 17728165	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
15	567pt	OL57	LL	567pt	OL57	LL	Occupation License 09/567	1. Smart Map 2. Title 17682146 3. Plan OL57 4. Permit to Occupy 17682146	The State is prepared to agree to non-exclusive native title without reference to prior tenures	
16	4	HG644	LL	4	HG644	LL	Special Lease 9/46167 for Residential & Primary Industry	1. Smart Map 2. Title 17557018 3. Plan HG644 4. Special Lease 17557018	State considers native title has been wholly extinguished on the basis of s23B(2)(c)(i) of the Native Title Act 1993	
17	569	OL58	LL	569	OL58	LL	Occupation License 09/569	1. Smart Map 2. Title 17662147 3. Plan OL58 4. Occupation License 17662147	The State is prepared to agree to non-exclusive native title without reference to prior tenures	

8/10/2015

Bar Barrum People #5 Tenure Table

2 of 2

**ITEM-5 RESERVATION IN TITLE FOR ROAD PURPOSES - LOT
31 ON HG712 BARBETTI ROAD MUTCHILBA**

MEETING: Ordinary

MEETING DATE: 2 March 2016

**REPORT OFFICER'S
TITLE:** Manager Development & Governance

DEPARTMENT: Corporate and Community Services

EXECUTIVE SUMMARY

This report follows on from a previous report submitted to Council on 21 January 2015 regarding an application to permanently close an unused section of unnamed road reserve off Barbetti Road, Mutchilba abutting Lot 31 on HG712 and Lot 32 on HG54. While Council did not object to the permanent road closure, another issue has arisen which requires Council's consideration. This issue relates to a reservation in title which is registered against Lot 31 on HG712 and which must be removed before the permanent road closure can be progressed. The reservation in title in this case is a road reservation.

OFFICER'S RECOMMENDATION

"That Council advise the Department of Natural Resources and Mines that, with respect to the reservation in title for road purposes registered against Lot 31 on HG712, Barbetti Road, Mutchilba, Council has no interest in the subject road reservation and has no objection to it being purchased by the registered owner of Lot 31 on HG712."

BACKGROUND

A report was submitted to the Council meeting of 21 January 2015 regarding an application for the permanent closure of an unused section of unnamed road reserve off Barbetti Road abutting Lot 31 on HG712 and Lot 32 on HG54.

Council resolved that it had no objection to the permanent road closure, however, the Department of Natural Resources and Mines has recently contacted Council and advised that there is a reservation in title (road reservation) affecting Lot 31 on HG712 and the permanent road closure cannot be dealt with until the reservation in title is removed from the freehold land either by purchase by the registered owner or by Council requesting to have the area opened as road.

A reservation in title is an area excluded from a title for a public purpose; it may be contained on either freehold or leased land. Road reservations, esplanades and railway reservations are common types of reservations in title. Reservation localities are normally undefined, however, some are in a fixed location. The road reservation within Lot 31 on HG712 is as shown coloured orange on the plan attached to the letter from DNRM dated 3 September 2015 (Attachment 1 to this report). As can be seen, the road reservation extends from the end of Barbetti Road down to the Walsh River.

The Manager Technical Services has advised that the road reservation is not required by Council as Council has other accesses to the Walsh River available to it. As also detailed in the attached letter from DNRM dated 3 September 2015, there are significant requirements on Council should it wish to have the area opened as road.

It is therefore recommended that Council advise DNRM that Council has no interest in the road reservation.

LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

CONSULTATION

Internal
Manager Technical Services

External
Land Officer, Department of Natural Resources and Mines

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS

Capital
Nil

Operating
Nil

Is the expenditure noted above included in the 2015/2016 budget?
N/A

If not you must recommend how the budget can be amended to accommodate the expenditure
N/A

IMPLEMENTATION/COMMUNICATION

DNRM will be advised of Council's decision following the Council meeting.

ATTACHMENTS

1. Letter dated 3 September 2015 from Department of Natural Resources and Mines
2. Report submitted to Council meeting 21 January 2015
3. Letter to DNRM dated 27 January 2015

Date Prepared: *15 February 2016*

ATTACHMENT 1Department of
Natural Resources and Mines

Author Susan Ashley
File / Ref number 2014/006894
Directorate / Unit State Land Asset Management
Phone (07)4095726

3 September 2015

The Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba Q 4870

Dear Sir/Madam

Re: Purchase of Reservation in Title within Lot 31 on Plan HG712 – Carmen Di Salvo

Reference is made to an application for permanent road closure the department is currently investigating for Carmen Di Salvo. Investigations has revealed that there is a reservation in title registered against Lot 31 on HG712 as the land is being dealt with by way of a permanent road closure the reservation in title must be removed from the freehold land either by purchased by the registered owner or Council request to have the area open as road within lot 31 on HG712 of which must be progressed simultaneously with the permanent road closure application.

It is requested that you provide its views and/or requirements in regards to the purchase of the road reservation within Lot 31 on HG712

Should Council call for this Department to investigate the resumption of possession of all or part of the above road reservation, the following requirements will be a prerequisite of any investigation:

1. An application Council's seal requesting resumption of possession of the required part of the road reservation pursuant to Section 229 of the *Land Act 1994*.
2. A copy of Council's resolution to proceed with the resumption.
3. Council's statements of reasons as to why the road is required on this particular route and to comment on the rejection of any alternative route.
4. Council to obtain a written agreement with the owner regarding fencing of the boundary and severance areas (if required).

Postal :
DNRM Atherton
PO Box 5318
Townsville
4810 QLD

Telephone : (07)40957026
Fax: (07)47997533

5. An undertaking that Council agrees to meet all costs in the matter including any compensation for improvements and development works (if any) to be agreed upon or determined and survey. A survey plan of the required area will be necessary to enable a Notice of Resumption to be served upon the owner/owner Company and the subsequent issue of a Proclamation resuming the required area. The plan to allow for the issue of a new Title over the balance area of the Lot.
6. An undertaking that Council will not be involved with negotiations relating to the quantum of compensation (improvements and development works if any) to be agreed upon or determined. (This matter is an issue between the State and the owner/owner Company).
7. Should the registered owner/owner Company be agreeable to any proposed road opening, the written concurrence of the Company is to be obtained and lodged in the Department. This would alleviate the need to serve a Notice of Resumption on the Company allowing thirty (30) days for lodgement of objection/comment on the proposal.

In accordance with Departmental policy, this Department is of the view the area should be purchased in the event it is not required for the purpose for which it was reserved. Would you therefore provide your views as requested?

If you wish to provide a response but are unable to do so before the due date being **5 October 2015**, please contact me before the due date to arrange a more suitable timeframe. If a response is not received by the due date and no alternative arrangements have been made, it will be assumed you have no objections or requirements in relation to this matter.

If you wish to discuss this matter please contact Susan Ashley on (07)40957026.

All future correspondence relative to this matter is to be referred to the contact Officer at the address below or by email to Townsville.SLAMS@dnrm.qld.gov.au. Any hard copy correspondence received will be electronically scanned and filed. For this reason, it is recommended that any attached plans, sketches or maps be no larger than A3-sized.

Please quote reference number 2014/006894 in any future correspondence.

Yours sincerely



Susan Ashley
Land Officer
State Land Asset Management
North Region – Service Delivery

Copyright protects the plan/s being ordered by you. Unauthorised reproduction or amendments are not permitted

ATTACHMENT 2

Mareeba Shire Council

OFFICER'S REPORT

SUBJECT: APPLICATION FOR PERMANENT ROAD CLOSURE OF AN
UNNAMED ROAD OFF BARBETTI ROAD

MEETING: Ordinary

MEETING DATE: 21 January 2015

**REPORT OFFICER'S
TITLE:** Civil Engineer

DEPARTMENT: Infrastructure Services, Technical Services Group

EXECUTIVE SUMMARY

This application requests to permanently close an unused section of unnamed road reserve off Barbetti Road abutting Lot 31 on HG712 and Lot 32 on HG54, covering an area of 3.36 ha referred to as Lot A.

The purpose is to use the road reserve for grazing purposes.

OFFICER'S RECOMMENDATION

"That Council advise the Department of Environment and Resource Management that it has no objection to the temporary road closure but objects to the permanent closure of an area of about 3.36 ha (Lot A) being unnamed roads abutting Lot 31 on HG712 and Lot 32 on HG54, Parish of Dynes as shown on the Department of Natural Resources and Mines Preliminary Plan CNS14/049P dated 27 October 2014."

BACKGROUND

Lot 31 on HG712 is a 6.816 ha and Lot 32 on HG54 is a 71.629 ha allotment zoned rural agricultural that abuts an unnamed road reserve off Barbetti Road. Currently the road reserve (Lot A) is vacant and provides access to Lot 165 on HG803020, however an alternative access route exists via the unnamed road reserve abutting Lot 34 on HG54 and Lot 351 on SP179197 - refer to attachment 3.

There are no current plans to use this section of road reserve, however it may be required for some undetermined (drainage, access, electricity/phone, water supply) purpose in the future. Therefore a temporary closure is recommended to ensure this reserve remains available for any of these future uses.

LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans development for all infrastructure asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

2

CONSULTATION*Internal*

Manager Technical Services
Senior Planner

External

Land Administration Officer, Department of Natural Resources and Mines

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS*Capital*

Nil

Operating

Nil

Is the expenditure noted above included in the 2014/2015 budget?

N/A.

If not you must recommend how the budget can be amended to accommodate the expenditure

N/A.

IMPLEMENTATION/COMMUNICATION

Following publication of Council minutes prepare and send communication to the Department of Natural Resources and Mines advising of Council's decision.

ATTACHMENTS

1. Application for permanent road closure over road adjoining Lot 31 on HG712 and Lot 32 on HG54 (ECM Doc # 3012080);
2. Email from the Senior Planner (ECM Doc # 3015732);
3. Locality plan.

Date Prepared: 8 January 2015

ATTACHMENT 1

Author Shaun Smith
File / Ref number 2014/006894
Directorate / Unit State Land Asset Management
Phone (07) 4222 5427

7 November 2014

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba QLD 4880

Dear Sir / Madam

Application for permanent road closure of unnamed road intersecting Lot 31 on HG712 and Lot 32 on HG54, shown as Lot A on Drawing CNS14/049P, Locality of Mutchilba, Parish of Dynes

The department has received the above application. The application is to:

- Permanently close an area of about 3.36ha being part of unnamed road, intersecting Lot 31 on HG712 & Lot 32 on HG54 and shown as Lot A on Drawing CNS14/049P. This land is located within Mutchilba.

Please find enclosed a copy of the Notice published in the Government Gazette of 7 November 2014 relative to the above application.

You are requested to display the notice of Application for Closure of Road at your office for the purpose of being viewed by the public in terms of Section 100 of the *Land Act 1994*.

The applicant advises that the proposed use of the subject area, if the road closure is approved would be for inclusion into the adjoining freehold lot 31 on HG712.

To enable full consideration to be given to this matter please submit your views and/or requirements, in writing, to the Townsville DNRM by **18 December 2014**. If no reply is received by that date it will be considered that you have no objection to the application.

Any objections received may be viewed by other parties interested in the proposed road closure in accordance with the provisions of the *Right to Information Act 2009*.

If you wish to discuss this matter please contact Shaun Smith on (07) 4222 5427.

All future correspondence relative to this matter is to be referred to the contact Officer at the address below or by email to Townsville.SLAMS@dnrm.qld.gov.au. Any hard copy

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Queensland
Government

Department of
Natural Resources and Mines



Postal :
DNRM
PO Box 5318
Townsville QLD 4810

Telephone : (07) 4222 5427
Fax: (07) 4799 7533

correspondence received will be electronically scanned and filed. For this reason, it is recommended that any attached plans, sketches or maps be no larger than A3-sized.

Please quote reference number 2014/006894 in any future correspondence.

Yours sincerely



Shaun Smith
Land Administration Officer
State Land Asset Management
Service Delivery-North Region

Enc Government Gazette dated 7 November 2014
 Drawing CNS14/049P
 Notice of Application for Closure of Road



file:///C:/Users/smiths6/AppData/Local/Microsoft/Windows/Temporary Internet Files/Content.Outlook/6HEDTK71/14049p.gif[27/10/2014 7:46:41 AM]

Land Act 1994

**OBJECTIONS TO PROPOSED ROAD CLOSURE
NOTICE (No 44) 2014**

Short title

1. This notice may be cited as the *Objections to Proposed Road Closure Notice (No 44) 2014*.

Application for road closure [s.100 of the Act]

2. Applications have been made for the permanent closure of the roads mentioned in the Schedule.

Objections

3.(1) An objection (in writing) to a proposed road closure mentioned in the Schedule may be lodged with the Executive Director, Department of Natural Resources and Mines, at the regional office for the region in which the road is situated.

(2) Latest day for lodgement of objections is **18 December 2014**.

(3) Any objections received may be viewed by other parties interested in the proposed road closure under the provisions of the *Right to Information Act 2009*. If you lodge an objection, please include in your objection letter whether you would like to be consulted if this issue becomes the subject of an access request under the *Right to Information Act 2009*.

Plans

4. Inspection of the plans of the proposed road closures may be made at-

- (a) the Department of Natural Resources and Mines Offices at Cairns, Cloncurry, Beenleigh, Brisbane and Gold Coast; and
- (b) the Local Government Offices of Mareeba Shire, McKinlay Shire, Logan City, Brisbane City and Gold Coast City;

for a particular plan in that district or that local government area.

SCHEDULE

PERMANENT CLOSURE

North Region, Cairns Office

1 An area of about 3.36 ha being the unnamed road separating Lot 31 on HG712 from Lot 32 on HG54 (parish of Dynes, locality of Mutchilba) and shown as plan of Lot A, proposed permanent road closure on Drawing CNS14/049P. (2014/006894)

***2** An area of about 3280 m2 being part of the unnamed road abutting Lot 56 on RP749632 (parish of Tinaroo, locality of Mareeba) and shown as Lot A, proposed permanent road closure on Drawing CNS14/030PA. (2014/002312)

North Region, Cloncurry Office

***3** Areas totalling about 324 ha being part of the unnamed road within and adjoining Lot 45 on PH1942 (parishes of Debella, Doonan, Thurgoom and Yappoo, locality of Malpas-Trenton) and shown as Lot B, proposed permanent road closure on Drawing TSV2012-47. (2010/004336)

***4** An area of 23.1809 ha intersecting Lot 5316 on PH1697 and an area of 1.4122 ha intersecting Lot 1 on SP206746 (parishes of Numil and Burrell) and shown as road to be closed on Plan Nos Rev 091559-01 and Rev 091559-03. (2010/001244)

South Region, Beenleigh Office

5 An area of 547 m2 being part of the road abutting the southern boundary of Lot 2 on SP217042 (parish of Redland, locality of Daisy Hill) and shown as road proposed to be permanently closed on Drawing 14/235. (2014/007491)

6 An area of 2150 m2 being part of the road abutting the southern boundary of Lot 3 on SP217042 (parish of Redland, locality of Daisy Hill) and shown as road proposed to be permanently closed on Drawing 14/238. (2014/007494)

South Region, Brisbane Office

7 An area of about 809 m2 being the road separating Lot 98 on RP87032 from Lot 99 on RP87032 (parish of Toombul, locality of Hamilton) and shown as road proposed to be permanently closed on Drawing 14/210. (2014/007326)

South Region, Gold Coast Office

8 An area of about 99 m2 abutting the southern boundary of Lot 171 on RP86553 (parish of Gilston, locality of Broadbeach Waters) and shown as road proposed to be permanently closed on Drawing 14/127. (2014/002773)

*The proposed closure of this road is in conjunction with the proposed opening of another road.

ENDNOTES

1. Published in the Gazette on 7 November 2014.
2. Not required to be laid before the Legislative Assembly.
3. The administering agency is the Department of Natural Resources and Mines.

Gov. Gaz., 7 November 2014, No. 50 pages 225-226

Brisbane

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7

ATTACHMENT 2

From: Brian Millard
Sent: Friday, 21 November 2014 9:40 AM
To: Darren Lierkamp
Subject: RE: Proposed road closures for comment

Darren,

The permanent closure of the road reserve adjoining Lot 31 on HG712 does not appear to be required to resolve an encroachment or similar. I am not aware of any current need to develop this section of road reserve, however it may be required for some undetermined (drainage, access, electricity/phone, water supply) purpose in the future. A temporary closure is recommended to ensure this reserve remains available for any of these future uses.

In relation to the Borzi Road closure which Council (TRC) has already conditionally agreed to, I am not aware of any community purpose requirement for this area.

Regards

Brian Millard
Senior Planner
Planning Section, Development & Governance Group

ATTACHMENT 3



[Agenda Report](#)**User Instructions**

If necessary to view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

ACTION FROM ORDINARY MEETING

Held on Wednesday, 21 January 2015
For Error! No document variable supplied.

**SUBJECT: APPLICATION FOR PERMANENT ROAD CLOSURE OF AN
UNNAMED ROAD OFF BARBETTI ROAD**

Moved by Cr Jensen

Seconded by Cr Ewin

"That Council advise the Department of Environment and Resource Management that it has no objection to the temporary road closure but objects to the permanent closure of an area of about 3.36 ha (Lot A) being unnamed roads abutting Lot 31 on HG712 and Lot 32 on HG54, Parish of Dynes as shown on the Department of Natural Resources and Mines Preliminary Plan CNS14/049P dated 27 October 2014."

AMENDED MOTION

Moved by Cr Brown

Seconded by Cr Holmes

"That Council advise the Department of Environment and Resource Management that it has no objection to the ~~permanent temporary~~ road closure but objects to the ~~permanent~~ closure of an area of about 3.36 ha (Lot A) being unnamed roads abutting Lot 31 on HG712 and Lot 32 on HG54, Parish of Dynes as shown on the Department of Natural Resources and Mines Preliminary Plan CNS14/049P dated 27 October 2014."

