

DELEGATED REPORT

SUBJECT: PIONEER NORTH QUEENSLAND PTY LTD - MATERIAL CHANGE OF USE - EXTRACTIVE INDUSTRY (EXPANSION) - LOT 21 ON SP173509 - 144 BOWER ROAD, ARRIGA - MCU/18/0028

DATE: 5 March 2019

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Pioneer North Queensland Pty Ltd	ADDRESS	144 Bower Road, Arriga
DATE LODGED	10 December 2018	RPD	Lot 21 on SP173509
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Extractive Industry (expansion)		

FILE NO	MCU/18/0028	AREA	56.23 hectares
LODGED BY	RPS Australia East Pty Ltd	OWNER	R & B Terranova
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS:

1. Proposal Plan/s
2. Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response - 18 February 2019

EXECUTIVE SUMMARY

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

The application is code assessable as it involves the expansion of an existing extractive industry in the Rural zone. Being code assessable, the application was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

Draft conditions were provided to the Applicant/care of their consultant and have been agreed.

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Pioneer North Queensland Pty Ltd	ADDRESS	144 Bower Road, Arriga
DATE LODGED	10 December 2018	RPD	Lot 21 on SP173509
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Extractive Industry (expansion)		

and in accordance with the Planning Act 2016, 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), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Extractive Industry (expansion)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
9369-28	Approved and Proposed Sand Extraction Areas Smoljko Farm	RPS	26/10/2018

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally 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

- 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 within the conditions of approval.
- 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 Hours of Operation

All operations pursuant to the extractive industry, or in any way connected with the extractive industry will, for site operations and for removal of material, be limited to the hours between 7.00 am and 6.00 pm Mondays to Friday and 7:00am to 12:00 noon Saturdays (except Public Holidays), PROVIDED ALWAYS that the Council will have the right at any time, and from time to time, to fix other hours of operation, and upon the fixing of any such other hours of operation pursuant to the permit, or in any way connected therewith, the extractive industry will be limited to such other hours. The Applicant will not be allowed to conduct nor permit nor suffer to be conducted, any extractive industry operation nor run nor start any motors, machinery, or the like, nor remove any materials from the said land on any Sunday or Public Holiday, or at any time outside the hours mentioned or such other hours as will be fixed by Council.

- 3.6 The Applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis.
- 3.7 All operations pursuant to the extractive industry must be carried out in accordance with an Environmental Management Plan, except where modifications are required by the conditions of this approval. A copy of the Environmental Management Plan must be provided to Council prior to the commencement of extraction.

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 Scale and Intensity

The extraction volume must not exceed 100,000 tonnes per annum.

3.10 Rehabilitation

A Site Rehabilitation Management Plan is to be prepared by a suitably qualified and experienced person detailing the timing/staging of vegetation removal, method of removal and the sequence of operations and rehabilitation works.

Site rehabilitation works must be provided in a progressive manner in accordance with extraction sequences and staging. The method of rehabilitation needs to be detailed with appropriate revegetation strategies indicated including the species list to be used including plant source. The plan is to be submitted to Council and operations are not to commence prior to receipt of Council's approval of the plan.

All site rehabilitation is to occur in accordance with the approved Site Rehabilitation Management Plan.

3.11 Prevention of the spread of weeds and pests

The applicant must ensure the development is carried out in a manner that prevents the spread of weeds, seeds or other pests into clean areas or away from any existing infested areas.

4. Infrastructure Services and Standards

4.1 Access

A Commercial access crossover/s, for the extractive industry access, must be constructed and maintained, to the property boundary in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

5. Additional Payment Condition – **Note:** The applicant's obligations under this condition are waived whilst Council continues to levy the special charge for extractive industries in accordance with Council's adopted annual budget.

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

5.2 The developer must pay \$55,994.40 for each 3,333 haul truck movements from the site towards trunk transport infrastructure, with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

5.3 The trunk infrastructure for which the payment is required is:

- The trunk transport infrastructure servicing the land - specifically the upgrading of Bower Road and North Walsh Road to rural road (8 metres wide) bitumen sealed standard.

