

DELEGATED REPORT

SUBJECT: PIONEER NORTH QUEENSLAND PTY LTD - MATERIAL CHANGE OF USE - EXTRACTIVE INDUSTRY (EXPANSION) - LOT 7 ON RP800492 - BOWER ROAD, ARRIGA - MCU/19/0005

DATE: 26 June 2019

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Pioneer North Queensland Pty Ltd	ADDRESS	Bower Road, Arriga
DATE LODGED	29 April 2019	RPD	Lot 7 on RP800492
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Extractive Industry (Expansion)		

FILE NO	MCU/19/0005	AREA	67.5 hectares
LODGED BY	RPS Australia East Pty Ltd	OWNER	Fairchat Pty Ltd
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 dated 18 June 2019

EXECUTIVE SUMMARY

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

The application is code assessable and 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	Bower Road, Arriga
DATE LODGED	29 April 2019	RPD	Lot 7 on RP800492
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
9369-31a	Proposed Expansion of Sand Extraction on Lot 7 on RP800492	RPS	9-4-2019

(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.

3.12 No extraction is to occur within 20 metres of the existing dwelling houses on Lot 20 on RP800492 and Lot 110 on HG399. The sand screening plant and any stockpile/s must be sited at least 200 metres from the existing dwelling houses on Lot 20 on RP800492 and Lot 110 on HG399.

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 \$33,596.64 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 commencement of the use.

(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.

(E) CONCURRENCE AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response dated 18 June 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 7 on RP800492, situated at Bower Road, Arriga, approximately 12.5 km west of Mareeba.

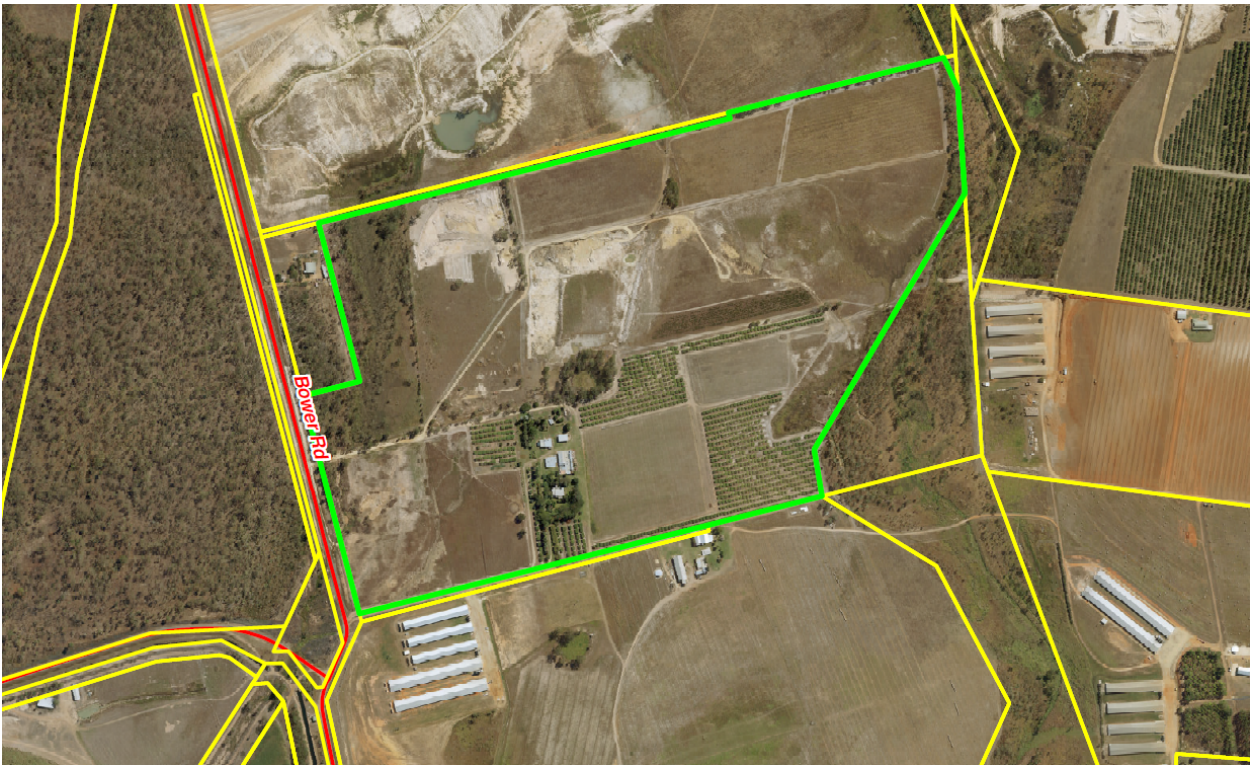
The land has an area of 67.5 hectares, with a frontage of approximately 380 metres to Bower Road. Access to the land is obtained directly off Bower Road via an established farm access. The relevant section of Bower Road is constructed to a bitumen sealed standard of generally 6 metres in width.

An extractive industry (sand quarry) is approved over much of the northern half of the site. The proposed development will expand this existing quarry operation.