CARRIED

ATTACHMENT 3

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461
F: 07 4092 3323

W: www.msc.qld.gov.au
E: info@msc.qld.gov.au

Council Ref: ROA-CLO-PER VS:WM

Your Ref: 2014/006894

27 January 2015

Land Administration Officer
Department of Natural Resources and Mines
PO Box 5318
TOWNSVILLE QLD 4810

Attention: Mr Shaun Smith

Dear Mr Smith

APPLICATION FOR PERMANENT ROAD CLOSURE OF UNNAMED ROAD INTERSECTING LOT 31 ON HG712 AND LOT 32 ON HG54, LOCALITY OF MUTCHILBA PARISH OF DYNES

Reference is made to your correspondence of 7 November 2014 with regard to an application for permanent road closure of the above area.

Council at its Ordinary Meeting of 21 January 2015 resolved:

"That Council advise the Department of Environment and Resource Management that it has no objection to the permanent road closure of an area of about 3.36 ha (Lot A) being unnamed roads abutting Lot 31 on HG712 and Lot 32 on HG54, Parish of Dynes as shown on the Department of Natural Resources and Mines Preliminary Plan CNS14/049P dated 27 October 2014."

Should you wish to discuss any aspect of this matter further, please direct your enquiry to the author on 4086 4630.

Yours faithfully

VAL SHANNON
MANAGER TECHNICAL SERVICES

INFRASTRUCTURE SERVICES

TECHNICAL SERVICES

**ITEM-6 CONTRACT TMSC2015-13 MAREEBA WASTEWATER
TREATMENT PLANT - DESIGN AND CONSTRUCTION -
FEBRUARY 2016 PROGRESS REPORT**

MEETING: Ordinary

MEETING DATE: 2 March 2016

**REPORT OFFICER'S
TITLE:** Director Infrastructure Services

DEPARTMENT: Infrastructure Services

EXECUTIVE SUMMARY

Council has accepted an offer from Downer Utilities Australia Pty Ltd for the design and construction of the Mareeba Wastewater Treatment Plant.

Design work has commenced on the plant and this report sets out progress to date,

OFFICER'S RECOMMENDATION

"That Council note the February 2016 progress report on the Mareeba Wastewater Treatment Plant."

BACKGROUND

Council has awarded Contract TMSC2015-13 Mareeba Wastewater Treatment Plant - Design and Construction to Downer Utilities Australia Pty Ltd.

A formal letter of acceptance and purchase order have been issued to the contractor.

The contractor has provided an updated program which indicates mobilisation to site in May 2016 with pre-commissioning checks to commence in December 2016.

During March and April 2016 there will be various meeting and workshops held with the contractor:

- 30% design meeting
- HAZOP, HACCP and CHAIR workshops. HAZOP relates to hazards and operability in the design and construction process and the final plant, HACCP relates to health issues and CHAIR relates to safety issues.

- meetings will also be held concurrently with Downer and Bilfinger (inlet works contractor) to ensure coordination issues are resolved so that when site works commence no issues should arise.

The 80% design meeting is programmed for June while the final design will be signed off in July.

Construction may commence prior to final design sign-off.

During the 30% design meeting, discussions will occur on optimising the future extension of the plant and how this could occur. This will then affect the location of services and ensure future construction is not compromised.

Works has commenced on the pressure main contract with initial works occurring at the treatment plant.

LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

CONSULTATION

Internal
Council staff

External
Contractors
Hunter H2O

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Council has an agreed TEP with the Department of Environment and Heritage Protection which sets out various milestones for the plant development.

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS

Capital
The project is to be funded over the 2016 / 2017 and 2017 / 2018 financial years. Funding has been made available from the Commonwealth and State Governments for the project.

Operating
To be included in future budgets.

Is the expenditure noted above included in the 2015/2016 budget?

Yes

IMPLEMENTATION/COMMUNICATION

All communications are required to follow set out protocols within the funding agreements between the Commonwealth and State Governments.

ATTACHMENTS

Nil

Date Prepared: *19 February 2016*

**ITEM-7 AIRSTRIP UPGRADE - CHILLAGOE AIRPORT -
FEBRUARY 2016 PROGRESS REPORT**

MEETING: Ordinary

MEETING DATE: 2 March 2016

**REPORT OFFICER'S
TITLE:** Director Infrastructure Services

DEPARTMENT: Infrastructure Services

EXECUTIVE SUMMARY

Council has received a grant from the Commonwealth Government of \$160,000 for various works at the Chillagoe airport. This grant represents 50% of the total project value.

This report sets out progress with the project.

OFFICER'S RECOMMENDATION

"That Council note this progress report on the Chillagoe airstrip."

BACKGROUND

Council has received a grant from the Commonwealth Government for resealing works, drainage works and an upgrade to the directional beacon at the Chillagoe airport.

In order to obtain quotations for the resealing works it has been necessary to prepare a seal design. This process has commenced and an inspection of the runway has recently been undertaken. This inspection revealed the following:

- there is extensive aggregate loss in the central section of the runway with the wheelpaths exposing the old seal
- there is extensive loose aggregate in the outer thirds, comprising the existing aggregate and the dislodged aggregate from the central section.
- there are isolated areas where the old seal is higher than the newer seal, signifying an uneven surface.
- cracking is evident in the taxiway and southern turnaround area potentially signifying structural failures requiring repairs. These will be checked prior to the reseal occurring.

It is proposed to seek reseal quotations during March and proceed with the works towards the end of April.



LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

CONSULTATION

Internal
Council staff

External
Nil

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS*Capital*

Grant from Commonwealth Government of \$160,000 which represents 50% of the project value.

Operating

Nil

Is the expenditure noted above included in the 2015/2016 budget?

Yes

IMPLEMENTATION/COMMUNICATION

Advice will be provided to airport users prior to the works proceeding.

ATTACHMENTS

Nil

Date Prepared: 19 February 2016

ITEM-8 MAREEBA AIRPORT UPGRADING - FEBRUARY 2016
PROGRESS REPORT

MEETING: Ordinary

MEETING DATE: 2 March 2016

REPORT OFFICER'S TITLE: Director Infrastructure Services

DEPARTMENT: Infrastructure Services

EXECUTIVE SUMMARY

Council has received grant funding from the State and Commonwealth Governments towards the upgrading of the Mareeba airport.

Design work has commenced on the airport upgrading and this report sets out progress to date.

OFFICER'S RECOMMENDATION

"That Council note the February 2016 progress report on the Mareeba Airport Upgrading."

BACKGROUND

Council has been advised of two (2) grants- \$13M from the Queensland State Government and \$5M from the Commonwealth Government – towards the upgrading of the Mareeba airport. Both these grants are for specific aspects of the proposed upgrading project.

Funding

Council officers have been reviewing draft funding agreements from both Governments and are in discussions with relevant Departments as to the details of the agreement content. It is expected that both agreements should be available for final signature within the month. Work on developing the airport is able to proceed without the finalisation of the agreements.

Clearing

Clearing of the balance of land at the western end of the runway has now been completed. Council officers will now monitor the regrowth on this area to ensure that it is kept neat and tidy.

Runway

Jacobs Consulting Engineers have been engaged to provide advice on the existing runway, its upgrading and the associated work on the taxiways and aprons. The consultant has been appointed due to significant experience on similar pavement works on airports in Brisbane, Townsville and Cairns.

An inspection of the existing runway has been undertaken with the next phase being Ground Penetrating Radar (GPR) and Falling Weight Deflectometer (FWD) testing. The GPR testing will identify pavement depths and determine the presence of any historical timber culverts. The FWD testing will provide data to enable verification of the required pavement configurations. Various configurations will be tested and costed prior to a final determination being made on the runway capacity to be ultimately provided.

Water Supply

The airport currently sources water from the Sunwater system which is not a potable supply.

Water gravitates from the irrigation scheme into a 300kL ground level tank on the north eastern boundary of the airport site. Downstream of the tank is a pump station which consists of the following infrastructure:

- Low flow constant pressure pump and pressure vessel. This pump services the normal daily demands at the airport.
- Fire pump – electric motor. This pump operates when the “low flow constant pressure pump” cannot maintain the required flow/pressures in the network (i.e. during a fire event).
- Fire pump – diesel motor. This is a standby pump which operates when the electric motor pump is not available due to power outage etc.
- QFRS connection point.

From the pump station water is distributed to the airport water supply reticulation network.

A review of the Civil Aviation Safety Authority, Manual of Standards identified that the relevant firefighting requirements do not apply to Mareeba Airport, as the category of the airport does not meet the threshold for having Air Services in location.

In order to understand the specific requirements for Mareeba airport, the Queensland Fire and Rescue Service (QFRS) were contacted. The advice received is summarised below.

1. If Council's on site fire pump is operational, any of the pillar hydrants in the network need to be able to provide a total flow of 10L/s at 700 kPa (assuming water will be drawn from only one pillar hydrant at a time) for a period of 4 hours.
2. If Council's on site fire pump fails, a flow of 20L/s with a positive head, needs to be available from the ground level tank located at the intersection of the highway and Vicary Road. In this instance QFRS will connect their truck (fire appliance) to the pipework adjacent to the tank and boost the pressure in the system so 20L/s at 700 kPa can be achieved at any of the pillar hydrants for a period of 4 hours.
3. The fire main has to be a dedicated main with no other services coming off it (i.e. normal potable use).
4. In-ground fire hydrants are not acceptable within the airport site.
5. Buildings cannot be more than 90m away from the nearest hydrant.

It is proposed to provide a potable supply extension from the Wylandra water network to service the airport in the future.

In order to meet QFRS firefighting requirements, for existing and proposed development options, and to provide a potable supply to the airport, it is proposed that the following actions occur:

1. Design and construct a new potable water booster pump station and reticulation network.
2. Amend the existing airport water supply network to become the dedicated firefighting water supply network (remove service connections and convert in-ground hydrants to pillar hydrants).
3. Upgrade the existing firefighting pumps (electric and diesel motor) to ensure QFRS requirements can be met.
4. Extend fire network to ensure that all buildings are within 90 metres of a pillar hydrant.

Further work on this will now proceed.

Existing Leased Area off Vicary Road

The design of the existing roadway network including kerb and channel and drainage provisions is underway. This will formalise the existing access road and delineate vehicle parking in a better structured manner.

Vicary Road and Ray Road

Both Vicary Road and Ray Road will be widened to cater for the additional traffic accessing the proposed new western lease precinct.

Overall Layout

The current draft master plan has been distributed to users and discussions held with the Mareeba Airport Users Group (through the group spokesman at this stage) and various users of the Cairns general aviation precinct. These discussions will continue until a final formal layout plan is able to be adopted by Council.

Expenditure

Expenditure until the end of January 2016 was \$271,581.36.

Various commitments (\$95,272.27) are included within this expenditure.



Existing roadway off Vicary Road



Vicary Road showing worn shoulders



Cleared area at western end of airport for proposed leased area

LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

CONSULTATION

Internal
Council staff

External
Various user groups

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

When the funding agreements are signed with the State and Commonwealth Governments, Council will be required to meet various milestone and reporting targets.

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS*Capital*

The project is to be funded over the 2016 / 2017 and 2017 / 2018 financial years. Funding has been made available from the Commonwealth and State Governments for the project.

Operating

To be included in future budgets.

Is the expenditure noted above included in the 2015/2016 budget?

Yes

IMPLEMENTATION/COMMUNICATION

All communications are required to follow set out protocols within the funding agreements between the Commonwealth and State Governments.

ATTACHMENTS

Nil

Date Prepared: 22 February 2016

ITEM-9 ANNUALISED LANDING FEES AT MAREEBA AIRPORT**MEETING:** Ordinary**MEETING DATE:** 2 March 2016**REPORT OFFICER'S
TITLE:** Manager Technical Services**DEPARTMENT:** Infrastructure Services, Technical Services

EXECUTIVE SUMMARY

MAF International has requested an annualised landing fee for five of its aircraft and has proposed a flat rate of \$10,000 per annum.

Council considered this request at a workshop held on 20 January 2016 where it was proposed that an annualised landing fee be accepted and be provided to all users of the airport should applications be made.

OFFICER'S RECOMMENDATION

"That Council approve annualised landing fees at the Mareeba Airport of \$1,600 per year for aircraft under 2,000kg and \$3,200 per year for aircraft between 2,000kg and 5,700kg."

BACKGROUND

MAF International has requested an annualised landing fee for five of its aircraft and has proposed a flat rate amount of \$10,000 per annum. While the proposal is from MAF any consideration Council makes will effectively have to be provided to other users and therefore any decision should take this into account.

What is proposed is that rather than a group rate (multiple aircraft), an annualised individual aircraft rate be established on a similar basis as for the tie-down rate. In the case of tie-down the annualised rate is 55% of a full years fee of \$730 (\$2 x 365 days), which when annualised becomes a flat rate fee of \$400.

If the same percentage were to be applied to landing fees and it was based on an assumed two (2) landings per day for the entire year, an annualised fee for a light aircraft (under 2,000kg) would be \$1,600 and for a heavier aircraft (2,000kg - 5,700kg) would be \$3,200.

It is proposed that should an organisation/individual purchase an annual landing fee waiver and then wish to transfer this to a similar weighted aircraft, this could be done. For example, if a training aircraft was disposed of or went off line for a considerable period of time and a replacement brought it, an application could be made to have the registration applicable to the waiver charged.

The change would have to be for at least two months and advance notice of at least two weeks required to allow for notification to Avdata who apply the fees.

This proposal could then be applied to any aircraft operator and be included in Council's Schedule of Fees and Charges.

LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

CONSULTATION

Internal

Workshop with Councillors on 20 January 2016

External

MAF

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS

Capital

Nil

Operating

Nil

IMPLEMENTATION/COMMUNICATION

Should Council accept the addition of the annualised landing fee at the Mareeba Airport then this will be included in Council's Fees and Charges which is provided on Council's website.

ATTACHMENTS

1. Letter of request from MAF dated 26 November 2016

Date Prepared: 23 February 2016

**MAF International**

Mareeba
Mareeba Airport, Vicary Road (P O Box 2296)
Mareeba, QLD 4880
Australia
T +61 7 4092 2777 F +61 7 4092 1555
E MAF-mareeba@maf.org

To: the CEO of the Mareeba Shire Council
PO Box 154, Mareeba QLD 4880

From: MAF International Mareeba Training Centre
Mareeba Airport

Ref: Application to flat-rate MAF's Mareeba aerodrome charges in 2016

Mareeba 26.11.2015

To whom this may concern

As you might be aware of, MAF has invested almost half a million dollars in a brand new flight school facility at Mareeba aerodrome. After operating a flight school at various locations in Victoria for more than 20 years, MAF moved this operation to Mareeba early this year.

The proximity to our heavy aircraft maintenance facility, already in place at the Mareeba aerodrome, and the closeness to our regional head office in Cairns were only part of the reasoning. Better weather conditions, more friendly and welcoming council conditions and of course an overall less complex and cheaper local fee charging structure were the other major considerations.

MAF is in the process of setting up the Mareeba Training Centre operation to be able to cater annually for up to 30 block training students and at least 10 ab-initio to commercial license standard students, who will be with us full time for at least 16 months. Many of these candidates are from overseas and several come with families. All of this obviously means that MAF's operation is also feeding not insignificantly into the local community and economy.

MAF's medium future and permanent flight training fleet will consist of 5 aircraft:

2 Cessna C172s (@1089kgs) VH-MFQ & VH-MIS, currently incurring an hourly aerodrome operating fee of 4.356 Aus\$

2 Cessna C206s (@1633kgs) VH-KBN & VH-MZL, currently incurring an hourly aerodrome operating fee of 6.542 Aus\$

1 Gips. Aero GA8s (@1814kgs) VH-WOS, currently incurring an hourly aerodrome operating fee of 7.256 Aus\$

The flight school also operates following additional aircraft, but it is scheduled to be sold within the 1st quarter of 2016:

1 Flight Design LSA (@600kgs) VH-MBU, currently incurring an hourly aerodrome operating fee of 4.00 Aus\$

On occasion the flight school is planning to cross-hire in other temporary aircraft for specific low volume and short term training; i.e.: a light piston twin for multi engine training

Since MAF's engineering facility at Mareeba also caters for heavy maintenance projects on behalf of our operational programmes in Timor-Leste, Papua New Guinea, and Arnhem Land, there will also be additional but only itinerate MAF aircraft on site / in MAF's hangars; i.e.: currently:

C206 / VH-MGT, to be sold within the 1st quarter of 2016

Registered office: 166 Mulgrave Road, Westcourt, Queensland 4870, Australia
MAF International (ACN 004 260 860) a registered charity, limited by guarantee
A subsidiary of Mission Aviation Fellowship International, registered in England and Wales as company 3144 199

**MAF International**

Mareeba
Mareeba Airport, Vicary Road (PO Box 2296)
Mareeba, QLD 4880
Australia
T +61 7 4092 2777 F +61 7 4092 1555
E MAF-mareeba@maf.org

C172 / P2-MFA, to be container-ed and shipped away for rebuilt

C208 / VH-MRE, undergoing major overhaul and re-registration for our Arnhem Land operation

In addition to the hourly operational fees MAF also incurs parking fees of 2.00 per day for all non-hangared aircraft.

MAF hereby desires to apply to the Mareeba Shire Council to allow a flat-rate billing concept for MAF's Mareeba operation as follows:

- #1 An annual flat rate charge for the tie-down and the aerodrome utilisation of the five (5) above mentioned permanent training fleet aircraft.

10,000.00 Aus\$ per calendar year per fleet of five aircraft or 2,000.00 Aus\$ per nominated permanently based training aircraft
- #2 For all itinerate MAF aircraft arriving for, staying during, departing from maintenance, the usual charges:

2.00 Aus\$ per day tie-down fee, and

4.00 Aus\$ proportionally per tonne (if below 2000 kgs)
- #3 For the rare occasion of a nominated cross-hired training aircraft

5.00 Aus\$ per day which covers tie-down and aerodrome utilization fees
- #4 MAF commits to advise the Mareeba Shire Council of any changes to the permanent training fleet. MAF will communicate when and for how long cross-hired aircraft are utilized.
- #5 This agreement to be reviewed mutually and annually in October for the upcoming new year.