5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

5.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to endorsement of the plan of subdivision.

(D) ASSESSMENT MANAGER'S ADVICE

(a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(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) 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.

(d) 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.

(e) 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.

(f) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(E) CONCURRENCE AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response dated 18 February 2019.

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use – six (6) years (starting the day the approval takes effect);

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

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

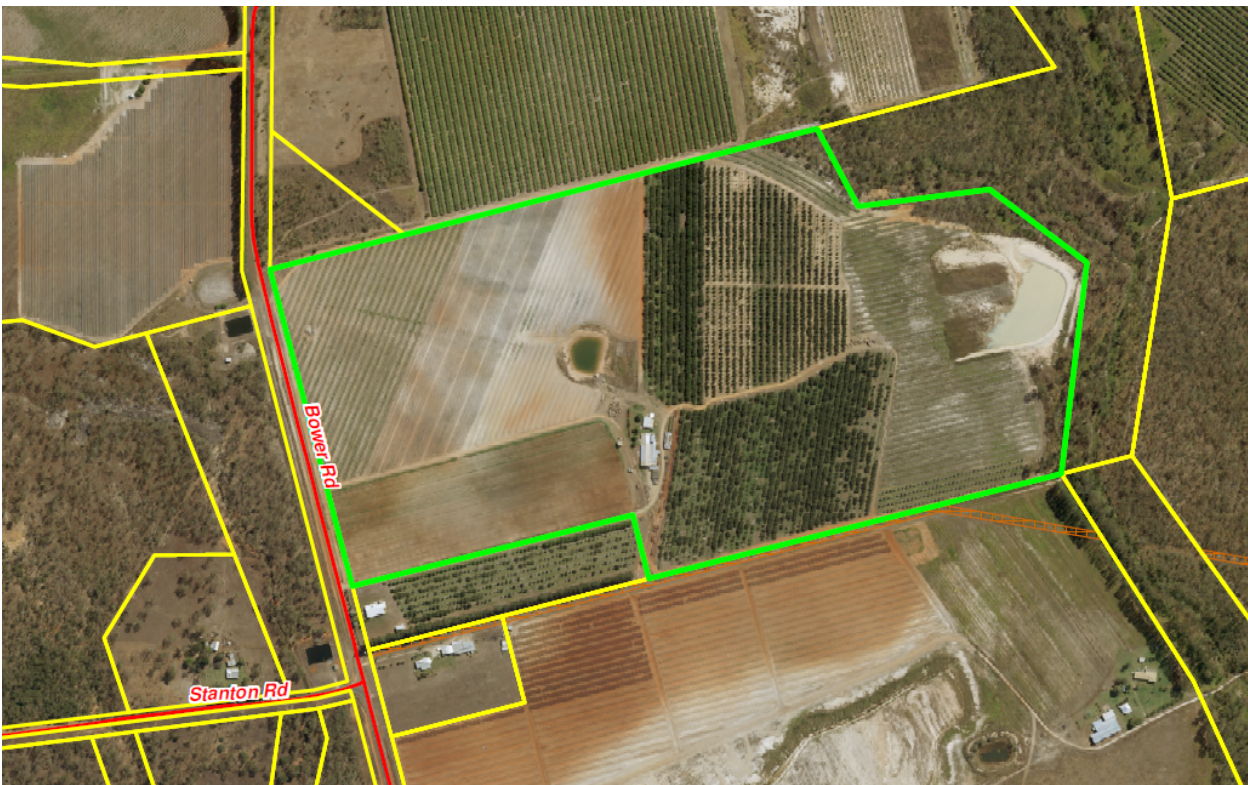
- Access approval arising from condition number 4.1.

THE SITE

The subject land is described as Lot 21 on SP173509, situated at 144 Bower Road, Arriga, approximately 12 km west of Mareeba.