Flat-rating the fee structure will also minimize tracking needs and MSC's AvData commission cost; it will also significantly simplify accounting between MSC and MAF.

Hoping for a favourable response,

Sincerely,



Volkher Jacobsen

Interim Operations Manager

Registered office: 166 Mulgrave Road, Westcourt, Queensland 4870, Australia
MAF International (ACN 004 260 860) a registered charity, limited by guarantee
A subsidiary of Mission Aviation Fellowship International, registered in England and Wales as company 3144199

ITEM-10 **BIGMATE FLEET MANAGEMENT SYSTEM - FEBRUARY 2016 PROGRESS REPORT**

MEETING: Ordinary Meeting

MEETING DATE: 2 March 2016

REPORT OFFICER'S TITLE: Coordinator Fleet and Workshop

DEPARTMENT: Technical Services

EXECUTIVE SUMMARY

To provide Council with an overview and comparison of plant and fleet utilisation and fuel consumption for the six (6) months from 1 July to 31 December 2015 being the period since Council installed the BigMate Fleet Management System.

OFFICER'S RECOMMENDATION

"That Council note the BigMate Fleet Management System, February 2016 Progress Report".

BACKGROUND

Installation of the BigMate Fleet Management System commenced on 22 July 2015. To date a total of sixty-three (63) units have been fitted with a 3G Network tracking device. Twenty-three (23) units have been fitted as iridium Sat Com units to enable tracking outside the mobile network.

For the purpose of this report a comparison has been done on the plant and fleet utilisation and fuel usage for the period 1 January 2015 to 30 June 2015 and the period 1 July 2015 to 31 December 2015. The period 1 July 2015 to 31 December 2015 cover the period since the BigMate Fleet Management System.

The following comparison has been split into the categories that have been set up with the BigMate Fleet Management System.

- Yellow Plant (Graders, Rollers etc)
- Light Vehicles (Utilities)
- Trucks (Medium and Heavy trucks)
- Mowers (Out front Mowers and tractors and slashers)

LINK TO CORPORATE PLAN

ECON 3 - Undertake the management of Council's assets in accordance with the long term asset management plans developed for all infrastructure asset classes to ensure the Shire's infrastructure networks are maintained and renewed to maximise their long term benefit to industry and the community.

CONSULTATION

Internal
Director Infrastructure Services

External
Nil

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL & RESOURCE IMPLICATIONS

Capital
Nil

Operating
Nil

IMPLEMENTATION/COMMUNICATION

Nil

ATTACHMENTS

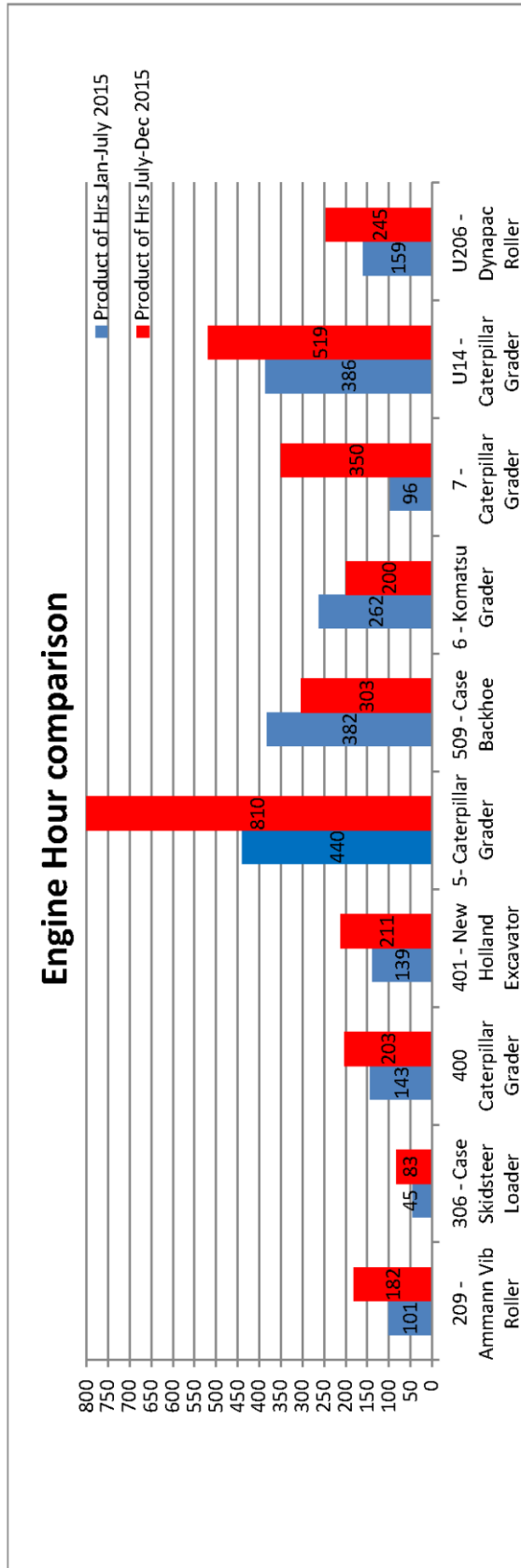
1. Comparisons pre and post BigMate Vehicle Management System (11 pages)

Date Prepared: 22 February 2016

1

Attachment 1

Yellow plant engine hour's comparison for the period January to July 2015 and July to Dec 2015 being the period for which the BigMate Fleet Management has been in place.



The above graph is the comparison of engine hours accrued for the period January-July 2015 and the period July-December 2015.

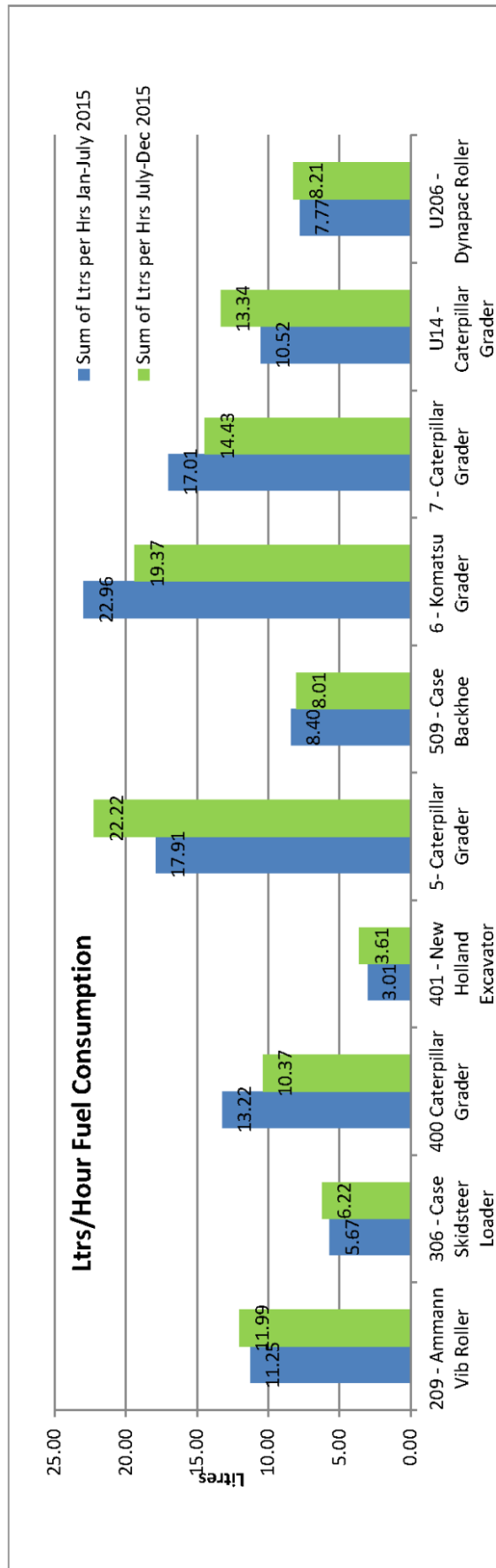
Asset No 5 caterpillar grader utilisation hours were high for the period July-December 2015, the grader was tasked with keeping the Burke Development Road open towards the end of 2015 due to an increase of truck movements to Kowanyama.

Graders Asset No 6,7 and 14 were mainly tasked with capital works projects and maintenance work for the period July-December 2015.

2

Attachment 2

Yellow Plant fuel usage comparison for the period January to July and July to Dec 2015 being the period for which the BigMate Fleet Management has been in place.

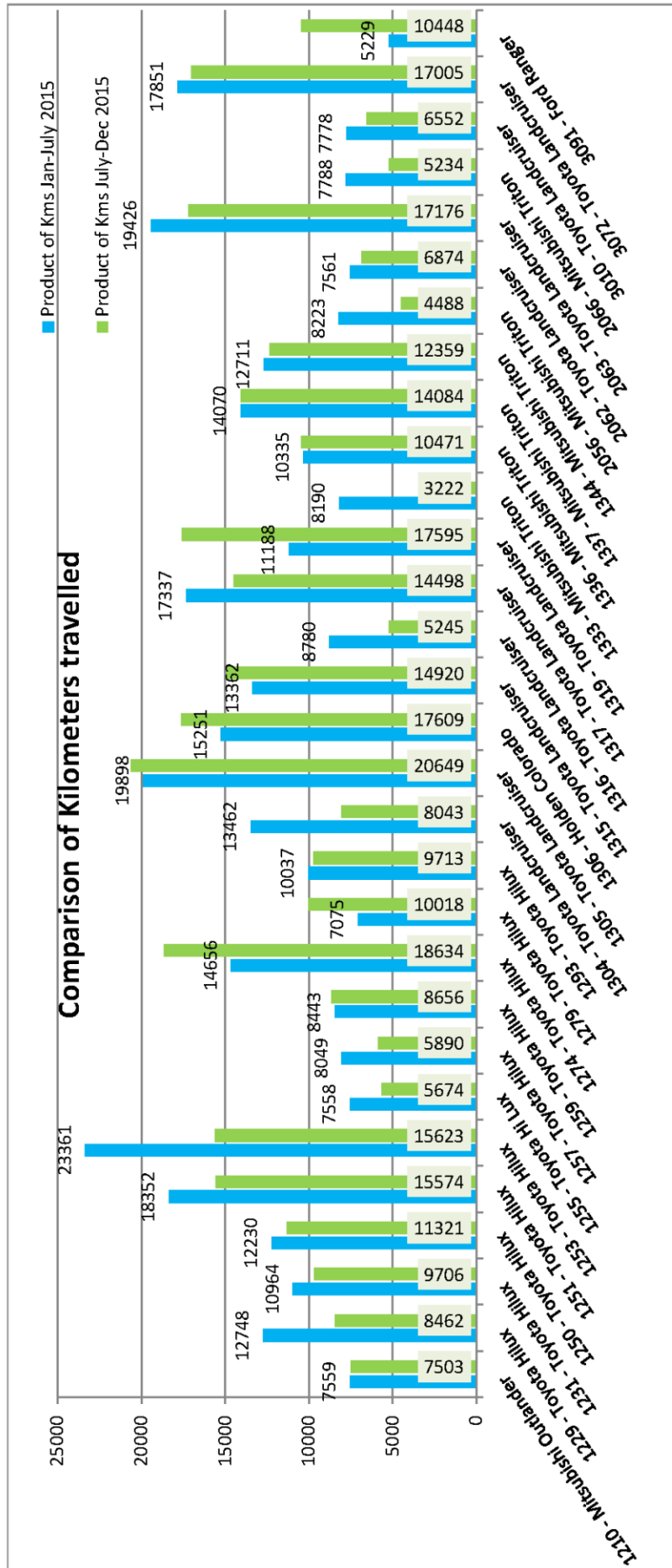


The above graph highlights the litres of fuel consumed per hour for each individual machine. The average fuel consumption per hour of the ten (10) listed in the graph rose by 0.05%. The increase is mainly with Asset No5 Caterpillar grader, the grader was tasked with keeping the Burke Development Road open towards the end of 2015 due to an increase of truck movements.

3

Attachment 3

Light vehicles and commercial utilities comparison of kilometres travelled for the period January-July 2015 and July-December 2015 being the period for which the BigMate Fleet Management has been in place.

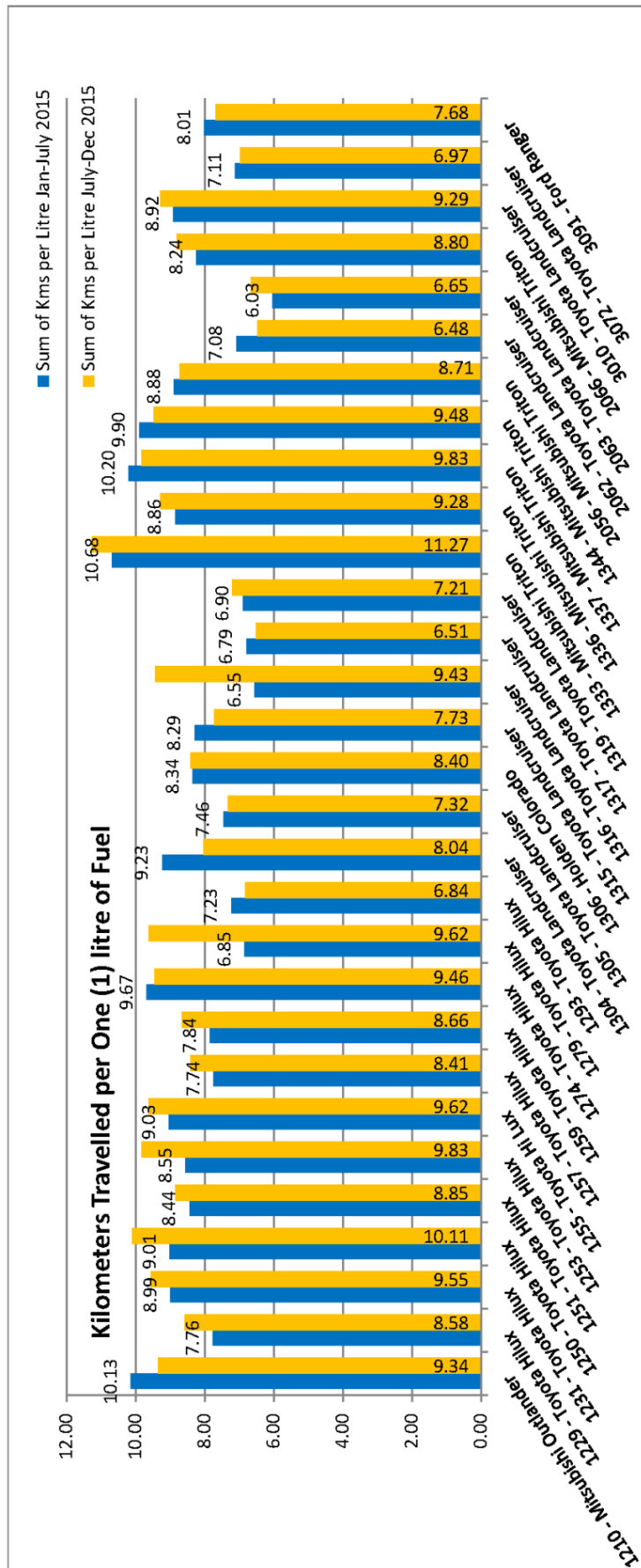


The above graph is a comparison of kilometres travelled of councils Thirty (30) light vehicles. The total kilometres travelled for the listed vehicles for the period Jan-July 2015 was 359472 kms and total kilometres travelled period July-Dec 2015 was 333711 kms a reduction of 26226 kms since fitting the BigMate Fleet Management system in July of 2015. Council had an increase in capital works for the second half of the year which results in less kms travelled against maintenance work in the first half of the year.

4

Attachment 4

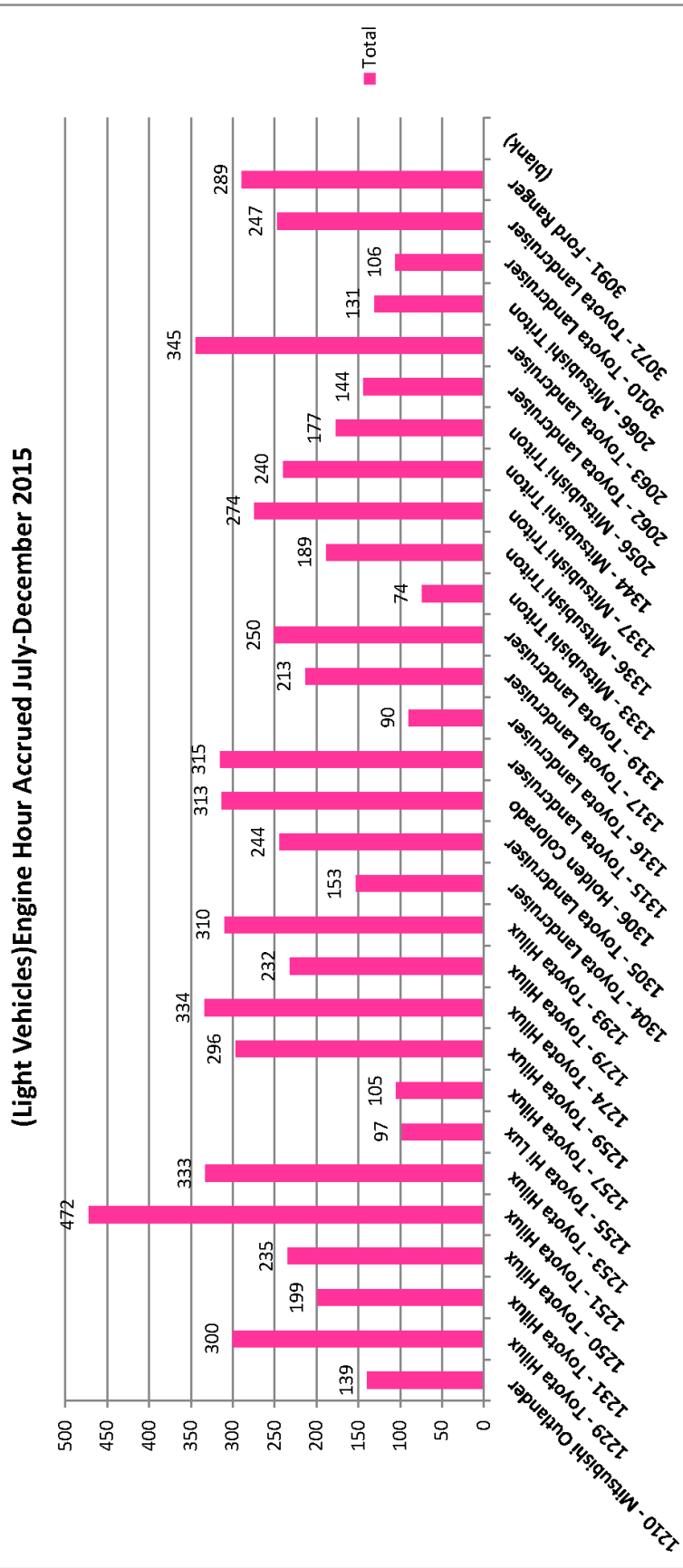
Light vehicles and commercial utilities comparison of the kilometres travelled per litre of fuel for the period January-July 2015 and the kilometres travelled per litre of fuel for the period July-December 2015 being the period for which the BigMate Fleet Management has been in place.



Above is a comparison of the kilometres travelled per litre of fuel for the period January-July 2015 and the period July-December 2015. The period January - July 2015 the average kms / litre of fuel equalled 8.29 kms / litre. Since the installation of the BigMate Fleet Management system (July-December 2015) the average of kms / litre travelled per litre increased to 8.60 kms / litre of fuel, a 3% increase in kms / litre travelled, a fuel cost reduction \$5,900 at an average input price of \$1.45 per litre. Overall there has been no incident vehicle consistently speeding and on average no excessive engine idling which directly results in fuel cost savings.

Attachment 5

Light vehicle and commercial utilities engine hours accrued for the period July-December 2015 being the period for which the BigMate Fleet Management has been in place.



The above graph highlights the engine hours accrued by council's fleet of light vehicles and commercial utilities since the installation of the BigMate Fleet Management System for the period July- December 2015.

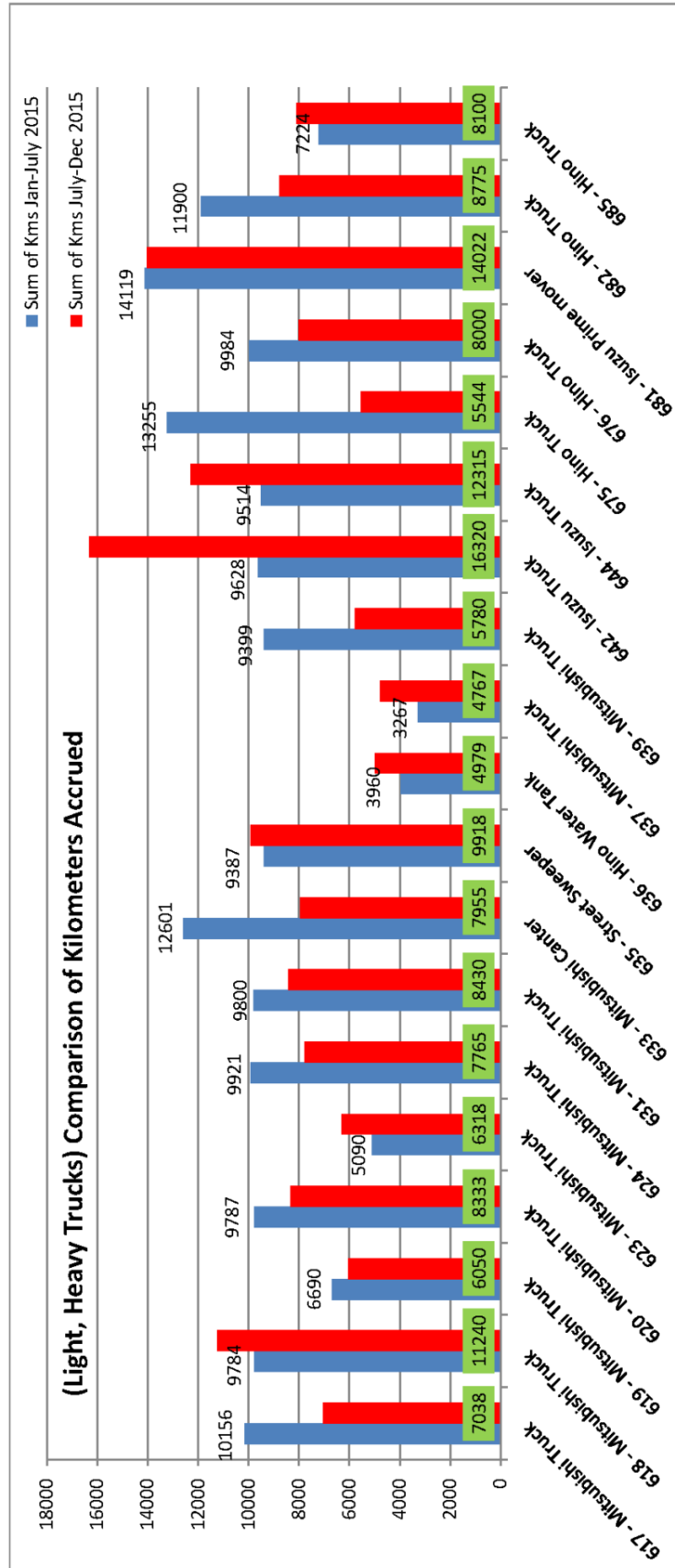
Asset no 1251: Civil works foreman, the vehicles has a high amount of hours accrued for kms travelled and the issue is being addressed, the raw data review for this device shows mostly short trips and a low average speed and no over speed and there is evidence of the vehicle idling for periods of time. BigMate Fleet Management System assesses idle time as vehicle operation below 5 kms per hour and vehicle engine operating with no movement.

Asset No 1253 Civil works foreman, the vehicle has a high amount of hours accrued for kms travelled, there is evidence of the vehicle idling for periods of time, the issue is being addressed and a check of the fitted tracking device is being undertaken. BigMate Fleet Management System assesses idle time as vehicle operation below 5 kms per hour and vehicle engine operating with no movement.

6

Attachment 6

Light and Heavy truck comparison of kilometres travelled for the January-July and the period July to December 2015 being the period for which the BigMate Fleet Management has been in place.



The above graph is a comparison of kilometres travelled of councils Nineteen (19) light and heavy trucks. The total kilometres travelled for the listed vehicles for the period Jan-July 2015 was 175,466 kms and total kilometres travelled period July-Dec 2015 was 160,469 kms a reduction of 14,997 kms since fitting the BigMate Fleet Management system in July of 2015. Council had an increase in capital works for the second half of the year which results in less kms travelled against maintenance work in the first half of the year.

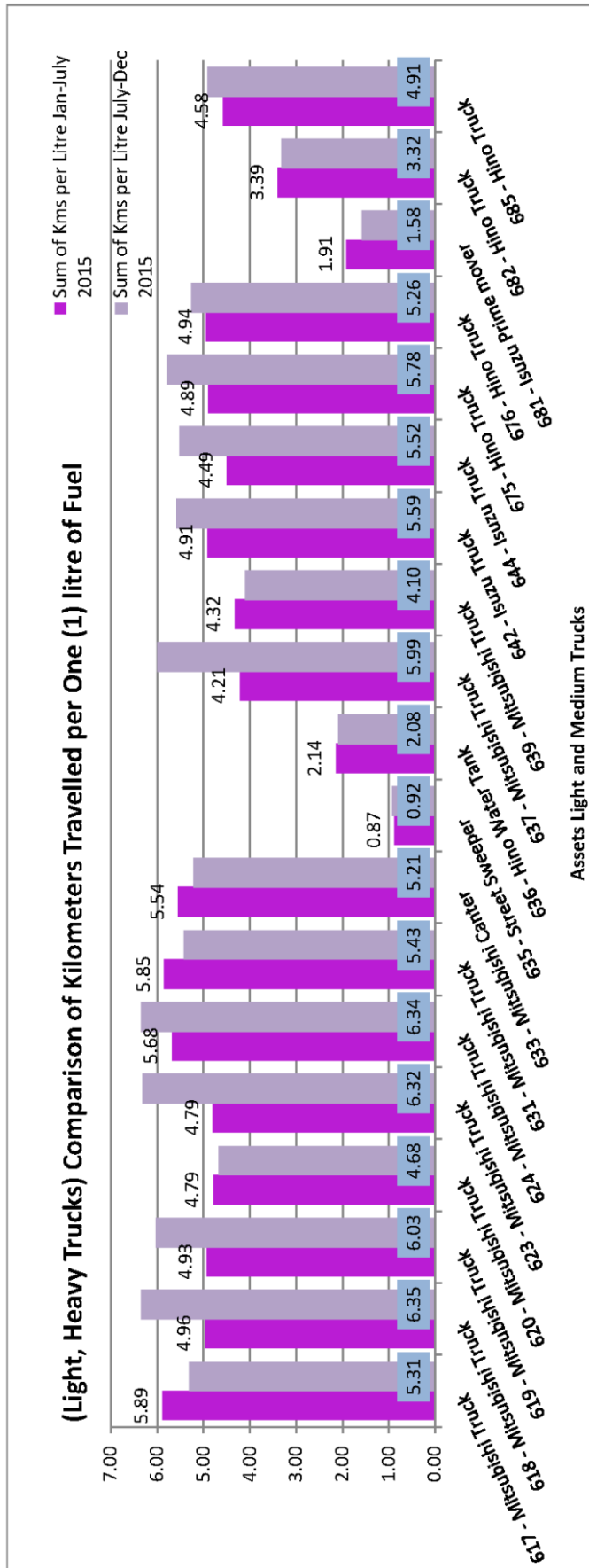
Asset No 642: Isuzu dual cab job truck that is tasked with the RMPC maintenance works. The works are largely carried out on the Rex Range and Desalys's Range areas. The RMPC crew do frequently work 10 Hour days

Asset No 681: Council low loader combination and is responsible for the movement of plant. The scope of operation is from the western road boundary to Cairns.

7

Attachment 7

Light and heavy truck comparison of kilometres travelled per litre of fuel for the period January-July 2015 and kilometres travelled per litre of fuel for the period July-December 2015 being the period from which the BigMate Fleet Management has been in place



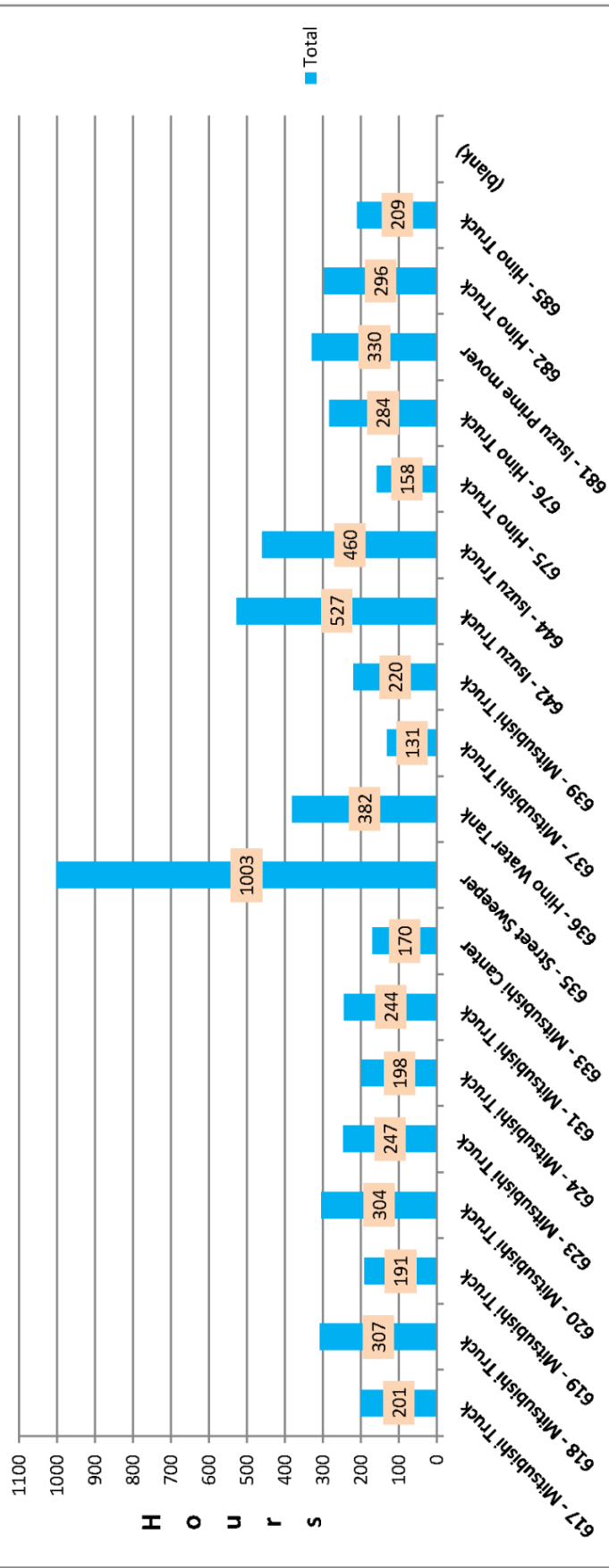
Above is a comparison of the kilometres travelled per litre of fuel for the period January-July 2015 and the period July-December 2015. The period January-July 2015 the average kms travelled per Litre of fuel equalled 4.33 kms / litre. Since the installation of the BigMate Fleet Management system (July-December 2015) the average of kms per travelled per litre of fuel increased to 4.77 kms / litre of fuel, a 10% increase in kilometres travelled per Litre of fuel and a fuel cost reduction \$4150 at an average input price of \$1.45 per litre. Overall there has been no incident of vehicles consistently speeding and excessive engine idling which directly results in fuel cost savings.

- Asset No 635 is the Council street sweeper which operates a front and rear engine resulting in the low kms / litre fuel usage rate
- Asset no 682 is the Council's bridge crew truck, the truck operates a Hiab crane. When onsite the truck engine must be operating to utilise the Hiab crane.

Attachment 8

Light and Heavy truck engine hours accrued for the period July-December 2015 being the period from which the BigMate Fleet Management system has been in place.

(Light, Medium Trucks) July-Dec 2015 Accrued Hours



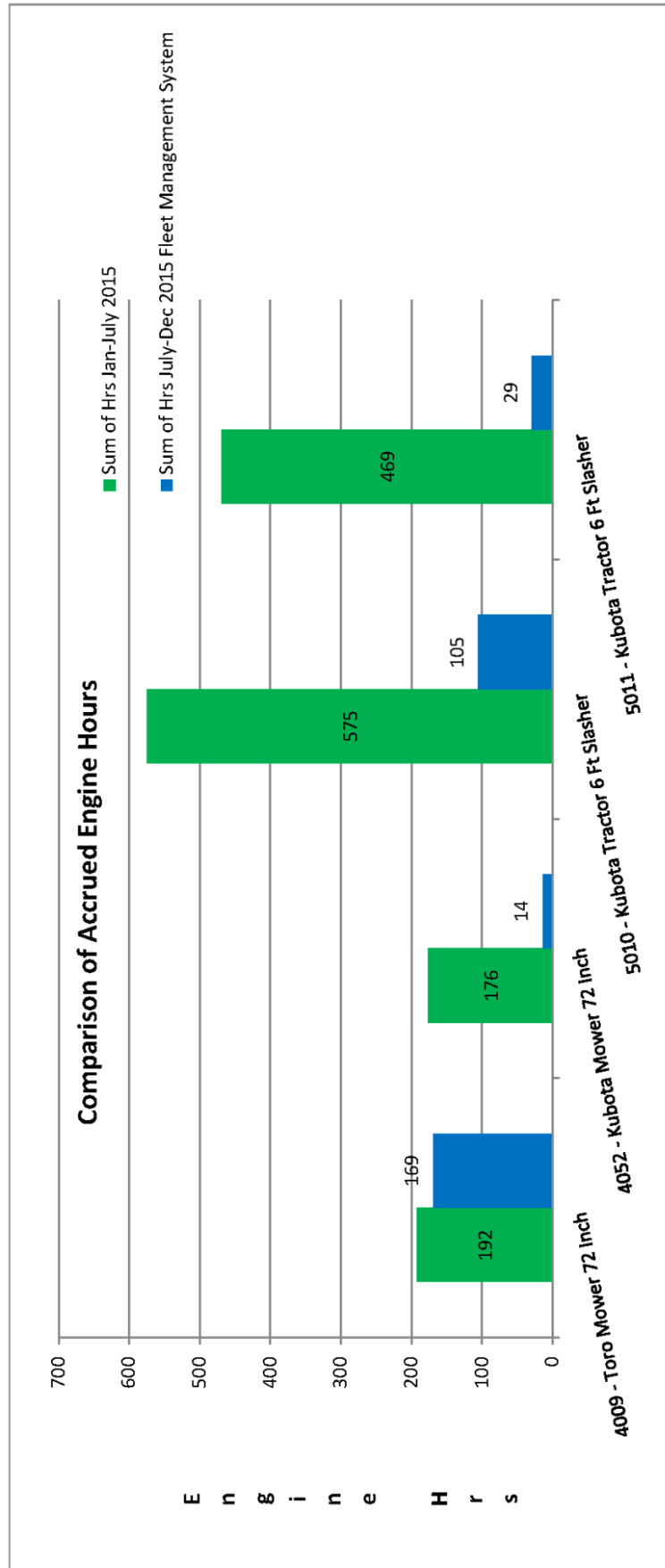
The above graph highlights the engine hours accrued by council's fleet of light and heavy trucks since the installation of the BigMate Fleet Management System for the period July- December 2015.

- Unit 635 council street sweeper, the front engine hours accrued as per the graph. The rear engine is used to power the sweeping and vacuuming operations (Work Mode) of the sweeper. The rear engine accrued hours for the period 892 hrs. The sweeper spent 89% of the total operational hours in work mode.
- Unit 642 is operational RMPC truck which undertakes mainly maintenance work
- Unit 644 is operational mainly on the western roads network.