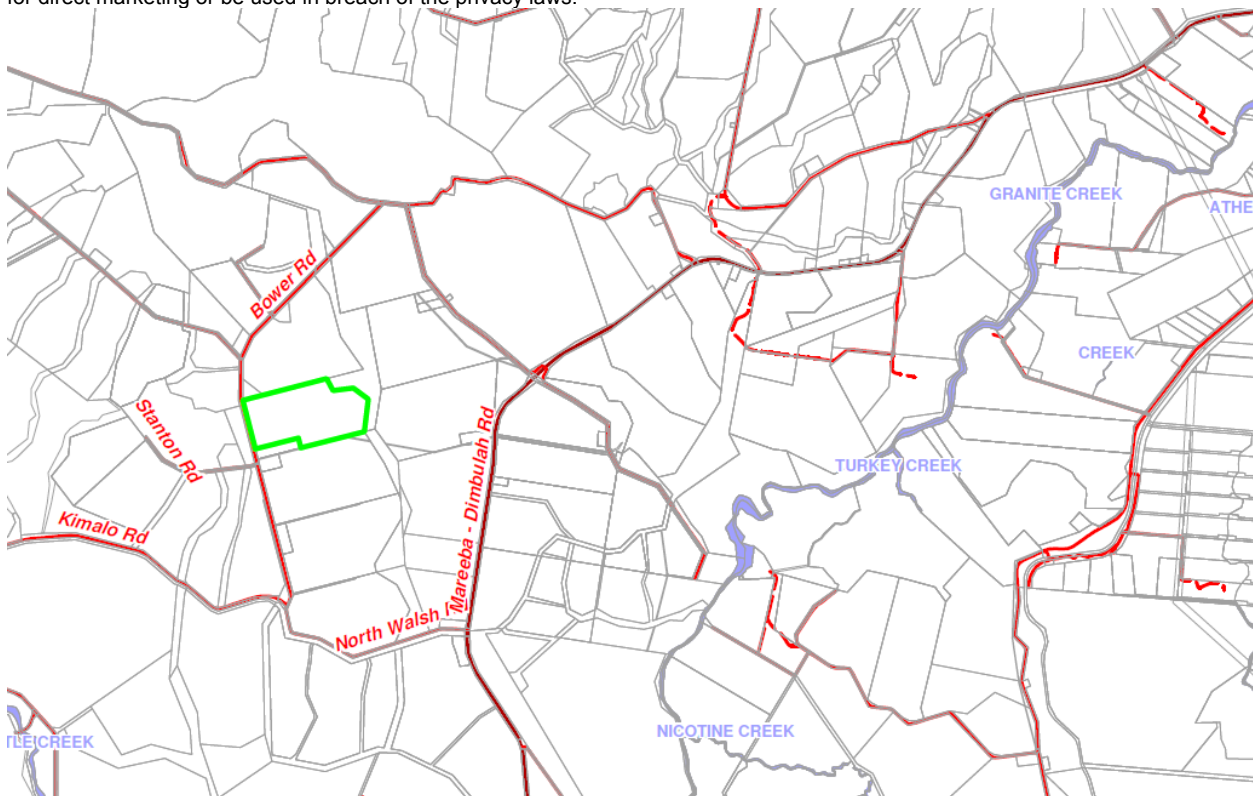
The land has an area of 56.23 hectares, with a frontage of approximately 480 metres to Bower Road. Access to the land is obtained directly off Bower Road via several established farm accesses.

Bower Road is constructed to a bitumen sealed standard of varying widths. The section from the relevant site access to the Stanton Road intersection has a width of 4 metres. From then on, the typical width is at least 6 metres.



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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An extractive industry (sand quarry) is approved over 2 hectares of the site proximate to the eastern boundary and this application proposes to expand this quarry operation.