9

Attachment 9

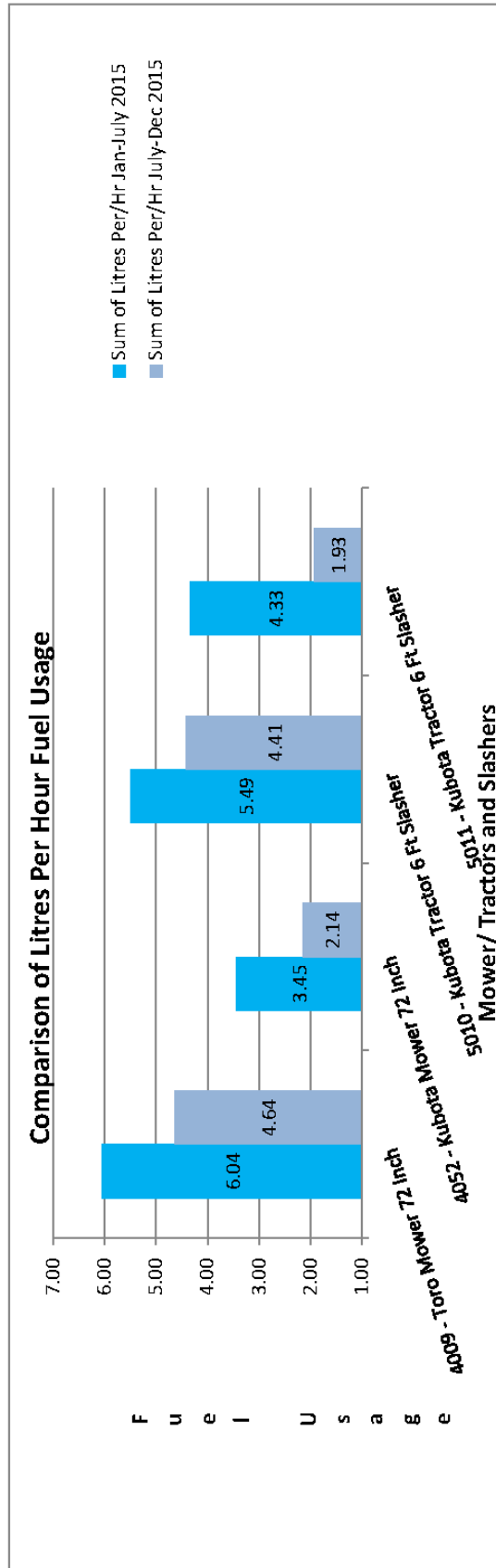
Tractor/Slasher and mowers hours accrued for the period July-December 2015 being the period for which the BigMate Fleet Management has been in place.



The decrease in engine hours with the above listed machine is directly attributed to the late onset of the seasonal rain. Unit 4009 Toro Mower 72 inch has the highest engine hours accrued as the mower is used for the maintenance of council owned sporting fields.

Attachment 10

Tractor/Slasher and mower fuel usage comparison for the period January to July 2015 and July to Dec 2015 being the period for which the BigMate Fleet Management has been in place.



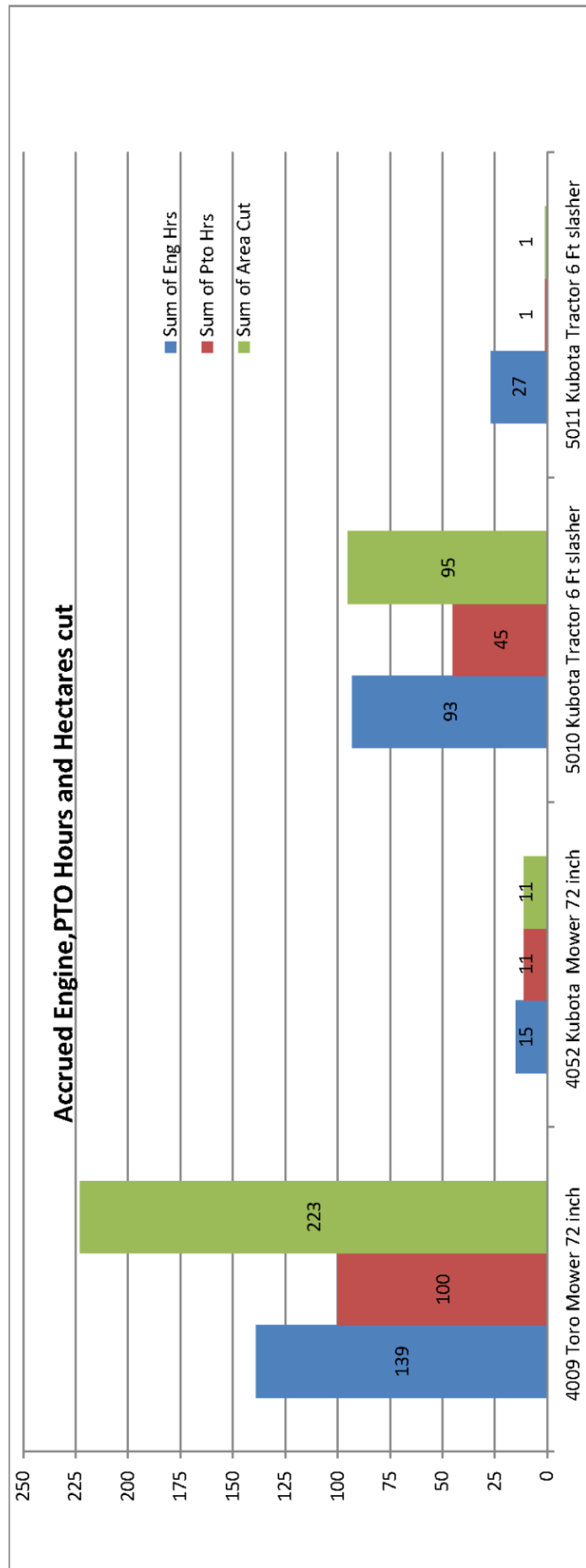
Above is a comparison of the Litres of fuel consumed per hour of work for the period January to July 2015 and July to December 2015. The period January -July 2015 the average fuel consumption equalled 4.8 litre / hour. Since the installation of the BigMate Fleet Management system (July-December 2015) the average fuel consumption dropped to 3.28 litre/ hour, a 32% decrease in fuel consumed per hour, a fuel cost reduction \$8154 at an average input price of \$1.45 per litre.

The lower fuel consumption rates for second half of the year are in line with the amount work performed, as the majority of the mowing would be light mowing as opposed to the heavy mowing required with the onset of seasonal rain. The lower fuel consumption rates can also be attributed to the listed machines on average only 14 months old and no evidence of excessive idling and no evidence of machines being in the correct location.

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Attachment 11

Tractors/Slasher and mower data showing the engine, PTO hours and accrued hectares of grass that has been mowed for the period of July-December 2015 being the period for which the BigMate Fleet Management has been in place.



The above graph highlights the feature to obtain engine hours, PTO hours and area cut data that is available with BigMate Fleet Management System. The data for this feature does not go back to the month of July; the feature was only set up on 1 August 2015. Sum of PTO hours is the time accrued that the PTO was engaged while the machines were being operated.

- Unit 4009 is able to be driven on the street and the mower is driven from job site to job.
- Unit 4052 is able to be driven on the street and the mower is driven from jobsite to jobsite. The machine is located in Dimbulah
- Unit 5010 is driven from jobsite to jobsite. The unit is fitted with front end loader bucket and is used for loading work as well as slashing.
- Unit 5011 is driven from jobsite to jobsite. The unit is fitted with front end loader bucket and is used for loading work as well as slashing. The machine is located in Dimbulah. For the period July-December the machine under took work at the Dimbulah cemetery, Bow and Raleigh Streets and general loading at the Dimbulah Depot. The slasher operation was only used for one (1) hour during the period to the late onset of rain.

CHIEF EXECUTIVE OFFICER

ITEM-11 **GINGERELLA QUARRY COMPLIANCE - MCU/09/0021 & DA/14/0059**

MEETING: Ordinary

MEETING DATE: 2 March 2016

REPORT OFFICER'S
TITLE: Chief Executive Officer

DEPARTMENT: Office of the CEO

EXECUTIVE SUMMARY

Since late July 2014, Council has received regular complaints from a ratepayer alleging non-compliance and corruption in the operation and management of the M & G Crushing and Materials Pty Ltd's (M & G Crushing) Gingerella Quarry. The Gingerella Quarry is located on a Forestry Act Sales Permit within Lot 1 on LD 117.

In August 2014, Council officers, together with representatives of the Department of Agriculture and Fisheries (DAF) and the Department of Environment and Heritage Protection (DEHP) carried out a compliance inspection at the Gingerella Quarry. This inspection determined that extraction was occurring outside of the approved quarry area, but within the confines of the DAF's Sales Permit.

Council subsequently wrote to M & G Crushing advising that extraction outside the approved quarry area must cease until an effective development permit had been obtained for the expanded quarry area.

Extraction from outside the approved quarry area did cease and in late October 2014, an application for material change of use - extractive industry was made to Council. This development application was processed in accordance with the Sustainable Planning Act 2009's Integrated Development Assessment System (IDAS) and was decided by Council at the ordinary meeting held on 16 September 2015. The complainant was a submitter to this development application and did not appeal Council's decision to approve the development subject to conditions.

*On 9 February 2016, the complainant wrote to Council (**Attachment 1**) alleging Council employees involved in the Gingerella Quarry compliance and assessment process had given preferential treatment to M & G Crushing and had shown a lack of integrity. Further emails were received from the complainant on 11 February 2016 (**Attachment 2**) and 15 February 2016 (**Attachment 3**).*

The history of the Gingerella Quarry and the actions taken by Council officers since the complainant's initial complaint have been reviewed.

I am satisfied that Council officers have kept Council informed throughout this process and have sought appropriate direction from Council where required. Council's officers have

implemented Council's informal policy not to seek to close or sanction any allegedly non-compliant business operating within the Mareeba Shire Council local government area without first providing every reasonable opportunity for that business to remedy any area of non-compliance.

It is recommended that Council receive and endorse this report.

OFFICER'S RECOMMENDATION

"That Council

1. Receive this report and confirm that officers' actions are in line with Council's policy and position.
2. Confirm that in approving DA/14/0059, it was Council's intention that DA/14/0059 operate in conjunction with and subordinate to MCU/09/0021, not as a replacement approval.
3. That a copy of this report be forwarded to the complainant.
4. That Council write to M & G Crushing and Materials Pty Ltd acknowledging its advice that the company will only be extracting material under Development Approval MCU/09/0021 until further notice and advise the company that Council expects all conditions of development approval MCU/09/0021 to be complied with, including the following action:

Condition 3.5 The Applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis.

Action Required by M & G Crushing

M & G Crushing is to ensure records are provided to Council each month even in the event of nil extraction.

Condition 4.1 Access

The access/intersection to the site must be designed, constructed and maintained in accordance with the FNQROC Development Manual to the satisfaction of Council's delegated officer. Particular reference is made to Section D1 Road Geometry D1.12 Intersections.

Appropriate signage as per the relevant MRD Standard will be installed and stormwater culverts must be sized to carry all runoff to a Q10 Standard.

Action Required by M & G Crushing

Council Subdivisions/Assets Officer carried out an inspection of the access on 15 February 2016.

M & G Crushing is to reinstate gravel to a depth of 150mm on each 25m radius of the Gingerella Quarry access.

Condition 5.1 Roadworks Contribution

The developer must pay a contribution for roadworks to Council in accordance with Mareeba Shire Planning Scheme Policy 6 (Augmentation of the Road Network Contribution).

The contribution is \$149,785.00 for each 3,333 haul truck movements (carting extracted material from the site only) towards the upgrading of road external to the site. The contribution shall be paid by monthly instalments based on the actual number of haul truck movements. The initial instalment shall be paid to Council within thirty (30) days of this Development Approval taking effect.

Action Required by M & G Crushing

M & G Crushing is to ensure contributions are paid to Council based on the quantity of material extracted each month.

Further, apart from Conditions 3.10, 3.12 and 3.13, all other conditions of DA/14/0059 must be complied with as soon as the use of the camp facilities within the westernmost quarry extension area re-commences.”

BACKGROUND

The following is a summarised outline of Council's dealing with the Gingerella Quarry since the complainant's initial complaint in late July 2014:

5 May 2009 - Development Application MCU/09/0021 for Material Change of Use - Extractive Industry made to Tablelands Regional Council by M & G Crushing and Materials Pty Ltd. The application sought approval to extract and screen up to 100,000 tonnes of material per annum from approximately 43 hectares of Lot 1 on LD117. The 43 hectares corresponded to the Forestry Act Sales Permit issued to M & G Crushing and Materials Pty Ltd.

19 August 2009 - Tablelands Regional Council issued development approval for MCU/09/0021.

Between August 2009 and August 2014 - The Department of Agriculture, Fisheries and Forestry (DAF) issued an amended Forestry Act Sales Permit to M & G Crushing. The amended Sales Permit increased the supply zone to approximately 286 hectares.

July 2014 - Mareeba Shire Council received a complaint alleging that extraction was occurring outside the approved 43 hectares of the original Forestry Act Sales Permit.

1 August 2014 - Following a telephone call from the complainant, a joint site inspection was arranged with DAF, DEHP and Council for 13 August 2014. Department of Transport and Main Roads and Department of Natural Resources and Mines were requested to attend but declined. Details of the complainant's allegations were forwarded to all parties. Council's Manager Works was informed of the alleged triple road train use on 1 August 2014.

13 August 2014 - A site inspection (without notice to M & G Crushing) was carried out by representatives of the DAF, DEHP and Mareeba Shire Council.

As a result of this inspection, Council officers formed the view that M & G Crushing were extracting material outside the 43 hectare area approved under Development Permit MCU/09/0021, but within the 286 hectare area of the amended Forestry Act Sales Permit.

15 August 2014 - M & G Crushing were contacted and informed that a Material Change of Use application was required to extract from the extended Sales Permit area.

18 August 2014 - Further complaints, including call from the complainant, received regarding use of triple road trains. Details of the complaints were formally forwarded to the Department of Transport and Main Roads on 19 August 2014 requesting that the Department investigate the matter. Details of complaint forwarded to Manager Works.

26 August 2014 - Meeting between Council's Manager Works and M & G Crushing to discuss road and haulage concerns.

1 September 2014 - Company search of M & G Crushing undertaken by Council as part of the drafting of show cause notice.

1 September 2014 - Formal written advice was sent to M & G Crushing advising that extraction outside the area approved under Development Approval MCU/09/0021 should cease until necessary development approval was obtained.

1 September 2014 - Email from the complainant alleging noncompliance with sections of the Quarry Management Plan. Details of the complaint were emailed to the DAF for investigation on 2 September 2014. The complainant advised of this by email on 2 September 2014.

5 September 2014 - Written confirmation received from M & G Crushing that extraction from outside the area approved under Development Approval MCU/09/0021 would cease. Copy of M & G Crushing advice sent to DAF and DEHP on 5 September 2014.

5 September 2014 - Email sent to M & G Crushing by Council's Manager Works advising that complaints were continuing to be received about road trains using Fossilbrook Road. Email response received from M & G Crushing on 5 September advising that M & G Crushing had contacted its haulage contractor and instructed them not to use Fossilbrook Road

8 September 2014 - Email from the complainant. The complainant advised that M & G Crushing had written to Council undertaking not to extract further material from the area outside MCU/09/0021 and informing Council that haulage contractors had been advised not to use Fossilbrook Road. The complainant was advised that DEHP were the administering authority for the Environmental Authority and DAF were the administering authority for the Sales Permit and when Council receives a complaint about matters under the control of another agency, Council will forward details of the complaint to the relevant State agency.

8 September 2014 - Email to M & G Crushing acknowledging their undertaking to cease extraction. M & G Crushing further advised that any material remaining on site which had been extracted from outside the area approved under MCU/09/0021 was not to be used or removed from the site.

11 September 2014 - Email from the complainant reporting that gravel trucks had used the Gingerella Fossilbrook Road. Details of complaint forwarded to Council's Manager Works on 11 September 2014.

17 September 2014 - A second site inspection was carried out by representatives of the DAF, Mareeba Shire Council, the complainant and M & G Crushing.

17 September 2014 - Email from the complainant advising that he believed the site meeting was productive and requesting clarification on the definition of Land Owner. Email response sent to the complainant on 17 September 2014 providing Land Owner definition from Integrated Planning Act (Reprint 9G) which was in effect when development application MCU/09/0021 was lodged.

17 September 2014 - Council workshop following Ordinary Meeting discussed the Council's preferred approach of dealing with people operating without necessary development approval, including the M & G Crushing case. Council decided that people would be given reasonable opportunity to make application for the necessary approval and enforcement action under the Sustainable Planning Act 2009 would be taken as the final measure.

19 September 2014 - Email from M & G Crushing confirming that they would be proceeding to lodge a development application to legitimise the development and NRA Consultants had been engaged. DAF and DEHP advised of M & G Crushing's email.

29 September 2014 - Email from DAF circulating the draft minutes of the onsite meeting of 17 September 2014.

30 September 2014 - Email from the complainant responding to draft minutes of onsite meeting of 17 September 2014. Numerous amendments were requested by the complainant.

30 September 2014 - Email sent to DAF and the complainant outlining amendments to draft minutes proposed by Council officers.

1 October 2014 - Email from the complainant alleging material was being hauled from the Gingerella Quarry and that this material contained product which had been extracted from outside the approved area. The complainant advised that he would be installing webcams and that he had contacted the media. **(copy forwarded to DEHP on 2 October 2014)**

2 October 2014 - Email to the complainant advising that M & G Crushing had given an undertaking to lodge a development application over the extended quarry area.

6 October 2014 - Email from the complainant making official complaint that M & G Crushing haul trucks were still using Gingerella Fossilbrook Road. The complainant again alleged that material being hauled contained material from outside the approved area. The complainant request DTMR contacts in order to make an official complaint. DTMR contact details emailed to the complainant on 7 October 2014. Details of complaint also emailed to Council's Manager Works on 7 October 2014.

10 October 2014 - Email from the complainant alleging that M & G Crushing haul trucks are using the Gingerella Fossilbrook Road and that they try and sneak through on daylight and just on or after dark every day. The complainant advised that he would contact DTMR.

12 October 2014 - Email from the complainant to DTMR, MSC and DAF requesting action on the use of Gingerella Fossilbrook Road by haul trucks. DTMR responded to the complainant on 6 November 2014.

13 October 2014 - Letter from M & G Crushing to DAF, copy to MSC, giving a '100%' assurance that haulage vehicles from Gingerella Quarry had ceased using Gingerella Fossilbrook Road when directed by Council and the National Heavy Vehicle Registrar.

21 October 2014 - Email from the complainant requesting that Council advise him when the new development application is undergoing public notification.

23 October 2014 - Development Application DA/14/0059 for Material Change of Use - Extractive Industry was made to Mareeba Shire by M & G Crushing. The application seeks approval to extract and screen material from the extended Forestry Act Sales Permit area.

5 November 2014 - Mareeba Shire Council issued an Acknowledgement Notice, including information request, to M & G Crushing and Materials Pty Ltd. Further information was sought in relation to traffic impact and site rehabilitation.

5 November 2014 - Council issued a request for Third Party Advice to DEHP, DAF and DNRM.

6 November 2014 - DTMR responded to the complainant regarding haul truck activities and advised that DTMR conditions do not specifically restrict haul trucks on Gingerella Fossilbrook Road. Further, that condition of local roads was a matter for Council. A copy of DTMR's response was forwarded to Council's Manager Works on 6 November 2014.

11 November 2014 - A copy of development application DA/14/0059 was emailed to the complainant.

11 November 2014 - Email from M & G Crushing advising that application had been referred to Referral Agencies.

12 November 2014 - An amended acknowledgement notice was issued to the applicant adding a second State referral agency trigger (railways).

12 November 2014 - Third party advice received from the DSDIP.

14 November 2014 - Email from the complainant confirming receipt of copy of development application DA/14/0059. The complainant queried the description of topsoil and subsoil.

17 November 2014 - Meeting between M & G Crushing, Mayor and Council's delegated officer. M & G Crushing argued that Council's information request was excessive. Council's information request maintained.

24 November 2014 - Email from the complainant attaching Google Earth image showing clearing within quarry extension area had commenced by 08/12/2010. The complainant advised that the operation should be shut down.

9 December 2014 - Email from and to DAF confirming that M & G Crushing had lodged development application DA/14/0059.

11 December 2014 - Gingerella Quarry site inspection by Mayor, Senior Planner and the complainant.

13 December 2014 - Email from the complainant to MSC and DAF, cc to Win TV querying the interpretation of 'section 22.1' of the sales permit.

15 December 2014 - Email from the complainant to MSC and Win TV again querying section 22.1 of the sales permit and providing his interpretation on the validity of the sales permit.

15 December 2014 - Email to the complainant advising that Council had written to DAF requesting advice with respect to the interpretation of the sales permit clause.

19 December 2014 - Letter received from DAF responding to the complainant's interpretation of the sales permit and advising the complainant's interpretation was incorrect.

19 December 2014 - DSDIP issued information request to M & G Crushing in regard to State controlled road matters.

22 December 2014 - DAF responded directly to the complainant with respect to section 22.1. The complainant responded to DAF alleging bias in favour of M & G Crushing and advising that he had contacted the CCC, DAF's minister and the media.

5 January 2015 - Email to the complainant enclosing copy of DAF's letter received on 19 December 2014 and DSDIP's information request issued on 19 December 2014.

11 January 2015 - Email from the complainant criticising Council for requesting advice from DAF Atherton and advising Council to take no notice of the DAF response.

27 January 2015 - Email from the complainant following up on earlier telephone conversation seeking clarification of topsoil, sand and subsoil. The complainant requested that any development approval include a requirement for disturbed areas to be rehabilitated before further extraction.

27 January 2015 - Letter sent to M & G Crushing seeking advice with respect to topsoil, subsoil and sand layers.

29 January 2015 - Call from the complainant that M & G Crushing were performing rehabilitation works and demanding these stop. The complainant was concerned the works may lessen the impact of the DAF investigation process.

DEHP was contacted by Senior Planner. DEHP advised that a site inspection had occurred on 6 January 2015 where several issues were noted, including the need for progressive rehabilitation. M & G Crushing had been asked to remedy in accordance with the Environmental Authority conditions.

Senior Planner telephoned M & G Crushing to clarify what works were underway. M & G Crushing advised that they were only undertaking rehabilitation works, not extracting.

The complainant was telephoned and advised accordingly. The complainant stated that he should be notified. The complainant was given the contact details for DEHP.

The complainant advised that he would request DEHP to stop the rehabilitation works.

29 January 2015 - Email from M & G Crushing to DEHP regarding rehabilitation and DEHP's request for M & G Crushing to cease rehabilitation. M & G Crushing sought clarification.

22 February 2015 - Email from the complainant forwarding a copy of advice received from DEHP. DEHP advised that it was monitoring rehabilitation and would respond if non-compliance detected.

24 April 2015 - Email from M & G Crushing requesting one (1) month extension to respond to Council's information request. Council letter sent on 24 April 2015 approving one (1) month extension.

29 April 2015 - Email from the complainant to various parties questioning validity of sales permit and actions of DAF officers.

1 June 2015 - Telephone call from the complainant seeking advice on the response to Council's information request. The complainant advised that the deadline at that time was 5 June 2015. The complainant advised that he was concerned because he was going on holidays. The complainant advised that Council would advise him when a response is received.

2 June 2015 - Email from M & G Crushing requesting seven (7) day extension to respond to Council's information request. Council letter sent on 2 June 2015 approving seven (7) day extension.

9 June 2015 - M & G Crushing provide a response to Council's information request.

18 June 2015 - DILGP email advising that M & G Crushing had responded to the State's information request.

26 June 2015 - Email from the complainant questioning status of development application. Email response to the complainant on 29 June 2015 advising that the applicant was yet to commence public notification.

29 June 2015 - DILGP issues referral agency response.

30 June 2015 - Council email to M & G Crushing forwarding adjoining land owner details.

3 July 2015 - Public notice of the development application appears in the Tablelands Advertiser.

6 July 2015 - Email to the complainant advising that public notification had commenced and submission would be received until 23 July 2015. A 'Dropbox' link to the application documents was included in the email.

13 July 2015 - Email from the complainant advising he could not access the application documents via the dropbox link. Two (2) emails containing the application documents were sent to the complainant on 13 July 2015.

16 July 2015 - Submission received from the complainant.

16 July 2015 - Email received from the complainant amending submission.

22 July 2015 - Further email submission received from the complainant and requesting that the submission be kept confidential.

22 July 2015 - Email from Council to the complainant advising that any submission received becomes common material and will be open to the public.

23 July 2015 - Email from the complainant advising that he had not received formal notice of the application from M & G Crushing. The complainant requested Councillors inspect the quarry to hear his concerns. The complainant's request forwarded to the Mayor on 23 July 2015.

28 July 2015 - Notice of Compliance for public notification received from M & G Crushing.

3 August 2015 - Copy of Gingerella Environmental Authority received from DEHP.

11 August 2015 - Email from the complainant requesting a response to his request of 23 July 2015 for Councillors to inspect the quarry.

11 August 2015 - Email to the complainant advising that Councillors would visit the quarry on 25 August 2015 and would meet with him at his residence following the quarry inspection.

24 August 2015 - Council extended the Decision Making Period for development application DA/14/0059 by twenty (20) business day to 22 September 2015.

25 August 2015 - Councillors carried out a site visit at the Gingerella Quarry followed by a meeting with the complainant at his homestead. Councillors provided the complainant with a significant amount of time to explain the basis of his submission and concerns.

16 September 2015 - Development application DA/14/0059 considered by Council at the Ordinary Meeting. Conditional approval was issued. Councillors were confidentially provided with a full copy of the complainants submissions.

21 September 2015 - A decision notice was issued to M & G Crushing.

21 September 2015 - Email from DAF requesting copy of decision notice. Copy of decision notice emailed to DAF on 21 September 2015.

21 September 2015 - Copy of decision notice emailed to the complainant.

28 October 2015 - Submitter decision notice sent to the complainant.

21 January 2016 - Email from DAF Atherton requesting copy of decision notice. Copy of decision notice emailed on 21 January 2016.

27 January 2016 - Email from M & G Crushing identifying location of stock watering point in quarry extension area.

27 January 2016 - Email to M & G Crushing outlining the requirements of Condition 3.10 of DA/14/0059 to fence around the stock watering point.

27 January 2016 - Further email from M & G Crushing objecting to the exclusion of the stock watering point from the fenced area.

28 January 2016 - Email to M & G Crushing advising that exclusion of the stock watering point from the fenced area was a condition of the development approval and must be complied with.

28 January 2016 - Email from M & G Crushing advising they would seek advice from DEHP.

2 February 2016 - Telephone call from the complainant advising clearing/fencing commenced at Gingerella. During the telephone call the complainant re-made his allegations of corruption against DAF, suggested that M & G Crushing was responsible for bushfires that impacted his property last year. The complainant also stated that he expects compensation and he will persist with the complaints until he receives it.

2 February 2016 - Email to M & G Crushing advising that Council had received a complaint that clearing for fencing was underway at Gingerella. M & G Crushing were advised that Condition 3.10 requires an Identification Survey to establish the exact boundaries. M & G Crushing were instructed to cease clearing/fencing until an Identification Survey was performed. Copy of email forwarded to DAF and the complainant.

2 February 2016 - Email from the complainant. The complainant has asked for the 100 metre buffer required under Condition 3.14 to be excluded from the fenced area to allow continued grazing access. (Note: when this request was first raised by the complainant in discussions with the Senior Planner following the September 2015 development approval, the initial response was that it was not unreasonable and it was expected that it could be favourably negotiated with M & G Crushing. Immediately after making the buffer request, the complainant proceeded to direct that M & G Crushing were to be told not to use any of the complainant's fences. When the complainant's request for the buffer exclusion was put to M & G Crushing, along with the complainant's direction not to share any of his fences, M & G Crushing did not respond favourably).

The complainant requested a copy of the updated Quarry Management Plan and further that he be consulted on the style and quality of fencing.

The complainant raised concerns that a 30,000 litre diesel fuel tank sitting on the ground unbunded and that DEHP should be contacted.

The complainant requested that permanent water for cattle be constructed within any fenced quarry areas as his cattle may get through the fencing and perish without water.

2 February 2016 - Email sent to DEHP forwarding the complainants complaint regarding bunding of fuel storage.

2 February 2016 - Email sent to the complainant advising that DEHP had been informed of his complaint.

The complainant advised that an updated Quarry Management Plan had not been received by Council at present.

The complainant advised that Senior Planner had discussed the other matters with DAF and we agreed that improved communications between the parties was important and once this occurs it was hoped that matters could be negotiated in good faith. (Note: DAF will be meeting with all parties on or about 22 February 2016).

2 February 2016 - Email from the complainant advising that because the old DA (MCU/09/0021) was overlaid by the new DA (DA/14/0059) no extractions can occur on any of the area identified by the new DA and that is the whole area.

2 February 2016 - Email to the complainant advising that the old old hard rock DA (MCU/09/0021) continues to have effect and may be acted upon separately to the new DA.

The old hard rock DA continues to have effect and may be acted upon separately to the 2015 DA. If it was to be operated separately, the old hard rock DA could not use material (fines) from the extension area.

As you say, the 2015 DA covers both areas and that means that if material (fines) from the extension area is to be used in the hard rock operations, then all applicable conditions of both DA's must be met before mixing of the hard rock product occurs or further material is extracted from the extension area.

Several of the 2015 DA conditions specifically read "prior to the re-commencement of extraction within the proposed extension areas identified on Figure 1" to differentiate between extraction in the existing hard rock quarry area and extraction in the quarry extension areas.

2 February 2016 - Further email from the complainant disputing the Senior Planner's advice and requesting further interpretation.

2 February 2016 - Email sent to the complainant reconfirming the previous advice that the old and new DA's can coexist.

Development Approval DA/14/0059 (the 2015 DA) has been structured to work in conjunction with Development Approval MCU/09/0021 (the hard rock quarry), not replace it.

For example Condition 3.8 of DA/14/0059 reads as follows:

3.8 All material extracted from the Quarry Extension Area is to be processed within the existing Gingerella Quarry (MCU/09/0021). The total quantity of extracted material leaving the Gingerella Quarry per annum must not exceed 100,000 tonnes.

Further, Development Approval DA/14/0059 does not include any condition relating to road network infrastructure contributions. The road network infrastructure contribution condition is established under the existing Development Approval MCU/09/0021.

Development Approval MCU/09/0021 can stand alone and be acted upon separately. Development Approval DA/14/0059 can only be acted on in conjunction with Development Approval MCU/09/0021.

2 February 2016 - Further email from the complainant disputing advice that old and new DA can coexist.

4 February 2016 - Email from the complainant advising that he had flown over the quarry and clearing had been undertaken.

The complainant complained about the rehabilitation works and that his cattle cannot currently get access to the stock watering point within the Sales Permit area.

The complainant requested consultation on the fencing to be installed.

The complainant again disputed the advice that the old and new DA's can coexist and suggested that Council obtain an opinion of the Land Court or Forestry.

Copy emailed to DEHP on 10 February 2016.

5 February 2016 - Email from DILGP advising the complainant had contacted the Department requesting their advice in whether the old and new DA can coexist. DILGP sought information on the DA's

8 February 2016 - Senior Planner returned call to DILGP. Email including copies of both DA's sent to DILGP.

8 February 2016 - Email from the complainant again disputing the advice that the old and new DA's can coexist. The complainant stated that M & G Crushing should be warned that any quarry works performed under the old DA would be a breach of the DA.

8 February 2016 - Council officers met with M & G Crushing.

The purpose of the meeting was to discuss the conditions of DA/14/0059 to ensure there was a clear understanding of the condition requirements.

All conditions were discussed. Chris Greenwood acknowledged that a cadastral surveyor is required to identify boundaries. The fencing of the internal haul road and arrangement of cattle grids was discussed and clarified.

Senior Planner requested that Chris Greenwood allow unfenced access to the 100 metre vegetation buffer area as a display of goodwill. Mr Greenwood said he would consider this if he didn't have to pay for a surveyor.

Mr Greenwood advised that M & G Crushing did not intend to act under development approval DA/14/0059 of the foreseeable future. No further extraction will be undertaken within the quarry extension area. Any activities within the quarry extension area will be limited to rehabilitation of the disturbed areas under the direction of the Department of Agriculture and Fisheries and the Department of Environment and Heritage Protection. After a 2 year rehabilitation period, extraction under DA/14/0059 will be reconsidered if rehabilitation of already disturbed areas is successful.

Mr Greenwood will write to Council informing of the intention to operate under MCU/09/0021.

Extraction and crushing of hard rock is planned to commence in two weeks and will involve approximately 5,000 tonnes. This will be carried out under MCU/09/0021.

9 February 2016 - Email received from the complainant alleging Council officers have given preferential treatment to M & G Crushing.

15 February 2016 - Inspection of Gingerella access undertaken by Subdivisions/Assets Officer. The Subdivisions/Assets Officers recommends the maintenance works on each 25m radius of the access to return it to the specification approved by Council's Development Engineer on 18 June 2010.

15 February 2016 - Email from the complainant requesting details of Council's delegated officers, alleging M & G Crushing had extended further outside approved area, requesting meeting with M & G Crushing to discuss fencing, querying validity of development approval

MCU/09/0021 and raising concerns about unbunded fuel storage. The complainant requested a stop work be placed on the quarry and that Council not allow another development application to be made.

Details of the fuel storage complaint were emailed to DEHP on 15 February 2016.

LINK TO CORPORATE PLAN

Nil

CONSULTATION

Internal

Senior Planner

Subdivisions/Assets Officer

External

Nil

LEGAL AND RISK IMPLICATIONS (STATUTORY BASIS, LEGAL AND RISKS)

Nil

POLICY IMPLICATIONS

Development Approval MCU/09/0021

The following is a statement of compliance for the conditions of Development Approval MCU/09/0021 based on Council records and the observations made during the site inspections of 17 August 2014, 17 September 2014, 11 December 2014, 25 August 2015 and 15 February 2016:

1. *Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:*
 - *found necessary by the Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and*
 - *to ensure compliance with the following conditions of approval.*

Comment

The extractive industry operations within the area approved under development approval MCU/09/0021 are generally in accordance with the proposal plans submitted to Council.

2. *Timing of Effect*

- 2.1 *The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.*

- 2.2 *Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.*

Comment

When the Gingerella Quarry commenced operations in mid-2010, Council officers became aware that certain conditions of development approval had not been met and a Show Cause Notice was issued on 19 May 2010.

The Show Cause Notice advised that M & G Crushing had not complied with Conditions 2.1, 2.2, 3.3, 3.5, 4.1 and 5.1.

M & G Crushing responded to the Show Cause Notice on 15 June 2010. As a result of M & G Crushing's response, an Enforcement Notice was not issued.

Conditions 2.1 and 2.2 are deemed to have been met.

3. General

- 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by the condition(s) of this approval.

Comment

Condition 3.1 was considered to have been appropriately satisfied at the time the Show Cause Notice was issued on 19 May 2010.

- 3.2 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

Comment

Condition 3.2 was considered to have been appropriately satisfied at the time the Show Cause Notice was issued on 19 May 2010.

3.3 Bushfire Management

The applicant is to prepare and implement a Bushfire Management Plan for the proposed development in accordance with the requirements of State Planning Policy 1/03. This management plan is to be submitted to Council for approval prior to the commencement of the use.

Comment

M & G Crushing submitted a bushfire management plan on 15 June 2010 in their response to Council's Show Cause Notice.

3.4 Hours of Operation

The operating hours shall be between 6:00am and 6:00pm.