The subject site is located within the Rural zone and is surrounded by agricultural activities, primarily horticultural production of mangoes and avocados, in addition to grazing. The site is also located within the Key Resource Area 151 which reflects the existing sand extraction activities that are conducted within the surrounding vicinity.

A farm dwelling house and ancillary farming sheds exist on the site and are setback approximately 450 metres from the Bower Road frontage. These structures are approximately 300 metres from the proposed extraction area.

The nearest dwelling house on an adjoining property is approximately 350 metres to the south.

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

On 19 March 2002, Council issued a development permit (MC2002/2) for Material Change of Use – Extractive Industry over land described as part of Lot 21 on SP173509 (formerly Lot 5 on HG392).

The approval allows for the progressive extraction of sand from approximately 2 hectares of Lot 21. To date, extraction has occurred over most of the approved area.

The current development application would expand the existing extractive industry operations onto an adjoining 3.49 hectares of Lot 21.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Extractive Industry (expansion) in accordance with the plans shown in **Attachment 1**.

The application proposes to expand the existing sand extraction activities onto a further 3.49 hectares of Lot 21. The proposed development would involve the continued extraction and screening of up to 100,000 tonnes of fine sand per year.

The following extractive industry processes will be carried out as part of the project.

- Removal and storage of topsoil in earthen bunds;
- Extraction of the sand resource;
- Screening of the material into stockpiles;
- Haulage off-site via Bower Road; and
- Stabilisation and rehabilitation of disturbed areas

The area proposed for sand extraction provides for an exclusion area of not less than 30m from property boundaries.

Sediment ponds/control measures for the existing extractive industry will remain in place for the expansion area.

The standard extractive industry operating hours of 7 am to 6 pm Monday to Friday and 7 am to 12 pm on Saturdays will apply. No activities will take place on Sundays or Public Holidays.

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 is:

- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<p>Land Use Categories</p> <ul style="list-style-type: none"> ▪ Rural Other <p>Natural Resource Elements</p> <ul style="list-style-type: none"> ▪ Key Resource Area
Zone:	<p>Rural zone</p> <ul style="list-style-type: none"> ▪ Airport Environs Overlay ▪ Bushfire Hazard Overlay ▪ Environmental Significance Overlay ▪ Extractive Resources Overlay ▪ Transport Infrastructure Overlay
Overlays:	

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
<i>Extractive industry</i>	<i>Premises used for the extraction and/or processing of extractive resources and associated activities, including their transportation to market.</i>	<i>Quarry</i>	

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

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.5 Extractive resources overlay code
- 9.3.5 Industrial activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure 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 outcomes (or performance outcomes where no acceptable outcome 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 codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Airport environs overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Bushfire hazard overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Environmental significance overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

Extractive resources overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Industrial activities code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

Where relevant, conditions will be attached to any approval requiring all development works be designed and constructed in accordance with the FNQROC Development Manual.

(f) Additional Trunk Infrastructure Condition

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the Planning Act 2016 allows Council to condition additional trunk infrastructure outside the PIA.

The required road upgrades or in-lieu contribution have been applied in Condition 5 of the Officer Recommendation. The applicant's roadworks contribution for each 100,000 tonnes would be as follows.

Length of road traversed by the applicant is 4 kilometres (shortest route to State controlled road).

Truck and dog	=	30 tonnes / load = 6 ESA * / load (* ESA - Equivalent Standard Axles)
Truck loads	=	tonnes (100,000) ÷ load of truck (30t)
	=	100,000 ÷ 30
	=	3,333
Number of axles	=	No. of loads (3,333 x ESA / Load (6))
	=	3,333 x 6
	=	19,998
Present road investment	=	\$1.40 / ESA
Future road maintenance cost	=	\$2.10 / ESA

	=	Difference in maintenance and present cost
	=	\$2.10 - \$1.40
	=	\$0.70
	=	\$0.70 x ESA (19,998)
	=	\$13,998.60
Therefore total contribution sought	=	cost x distance (km)
	=	\$13,998.60 x 4
	=	\$55,994.40

Based on Council's standard contribution calculation method, the applicant would be required to pay a roadworks contribution of \$55,994.40 for each 100,000 tonnes of material extracted.

On 21 June 2017, Council adopted its 2017/18 Budget and introduced a new special charge for extractive industries.

In doing so, Council acknowledged that certain quarries already contribute towards road infrastructure through a condition of their development approval. In such cases, the applicant's obligation under the relevant road infrastructure condition would be waived whilst Council continued to levy the special charge for extractive industries.

Accordingly, it is proposed to apply a road infrastructure condition on this extractive industry, however the applicant will not have to comply with this condition whilst Council continues to levy the special charge for extractive industries.

REFERRALS

The application triggered a referral to the State Referral Agency for State transport infrastructure.

That Department advised in a response dated 18 February 2019 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Technical Services

PLANNING DISCUSSION

Nil

Date Prepared: 5 March 2019

DECISION BY DELEGATE

DECISION

Having considered the Senior Planner's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the *5TH* day of *MARCH* 2019



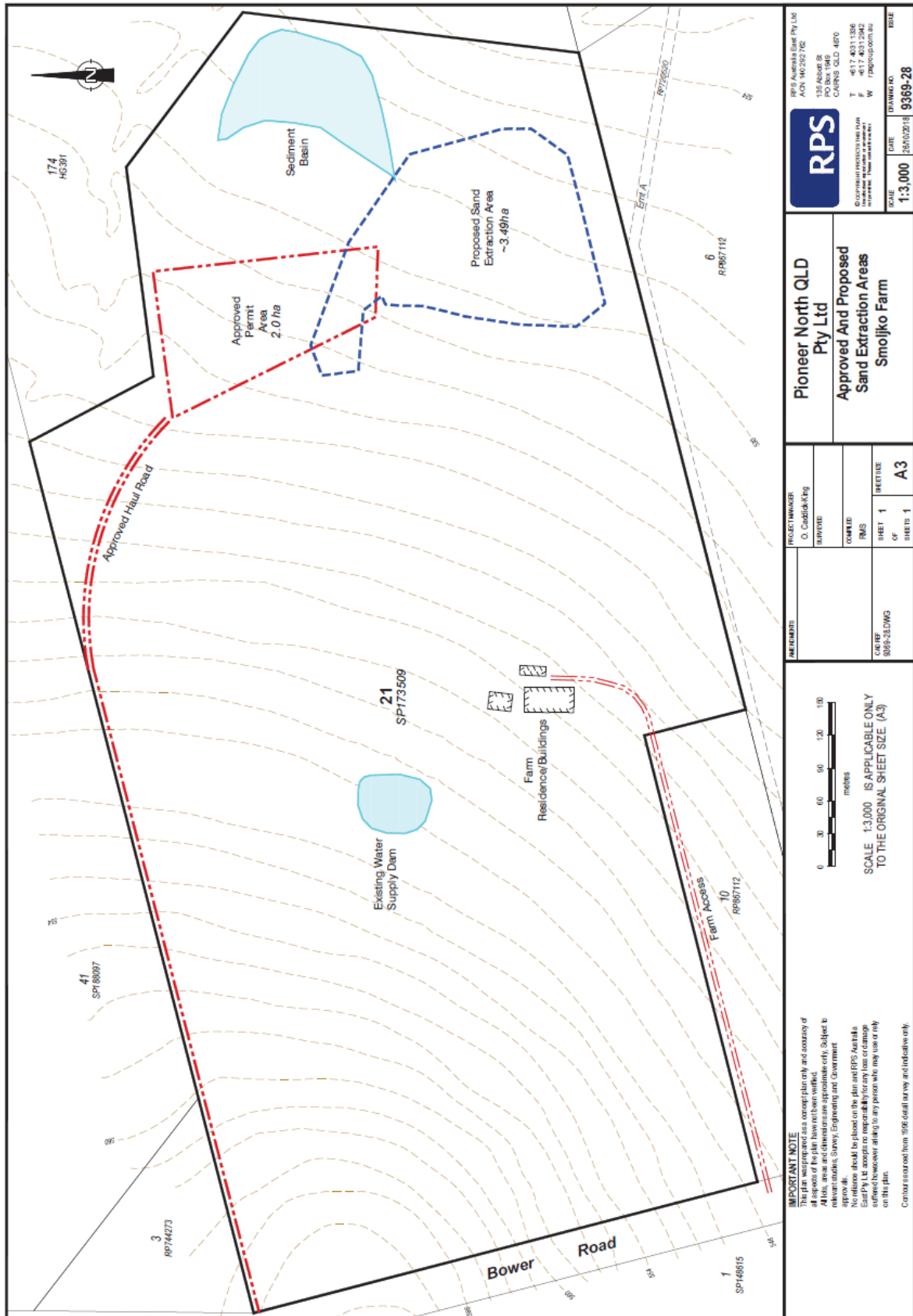
**BRIAN MILLARD
SENIOR PLANNER**



**ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE**

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS



RPS
 RPS Australia Saw Pty Ltd
 ACN 140 292 702
 132 Abbott St
 PO Box 1948
 Cairns QLD 4870
 T 4617 4311386
 F 4617 4633342
 W rps@rpsaustralia.com.au

SCALE: 1:3,000
 DATE: 28/01/2018
 DRAWING NO: 9369-28

Pioneer North QLD Pty Ltd
Approved And Proposed Sand Extraction Areas
Smoljko Farm

PROJECT NUMBER O. Gaddick/King	DATE 28/01/2018
CLIENT RMS	SHEET NO. 1
DATE 09/05/2016	SHEET SIZE A3
CAD REF 9865-23/DWG	SHEETS 1

SCALE 1:3,000 IS APPLICABLE ONLY TO THE ORIGINAL SHEET SIZE (A3)

0 30 60 90 120 150
metres

IMPORTANT NOTE
 This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified.
 All dimensions and coordinates are approximate only. Subject to approval by the relevant authority, engineering and Government approval.
 No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered however arising to any person who may use or rely on this plan.