Comment

Ongoing requirement. Council has not received any report of operations occurring outside these hours.

- 3.5 The Applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis.

Comment

M & G Crushing submitted a record of quantities on 15 June 2010 in their response to Council's Show Cause Notice. Intermittent records have been received by Council since 2010.

This matter will be followed up with M & G Crushing to ensure records are provided to Council each month even in the event of nil extraction.

- 3.6 Operations pursuant to the extractive industry must be carried out in accordance with the Proposal Report submitted to Council.

Comment

Condition 3.6 was considered to have been appropriately satisfied at the time the Show Cause Notice was issued on 19 May 2010. The proposal report is an extensive document and it is likely that some areas of inconsistency could be found between the proposal report and the actual on ground development. Notwithstanding this, the operations pursuant to the extractive industry are generally in accordance with the proposal report.

Site inspections since August 2014 have not identified any need for compliance action in relation to Condition 3.6.

- 3.7 Loads upon vehicles carting material from the extractive industry area will be required to be kept covered during transit, so as to prevent escape of dust or the spillage of material.

Comment

Ongoing requirement. Council has not received a report of spillage.

- 3.8 The applicant will be required to take every precaution to avoid spillage and any spillage which occurs on any public road, shall be removed at the end of each working day or within four (4) hours of any verbal requirement by Council's delegated officer.

Comment

Ongoing requirement. Council has not received a report of spillage.

- 3.9 The excavation of material will be required to be confined to the extractive industry area, subject to the conditions and requirements of the Tablelands

Regional Council, Department of Environment and Resource Management and/or other Authority and all operations will be carried out in such a manner that no erosion occurs in any adjoining or other land outside the extractive industry area.

Comment

Ongoing requirement.

The extraction of hard rock is confined to the area approved under Development Approval MCU/09/0021. Council officers are not aware of any erosion related to the hard rock excavation occurring outside the approved area.

The proposed quarry extension is approved under separate Development Approval DA/14/0059.

- 3.10 At no time is any part of an extractive industry area to be left in a condition that allows the ponding of stormwater, with the exception of sediment control dams.

Comment

Ongoing requirement.

Condition 3.10 was considered to have been appropriately satisfied at the time the Show Cause Notice was issued on 19 May 2010.

Site inspections since August 2014 have not identified any need for compliance action in relation to Condition 3.10.

- 3.11 Stockpiling and all mechanical operations (including haul road) shall be so located and maintained as to prevent dust, sand or soil blowing onto a road or land that is not being used for the extractive industry.

Comment

Ongoing requirement.

Condition 3.11 was considered to have been appropriately satisfied at the time the Show Cause Notice was issued on 19 May 2010.

Site inspections since August 2014 have not identified any need for compliance action in relation to Condition 3.11.

- 3.12 All operations pursuant to the extractive industry will be required to be carried out in such a manner that clay, gravel, rock, sand, silt, sludge, soil, stone, overburden or other material resulting from the extractive industry will not cause nor be allowed to cause unacceptable environmental harm when:-

- (i) Entering a watercourse or water storage; and
- (ii) Entering a drain or drainage easement.

Comment

Ongoing requirement.

Condition 3.12 was considered to have been appropriately satisfied at the time the Show Cause Notice was issued on 19 May 2010.

Site inspections since August 2014 have not identified any need for compliance action in relation to Condition 3.12.

- 3.13 The applicant shall ensure that no declared plants are transported from the site during the operation of the extractive industry.

Comment

Ongoing requirement.

Council does not have any evidence to suggest that declared plants have been transported from the site.

4. Infrastructure Services and Standards

4.1 Access

The access/intersection to the site must be designed, constructed and maintained in accordance with the FNQROC Development Manual to the satisfaction of Council's delegated officer. Particular reference is made to Section D1 Road Geometry D1.12 Intersections.

Appropriate signage as per the relevant MRD Standard will be installed and stormwater culverts must be sized to carry all runoff to a Q10 Standard.

Comment

Condition 4.1 was included in the Show Cause Notice issued to M & G Crushing on 19 May 2010.

In response to the Show Cause Notice, an application for Property Access/Driveway for the Gingerella Quarry was made to Council on 10 June 2010. This application was approved by Council's former Development Engineer on 18 June 2010. This Council Property Access/Driveway approval did not require signage or the installation of culverts.

Council Subdivisions/Assets Officer carried out an inspection of the access on 15 February 2016.

The formation of the access is in accordance with the conditions of the Property Access/Driveway Permit issued by Council on 18 June 2010. Since its construction in 2010, the radius on each side of the access have become worn and are in need of gravel re-sheet.

This matter will be followed up with M & G Crushing and they will be requested to reinstate gravel to a depth of 150mm on each radius of the Gingerella Quarry access.

5. Contributions/Headworks

5.1 Roadworks Contribution

The developer must pay a contribution for roadworks to Council in accordance with Mareeba Shire Planning Scheme Policy 6 (Augmentation of the Road Network Contribution).

The contribution is \$149,785.00 for each 3,333 haul truck movements (carting extracted material from the site only) towards the upgrading of road external to the site. The contribution shall be paid by monthly instalments based on the actual number of haul truck movements. The initial instalment shall be paid to Council within thirty (30) days of this Development Approval taking effect.

Comment

M & G Crushing has made financial contributions for some of the material extracted from the Gingerella Quarry.

Mareeba Shire Council has been made aware of a verbal agreement between a former Council officer and M & G Crushing whereby M & G Crushing carried out works on Ootann Road in lieu of making a financial contribution under Condition 5.1. The existence of the verbal arrangement was confirmed by both parties.

This verbal arrangement has been stopped and M & G Crushing will be expected to comply with Condition 5.1 from this point forward.

This matter will be followed up with M & G Crushing to ensure contributions are paid to Council based on the quantity of material extracted each month.

Allegations have been made that annual extraction volumes have occasionally exceeded the approved 100,000 tonnes per annum limit. It is not intended to expend resources attempting to prove or disprove such allegations, instead Council will focus its resources on ensuring future compliance.

Despite some instances of non-compliance with the conditions of MCU/09/0021, the hard rock component of Gingerella Quarry is considered to be operating generally in accordance with the conditions of approval.

Development approval DA/14/0059

Development approval DA/14/0059 was issued by Council on 16 September 2015. No extraction has occurred within the proposed extension areas since 16 September 2015.

On 8 February 2016, M & G Crushing emailed (**Attachment 4**) Council advising in the following terms:

"We are not intending to use the additional quarry extension, the sand extraction area at present. Any activity will be under our prior DA.

M&G intends to fence the additional area after a site meeting with Forestry re fence alignment.

The future use of this area will depend on an assessment of the success of the rehabilitation after 2 years."

Development approval DA/14/0059 will lapse on 16 September 2015 unless the approved use commences or M & G Crushing obtain an extension to the relevant period.

The approved use for DA/14/0059 has not commenced as of the date of writing this report and based on M & G Crushing's advice, the extraction of material from the quarry extension areas will not be re-commencing any time soon.

The conditions of DA/14/0059 which must be met prior to the re-commencement of extraction within the proposed extension areas (Conditions 3.10, 3.12 and 3.13) are not enforceable by Council until M & G Crushing intends to re-commence extraction.

Fencing of the Sales Permit area and rehabilitation of the disturbed areas within the proposed extension areas are the responsibility of M & G Crushing in accordance with the directions and requirements of DAF and DEHP.

Until there is an intention by M & G Crushing to re-commence extraction under DA/14/0059, any complaints about fencing and rehabilitation works within the proposed extension areas must be directed to DAF and DEHP.

Obviously, if in the future M & G Crushing informs Council that they intend to re-commence extraction under DA/14/0059, Council officers will undertake the necessary actions to ensure compliance with all conditions of DA/14/0059.

Apart from Conditions 3.10, 3.12 and 3.13, all other conditions of DA/14/0059 must be complied with as soon as the use of the camp facilities within the westernmost quarry extension area re-commences.

Specific comments on the complainant's emails and allegations

It is the long established position of this Council not to seek to close or sanction any allegedly non-compliant business operating within the Mareeba Shire Council local government area without first providing every reasonable opportunity for that business to remedy any area of non-compliance.

Enforcement action under the Sustainable Planning Act 2009 and through the Planning and Environment Court will only be commenced by this Council in the event a business operator fails to take appropriate action within a reasonable timeframe to remedy any non-compliance.

Council's records indicate that Council's delegated officers had commenced the drafting of a Show Cause Notice to proceed with enforcement action under the Sustainable Planning Act 2009 as early as 1 September 2014. This enforcement option was considered by Council at

a workshop following the Ordinary Meeting held on 17 September 2014 and was not pursued.

I am satisfied that the actions of Council's delegated officers in the handling of the Gingerella Quarry have been in accordance with this established Council position and are not an example of preferential treatment by the delegated officers.

The suggestion that Council did not take action until the completion of the quarry contract has no basis in fact. Council has numerous records of the complaints and has similarly numerous records of these complaints being actioned through instructions being given to the quarry operator or timely referral of the complaints to the responsible State agency where such complaints were outside Council's area of responsibility.

The complainant's comments on the adequacy of the verbal road maintenance agreement that existed under the former Council are noted and it is agreed that this type of verbal arrangement falls well below the standards that this current Council demands. This verbal arrangement is no longer in place and the quarry operator will be required to comply with Condition 5.1 of Development Approval MCU/09/0021 moving forward.

The decision to approve Development Application DA/14/0059 was not a delegated decision. The decision was made by the full Council at its ordinary meeting held on 16 September 2015. The suggestion that the complainant's submission was ignored by Council's delegated officer is incorrect. A full copy of the submission was confidentially (as per the complainant's request) distributed to all Councillors prior to the 16 September 2015 ordinary meeting. Further, most of the Councillors travelled to the complainant's home on 25 August 2015 where the complainant personally and very comprehensively, outlined the basis of his submission.

Development Approval DA/14/0059 was approved by Council on 16 September 2015 and has not been acted upon at this time. A development is acted upon when the approved use commences. Extraction within the quarry extension area has not taken place since 16 September 2015.

Development Approval MCU/09/0021 has quite clearly been acted upon as substantial extraction has taken place following Council's approval. The complainant's interpretation that access was not constructed to the quarry is incorrect and the inclusion of a similar access condition on DA/14/0059 is not proof that access was not constructed for MCU/09/0021.

An access condition is a standard condition on all Council approvals as access standards change over time. Council's records indicate that an application for Property Access/Driveway for the Gingerella Quarry was made to Council on 10 June 2010. This application was approved by Council's former Development Engineer on 18 June 2010. Since that approval, the access has been checked on several occasions, including 17 August 2014, with the most recent inspection by Council's Subdivisions/Assets Officer on 15 February 2016.

In approving DA/14/0059, it was Council's intention that DA/14/0059 operate in conjunction with and subordinate to MCU/09/0021, not as a replacement approval. The absence of a road infrastructure contribution condition within DA/14/0059 is explained by this fact. It is not evidence of favourable treatment of the quarry operator.

The complainant's interpretation that MCU/09/0021 has lapsed through non-commencement of the approved use or has somehow been cancelled by the approval of DA/14/0059 is not

supported. The quarry operator may operate under MCU/09/0021 or may operate under MCU/09/0021 and DA/14/0059. The quarry operator cannot operate under DA/14/0059 alone.

The absence of any formal compensation agreement between the holder of the Sales Permit and the holder of the grazing lease over this land is not a concern of this Council. The negotiation of such an agreement does not fall within Council's responsibilities and no delegated officer of this Council should be involved in any such agreement.

Council will continue to monitor the Gingerella Quarry for compliance against Council's development approval conditions and if necessary will take appropriate compliance action.

FINANCIAL & RESOURCE IMPLICATIONS

Capital

Nil

Operating

Nil

Is the expenditure noted above included in the 2015/2016 budget?

Nil

If not you must recommend how the budget can be amended to accommodate the expenditure

Nil

IMPLEMENTATION/COMMUNICATION

A letter will be sent to both the complainant and M & G Crushing and Materials Pty Ltd informing each party of Council's decision in relation to this report.

ATTACHMENTS

1. Email from the complainant dated 9 February 2016
2. Email from the complainant dated 11 February 2016
3. Email from the complainant dated 15 February 2016
4. M & G Crushing and Materials email dated 8 February 2016

Date Prepared: 19 February 2016

ATTACHMENT 1

From: [REDACTED]
Sent: Tuesday, 9 February 2016 10:26:42 AM
To: PeterF@msc.com.au
CC: Brian Millard; [REDACTED]
Subject: [REDACTED] CEO of MSC regarding Illegal Operation of Quarrr [REDACTED]
[REDACTED]

Peter Franks
CEO Mareeba Shire Council
Mareeba

Hi Peter,

Thanks for returning my telephone call yesterday. As discussed we have a problem [REDACTED]
[REDACTED] There is and has been an illegal quarry operating here since DA MCU/09/0021 was granted in 2009 by the then amalgamated councils TRC of which Mareeba was part of. Mr Millard was the senior planner there so would be familiar with this application.

There has never been a formal agreement put in place with the Lessee of the property and the operator of the potential legal quarry then or now. [REDACTED] is and has been affected by this operator and we want to try and communicate so as there can be an arrangement or agreement struck amicably so as we can both operate commercially side by side if ever the operator can remedy his problems of which there are many. This opportunity has been denied to us and the previous lessee's by the ignorance of the operator, Forestry and Council officers. The process taken has been nurtured to help the operator even though his track record is disgraceful as far as following legislation, procedures, compliance and following written conditions is concerned.

Since the operator started quarrying, it has defied the Forestry Act 1959, the EHP legislation and the Sustainable Planning Act 2009, breached DERM legislation by stealing water and sand from within the confines of the Tate river system and breached conditions set by council for the original DA.. (All on record). This entity has taken +or- \$15m of product illegally from this quarry area. In saying this Council is aware ,NOW, of this through my determined attitude to have this operator made accountable for his actions and to rectify the environmental mess it has created outside of the MCU/09/0021 DA area. This has been done illegally with the blessing of certain Forest Rangers and Councils Delegated Officer for this project and this entity has had a free run due to noncompliance. Somebody should be accountable. This operator has been taking material from an extension zone where it had no authority at all for 5+ years and nobody noticed. As the forest ranger told me last week, "" No Body Cared Before"" and my answer was , "" Well you should have cared as it is your job"" (Forestry have been conducting an internal review for the last 14 months and we have a meeting with them on the 24th of February 2016.) Due to the lack of compliance and integrity by certain forestry and council employees this investigation has occurred . I believe that council should have an internal review to see why this entity is getting preferential treatment by council.

When I first reported the illegal operation to Councils Delegated Officer it fell on deaf ears. Only through my persistence that I have had some involvement by council to try and correct the problem. The operator was allowed to carry on for quite some time after my complaint so as his current supply and haulage contract could be completed. I emailed or rang most days in regard to the quarry still operating and also the type 2 road trains using the Gingerella / Mt Surprise Road which was out of bounds in the Referral Agency's, DTMR, Response notice given for the DA. The Delegated Officer did not act until the contract was completed.

This operator has been putting it over the council and forestry for years as a good example is the so called Verbal Agreement it had with Council's Senior Engineer whereby the operator grade or maintain the council controlled road it was using in lieu of

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paying the \$1.83 per ton road maintenance levy that was a condition of the DA. Do you honestly think this was done. Take a look at the state of the road and you will see that the road condition has deteriorated since the quarry began. The operator saved itself or in other words COSTS Council about \$600,000. These sort of deals shows the calibre of the entity that council is now protecting. There should be an investigation into the entity and the engineer and all day slips and records supplied so as to substantiate the verbal contract. Were there other so called verbal agreements elsewhere.

There is preferential treatment given to this operator for example the way council has gone about protecting this entity by offering that it take out another DA to cover the area of the illegal operation. This is major environmental damage and is not just a small thing where you just say sorry and enclose it and fix the problem. This problem will take about \$8m to fix as the topsoil has been taken away as product and nothing will grow there now.

In offering the operator the opportunity to correct the problem by applying for a new DA over the affected area the council alleviates itself the problem of taking the operator to the Sustainable Planning Court and getting a judgement against the operator. This would be costly and time consuming so the quick fix is the DA. [REDACTED] Nobody cares.

In allowing the operator to apply for a new DA over the illegal extended zone the council's senior planner (assessment manager) has completely ignored my submission where I outlined that certain documents that were submitted for this application by the operator were flawed, misleading, ambiguous and bias in their intent. These were written by so called professional people but they have been selected by the operator to write the reports the operator wants. This was described in detail in my submission but was ignored. Would you think that with a situation as this that any advice especially being so defined and specific would be looked upon so as council would make the right assessment but the assessment manager was not interested in any advice that I offered through my submission as it did not fit the agenda to get the operator a new DA asap. I could give you numerous examples of how this operator has been protected by council and forestry but we would need a full day to go through all the documents.

This is Important and you have to understand that we are not the perpetrator here, we are the victims and it has been caused by council and forestry not performing their duty.

In the last few days I have had email and phone contact with Mr Millard. I have suggested that the Quarry cannot operate at all except to do things necessary to abide the conditions of the new DA/ 14/0059.

This DA is issued over the Sales Permit area which includes the old DA MCU/09/0021. Mr Millard stated that was not correct as the old DA will always stand and the new DA was not constructed to cancel the old one.

My advice I received from Qld Govt Infrastructure and Planning was that there can be two DA's over the one Sales Permit but they must not conflict in which case the new DA take precedence. Since then council have come up with the interpretation that the new DA is not active until **all the conditions are meet** so the operator can start crushing rock now which is what he is going to do as he has probably advised you and council is doing everything possible to help .

That makes sense so let's look at the conditions of the old DA and use your **new determination on the old DA MCU/09/0021 issued in 2009**. When I mentioned this yesterday you stated that council was not interested with any TRC decisions and I stated that Mareeba inherited this when the DE amalgamation took place and it will not go away. MSC are responsible for this now,

I have attached the conditions of DA MCU/09/0021 and will inform council that this DA is not "**activated**" as all of the conditions have not yet been meet namely **sections 2.1, 2.2, 3.1, 4.1** and since the illegal operation has commenced sections **1, 3.5, 3.6, 3.7, 3.9, 3.10, 3.11, 3.12, 5.1. have been breached**.

There are many other breaches within the Quarry management plan and associated Rehabilitation Plan such as bench heights, bund wall around fuel tanks etc. but that is forestry's concern.

So in reality **the DA MCU/09/0021 is INACTICE due to noncompliance with the conditions and hence the four year time line**

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to complete the conditions is over so really the DA is nonexistence. Its use by date is over.

This operator has been operating illegally from day one. I expect council to take seriously my concerns and to investigate them and act on them. I suggest that council close the quarry operation down until such time all is unfounded.

I could be available to deliberate in depth this situation with you as this has to be rectified and the correct process taken, not just sweep it under the carpet so to speak because I will not be going away until this is resolved. [REDACTED]

[REDACTED] and I want the mess fixed or compensated for same.

I look forward to your reply and I do hope I do not have to go to the Local Council Ombudsman or elsewhere to try and remedy this problem.

Regards

[REDACTED]



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PLANNING & INFRASTRUCTURE
*CONDITIONS 1st DA,
NO COMPLIANCE.*
ADHOC-1
**M & G CRUSHING & MATERIALS PTY LTD - DECISION
NOTICE - MATERIAL CHANGE OF USE (EXTRACTIVE
INDUSTRY) - LOT 1 ON LD 17, PARISH OF SALTCOATS,
ALMADEN - GINGERELLA ROAD, BARWIDGI - MCU/09/0021**

Moved by Cr McGrath

Seconded by Cr Pedersen

1. That in relation to the application lodged with Council on 5 May 2009 by M & G Crushing & Materials Pty Ltd for Material Change of Use in respect of Lot 1 on LD117, Parish of Saltcoats, located at Gingerella Road, Barwidgi:

In accordance with the Integrated Planning Act 1997 as amended, the applicant be notified that the application for a Development Permit for Material Change of Use for premises described in (A) herein is approved subject to conditions listed in (C) and (D) and advice listed in (E).

(A) DETAILS OF PREMISES AND APPROVED USE

LOCATION: Gingerella Road, Barwidgi

PROPERTY DESCRIPTION: Lot 1 on LD117 Parish of Saltcoats

AREA OF LAND: 74,100 hectares

MATERIAL CHANGE OF USE: Extractive Industry

(B) APPROVED PLANS

The approved plans and/or documents for this development approval are listed in the following table:

Plan/Document Number	Plan/Document Title	Prepared by	Dated	Date received by Council
n/a	Quarry Operations Plan	M & G Crushing & Materials P/L	n/a	5 May 2009

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by the Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect



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- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
- 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by the condition(s) of this approval.
 - 3.2 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
 - 3.3 Bushfire Management

The applicant is to prepare and implement a Bushfire Management Plan for the proposed development in accordance with the requirements of State Planning Policy 1/03. This management plan is to be submitted to Council for approval prior to the commencement of the use.
 - 3.4 Hours of Operation

The operating hours shall be between 6:00am and 6:00pm.
 - 3.5 The applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis. *QMP ??*
 - 3.6 Operations pursuant to the extractive industry must be carried out in accordance with the Proposal Report submitted to Council.
 - 3.7 Loads upon vehicles carting material from the extractive industry area will be required to be kept covered during transit, so as to prevent escape of dust or the spillage of material.
 - 3.8 The applicant will be required to take every precaution to avoid spillage and any spillage which occurs on any public road, shall be removed at the end of each working day or within four (4) hours of any verbal requirement by Council's delegated officer.
 - 3.9 The excavation of material will be required to be confined to the extractive industry area, subject to the conditions and requirements of the Tablelands Regional Council, Department of Environment and Resource Management and/or other Authority and all operations will be carried out in such a manner that no erosion occurs in any adjoining or other land outside the extractive industry area.
 - 3.10 At no time is any part of an extractive industry area to be left in a condition that allows the ponding of stormwater, with the exception of sediment control dams.



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3.11 Stockpiling and all mechanical operations (including haul road) shall be so located and maintained as to prevent dust, sand or soil blowing onto a road or land that is not being used for the extractive industry.

3.12 All operations pursuant to the extractive industry will be required to be carried out in such a manner that clay, gravel, rock, sand, silt, sludge, soil, stone, overburden or other material resulting from the extractive industry will not cause nor be allowed to cause unacceptable environmental harm when:-

- (i) Entering a watercourse or water storage; and
- (ii) Entering a drain or drainage easement.

3.13 The applicant shall ensure that no declared plants are transported from the site during the operation of the extractive industry.

4. Infrastructure Services and Standards

4.1 Access

*No Work Done
To Intersection
No Signage.*

The access/intersection to the site must be designed, constructed and maintained in accordance with the FMQROC Development Manual to the satisfaction of Council's delegated officer. Particular reference is made to Section D1 Road Geometry D1.12 Intersections.

Appropriate signage as per the relevant MRD Standard will be installed and stormwater culverts must be sized to carry all runoff to a Q10 Standard.

5. CONTRIBUTIONS/HEADWORKS

5.1 Roadworks Contribution

The developer must pay a contribution for roadworks to Council in accordance with Mareeba Shire Planning Scheme Policy 6 (Augmentation of the Road Network Contribution).

\$1.83 p.t.

The contribution is \$149,785.00 for each 3,333 haul truck movements (carting extracted material from the site only) towards the upgrading of road external to the site. The contribution shall be paid by monthly instalments based on the actual number of haul truck movements. The initial instalment shall be paid to Council within thirty (30) days of this Development Approval taking effect.

(D) REFERRAL AGENCY RESPONSE

Department of Main Roads conditions dated 2 June 2009 (attached to these Minutes as Appendix 3).

Department of Environment and Resource Management conditions dated 31 July 2009 (attached to these Minutes as Appendix 4).

(E) ASSESSMENT MANAGER'S ADVICE

- (a) Environmental Protection and Biodiversity Conservation Act 1999



Tablelands Regional Council - Minutes

Wednesday 19 August 2009

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.deh.gov.au.

(b) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.derm.qld.gov.au

(c) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

CARRIED**ENVIRONMENTAL SERVICES****ITEM-19****MAREEBA LANDFILL PLANT REQUIREMENTS EVALUATION**

Moved by Cr Adams

Seconded by Cr Curtis

"That:

1. Due to current 2009/10 budget constraints, Council delay consideration of the purchase of a new compactor until 2010/11 financial year budget deliberations;
2. Council request staff take appropriate action to effectively manage the risk outlined in the report prepared by the Manager Waste Services."

CARRIED

ATTACHMENT 2

From: [REDACTED]
Sent: Thursday, 11 February 2016 9:30 AM
To: Peter Franks
Subject: (DWS Doc No 3762238) RE: Illegal Operation of Quarry

Hi Peter

I know you are busy but this is important

. The original DA was never activated and one point of major concern is the Access/Intersection. This intersection had to be upgraded to FNQROC Development Manual particularly Section D1 Road Geometry D1.12. Also a culvert to carry all runoff water to a Q10 standard from the table drain had to be placed on the turn in turn out side of the intersection. The Intersection had to be built to Industrial standard of the AUSTROADS Design Manual. Signage (road furniture) was to be in accordance with Department Main Roads –Manual of Uniform Traffic Control Devices. **This has never been done but the operator has been signed off by council's delegated officer as section 2.1 of the original DA. The operator has also notified Council that all the conditions of the DA have been complied with as section 2.2 of the original DA.**

Please note that one of the conditions of the new DA is that the intersection/crossover be constructed to FNQROC Development Manual. This is proof that the assessment manager knows that it is not done even though he was the assessment manager on the original DA and also I believe the councils Delegated Officer.

There are numerous other areas that have been overlooked by both council and forestry and it just does not happen by bad luck. These are breaches of trust and integrity and have always been for the benefit of this operator.

Another example is, in the new DA, which will be the only DA when activated, there is no condition where council receives road contribution from the operator. Amazing.

I can go through all the documents and the conflicts just keep turning up.

This operator needs to be investigated and also council's system where by operators as such can slip under the radar.

The quarry operations should be placed on hold until this whole affair is investigated and if this operator has breached any of the conditions regarding the quarry operation than the DA's should be revoked.

I have done Rural and Residential sub-division development and screening developments worth millions of dollars within the CTRC and the conditions I had to meet were loud and clear and with no variance. I expect the same standards here and I hope Peter that you take this seriously.

Regards

[REDACTED]

From: Peter Franks [<mailto:Peter@msc.qld.gov.au>]
Sent: Wednesday, 10 February 2016 11:46 AM
To: [REDACTED]
Subject: RE: Illegal Operation of Quarry

[REDACTED]

Thanks for the email. As discussed on the phone I will look into this and get back to you.

file:///msc.local/.../UserProfiles/kateb/Desktop/(DWS%20Doc%20No%203762238)%20RE%20Illegal%20Operation%20of%20Quarry.htm[24/02/2016 9:38:04 AM]

ATTACHMENT 3**From:** Brian Millard [BrianM@msc.qld.gov.au]**Sent:** Monday, 15 February 2016 8:56:04 AM**To:** [REDACTED]**Subject:** Email to/from Owen Wellington regarding Councils Delegated Officer- concerns at Gingerella Quarry - MCU (Extractive Industry) - Lot 1 LD117 - 72 Gingerella Road Barwidgi - M & G Crushing & Materials Pty Ltd - DA/14/0059 - MCU/09/0021

[REDACTED]

Thank you for your email. Council will provide a response in due course.


The un-banded fuel storage has again been reported to the Department of Environment and Heritage Protection for investigation.

Regards

Brian Millard
Senior Planner



Phone: 1300 308 461 | **Direct:** 07 4086 4657 | **Fax:** 07 4092 3323
Email: brianm@msc.qld.gov.au | **Website:** www.msc.qld.gov.au
65 Rankin Street, Mareeba | PO Box 154, Mareeba, Queensland, Australia, 4880

 Go green, keep it on screen - think before you print

From: [REDACTED]**Sent:** Monday, 15 February 2016 8:06 AM**To:** Brian Millard**Cc:** [REDACTED]**Subject:** Councils Delegated Officer- concerns at Gingerella Quarry

Hi Brian

Could you please advise me who is the Delegated Officer is if you are not. Also can you advise when the surveyor will be finished surveying the quarry as I believe there is more concern there as I put a GPS over the supposed boundary of the extended zone and it looks like the operator has extended out beyond the extended area considerably. As soon as the surveyor has identified this I will expect council to take the appropriate action and not just put another DA around the illegal, illegal area and help the operator once again. Please keep me informed regarding the surveyor.

Also can you notify the operator that there must be a meeting with us so as to identify the type and quality of the fencing to be done if it gets to that stage. Maybe a mediator will be needed. Also the operator has degraded [REDACTED] land [REDACTED] of the supposed quarry fence line without any consultation with us and we want it corrected as erosion has already started. There has to be consultation with us, the lessee if this quarry is not closed down. Hopefully the latter will prevail.

There is a **major issue** looming with the original DA as the council's Delegated Officer and the operator allowed the quarry operations to commence with conditions of the DA not being complied with. I have given this list to your CEO. These conditions were a requirement and as well as these council conditions there were conditions of the Quarry Management Plan that had to be abided to before commencement. All these were mandatory. A lot were never done. Who was the Delegated Officer then? There will be records even though Mareeba was amalgamated with TRC. You were the senior planner and I presume Delegated Officer.

A requirement under the sustainability planning act 2009 Section 341 is that development must start within 4

years. That would be a development by way of the correct procedures.

This development has not abided by the correct procedures and the 4 years to commence from the initial DA being issued with conditions has gone so this is **an illegal operation** and should be closed down and the appropriate action taken against this operator. There has been no DA ACTIVATED legally from the very start and since works commenced there has been a lot of illegal operations happening (a lot of these on record) including stealing forest products worth millions of dollars. I suggest Brian that as Senior Planner you should start correcting this illegal operation by placing a complete stop works order on this quarry until a proper review can be done and sort out this absurd mess once and for all.

Once again this operator has not adhered to requirements as I reported an illegal activity to you last week of an un- bunded 30,000ltr fuel tank within 50 mts of the Rocky Tate River. There are now **two** there so I will again report to you as Delegated Officer that there are now **two un-bundded 30,000 ltr fuel tanks within 50 mts of the Rocky Tate River.**

Regards



ATTACHMENT 4

From: [REDACTED]
Sent: Monday, 8 February 2016 3:47:03 PM
To: Brian Millard
Subject: [REDACTED] regarding intentions of compliance with condition 3.10 - MCU (Extractive Industry) - Lot 1 LD117 - [REDACTED] - M & G Crushing & Materials Pty Ltd - DA/14/0059

Dear Brian

We are not intending to use the additional quarry extension, the sand extraction area at present. Any activity will be under our prior DA.

M&G intends to fence the additional area after a site meeting with Forestry re fence alignment.

The future use of this area will depend on an assessment of the success of the rehabilitation after 2 years.

Regards

[REDACTED]

From: Brian Millard [mailto:BrianM@msc.qld.gov.au]
Sent: Tuesday, 2 February 2016 9:37 AM
To: [REDACTED]
Subject: DA/14/0059 - M & G Crushing and Materials Pty Ltd

[REDACTED]

Council has been informed that clearing for fencing of the Quarry Operational Areas is currently underway at Gingerella.

Please note that Condition 3.10 of Development Approval DA/14/0059 requires an Identification Survey to establish the exact boundaries of the Quarry Operational Areas.

3.10 Identification Survey and Fencing

Prior to the re-commencement of extraction within the proposed extension areas identified on Figure 1, an identification survey must be undertaken to establish the boundaries of the Quarry Operational Areas and drainage buffers.

The drainage buffers are to be clearly marked using star pickets. No extraction is permitted within the drainage buffers.

The Quarry Operational Areas and internal haul road between the Quarry Operational Area must be marked and enclosed by a stock proof fence.

The stock watering point (dam) located within or adjacent to the eastern Quarry Operational Area must not be fenced and must be kept freely available for grazing use by the lessee of Lot 1 on LD117.

A 60 metre wide stock crossing (eg 2 cattle grids) must be provided along the internal haul road between the Quarry Operational Areas to allow continued grazing access on both sides of the internal haul road.

No other fencing of the land between the Quarry Operational Areas is permitted.

Attached are the Queensland Government's cadastral survey requirements.

If an Identification Survey of the Quarry Operational Areas has not already been completed and the exact boundary locations are clearly marked, all clearing and fencing must cease until the identification survey is carried out.


Please confirm that an Identification Survey has been completed or alternatively, that all clearing/fencing works at Gingerella have ceased until such time as the Identification Survey is completed.

Regards

Brian Millard
Senior Planner



Phone: 1300 308 461 | **Direct:** 07 4086 4657 | **Fax:** 07 4092 3323
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BUSINESS WITHOUT NOTICE

NEXT MEETING OF COUNCIL

The next meeting of Council will be held at 9:00 am on Wednesday 16 March 2016

APPENDIX

FOR INFORMATION - SUMMARY OF NEW PLANNING DEVELOPMENT APPLICATIONS AND DELEGATED DECISIONS

Summary of new Planning Development Applications and Delegated Decisions for January 2016

New Development Applications					
Application #	Lodgement Date	Applicant/ Address	Property Description	Application Type	Status
DA/16/0001	5/1/2016	NQ Freight Services Pty Ltd 173 Martin Avenue, Mareeba	Lot 1 on RP720061	Material Change of Use - Freight Depot	In public notification stage.
DA/16/0002	14/1/2016	L & A Piagno 48 Emerald End Road, Mareeba	Lot 27 on SP208342	Reconfiguring a Lot - Subdivision (1 into 2 lots)	Approved on 29 January 2016.
DA/16/0003	22/1/2016	Mareeba Shire Council Thora Cleland Drive & Effley Street, Mareeba	Part of Lots 47, 48 & 49 on SP198053 & Lot 879 on SP198060	Reconfiguring a Lot - Boundary Realignment	Approved on 27 January 2016.
DA/16/0004	27/1/2016	Z Glen 13 Fairyland Road, Kuranda	Lot 5 on RP725499	Material Change of Use - Tourist Facility (Retreat Centre) and Bed & Breakfast	In public notification stage.

Decision Notices issued under Delegated Authority					
Application #	Date of Decision Notice	Applicant	Address	Property Description	Application Type
DA/15/0057	14/1/2016	Planz Town Planning (M Hatfield)	14 Thora Cleland Drive, Mareeba	Lot 24 on SP198053	Material Change of Use - Industry (Truck and other heavy vehicle mechanical business)
DA/16/0003	27/1/2016	Mareeba Shire Council	Thora Cleland Drive & Effley Street, Mareeba	Part of Lots 47, 48 & 49 on SP198053 & Lot 879 on SP198060	Reconfiguring a Lot - Boundary Realignment
DA/16/0002	29/1/2016	L & A Piagno	48 Emerald End Road, Mareeba	Lot 27 on SP208342	Reconfiguring a Lot - Subdivision (1 into 2 lots)

January 2016 (Regional Land Use Planning)

Extensions to Relevant Period issued					
Application #	Date of Decision	Applicant	Address	Property Description	Application Type
REC/10/0004	18/01/2016	M Morton-Masterman	110 Windy Hollow Road, Kuranda	Lot 4 on SP184833	Reconfiguring a Lot - Subdivision (1 into 3 lots) Extension to 20 June 2016.

Survey Plans endorsed					
Application #	Date	Applicant	Address	Property Description	No of Lots
DA/14/0061	14/1/2016	Cairns Plywoods Pty Ltd	Marinelli Drive, Mareeba	Lot 200 on SP216456	Nil. Opening of road reserve only
DA/13/0125 & DA/14/0040	20/1/2016	G Black & K & C O'Brien	14-16 Anzac Avenue, Mareeba	Lots 17 & 18 SP180666	4 lots
REC/07/0052	20/1/2016	Hockey Machinery Sales Pty Ltd	Godwin Drive, Mareeba	Lot 99 on SP268683	2 lots

January 2016 (Regional Land Use Planning)