 Contour extracted from 9/96 aerial survey and indicative only.

ATTACHMENT 2

RA6-N



Department of
**State Development,
 Manufacturing,
 Infrastructure and Planning**

Our reference: 1901-9239 SRA
 Your reference: MCU/18/0028
 Applicant reference: 9369-10

18 February 2019

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

Attention: Brian Millard

Dear Sir/Madam

Referral agency response—with conditions(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 15 January 2019.

Applicant details

Applicant name:	Pioneer North Queensland Pty Ltd c/- RPS Australia East Pty Ltd
Applicant contact details:	135 Abbott Street Cairns QLD 4870 owen.caddick-king@rpsgroup.com.au

Location details

Street address:	144 Bower Road, Arriga
Real property description:	Lot 21 on SP173509
Local government area:	Mareeba Shire Council

Application details

Development permit	Material change of use for extractive industry (expansion)
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Far North Queensland regional office
 Ground Floor, Cnr Grafton and Hartley
 Street, Cairns
 PO Box 2358, Cairns QLD 4870

Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.1.1.1 Infrastructure - state transport infrastructure

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

A copy of this response has been sent to the applicant for their information.

For further information please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 40373228 or via email CairnsSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Pioneer North Queensland Pty Ltd, c/- RPS Australia East Pty Ltd, owen.caddick-king@rpsgroup.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 – State transport networks —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	Heavy vehicles as defined in the <i>Transport Operations (Road Use Management Act) 1995</i> associated with the proposed development must use the haulage route via Bower Road and North Walsh Road / Mareeba Dimbulah Road T intersection.	At all times

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development does not compromise the safe and efficient management or operation of state-controlled roads.