The subject site is located within the Rural zone and is surrounded by agricultural activities including horticultural production and meat poultry farming. 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.

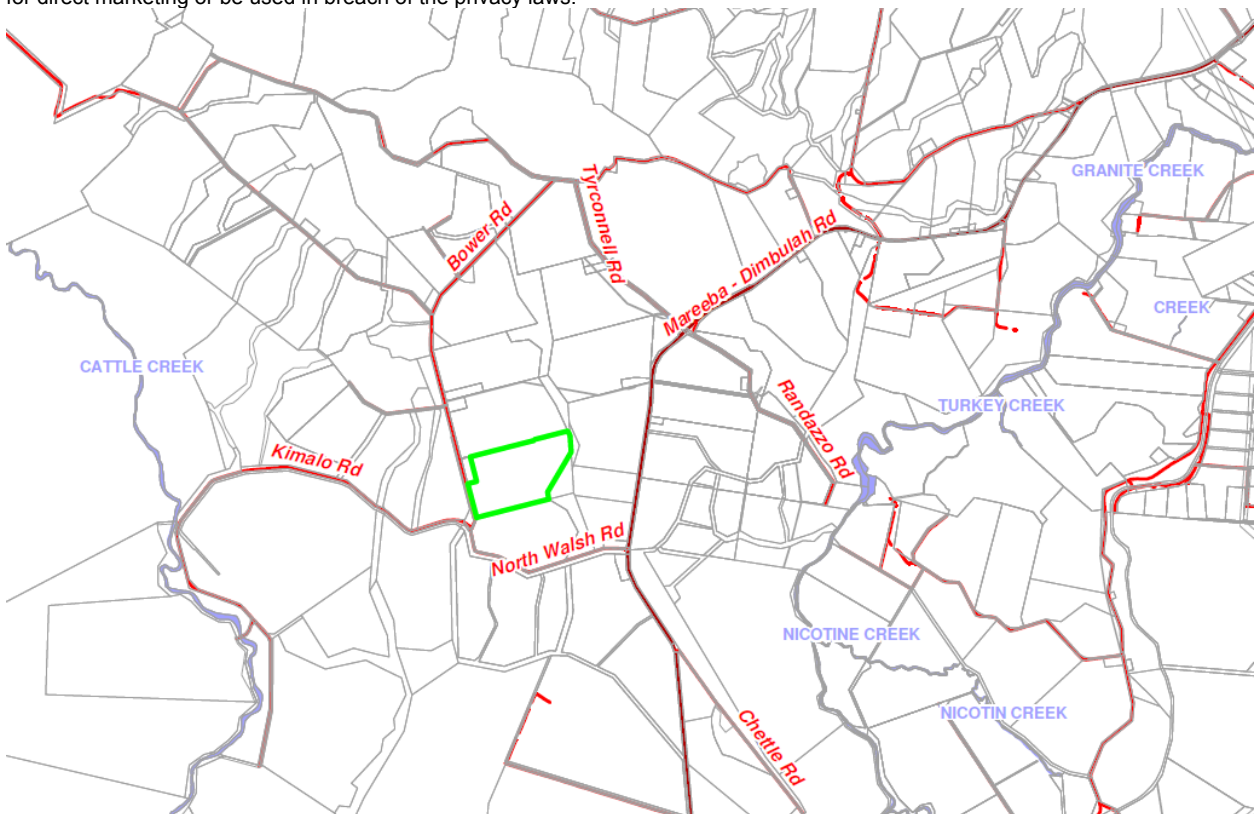
A farm dwelling house and ancillary farming sheds exist on the site and are setback approximately 370 metres from the Bower Road frontage. The proposed extraction area encompasses these existing structure.

The nearest dwelling house on an adjoining property is approximately 9 metres to the south.



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

On 20 November 2007, Council issued a development permit (MCU/07/0013) for Material Change of Use – Extractive Industry over land described as part of Lot 7 on RP800492.

The approval allows for the progressive extraction of sand from approximately 19 hectares of Lot 7. 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 42.8 hectares of Lot 7.

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 42.8 hectares of Lot 7. 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

Except for the land owner's residence, sand extraction activities are to be separated from residences on adjoining properties by not less than 20m and screening and stockpiling activities are to be not less than 200m from sensitive receptors.

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:

- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> ▪ Rural Other Natural Resource Elements <ul style="list-style-type: none"> ▪ Key Resource Area
Zone:	Rural zone <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 2.4 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 2.4
	=	\$33,596.64

Based on Council's standard contribution calculation method, the applicant would be required to pay a roadworks contribution of \$33,596.64 for each 100,000 tonnes of material extracted.

For the current budget Council has adopted 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 referral to the Department of State Development, Manufacturing, Infrastructure and Planning as a Concurrence Agency for State transport infrastructure.

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

Internal Consultation

Technical Services.

PLANNING DISCUSSION

Nil

Date Prepared: 26 June 2019

DECISION BY DELEGATE

DECISION

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

Dated the 27th day of June 2019



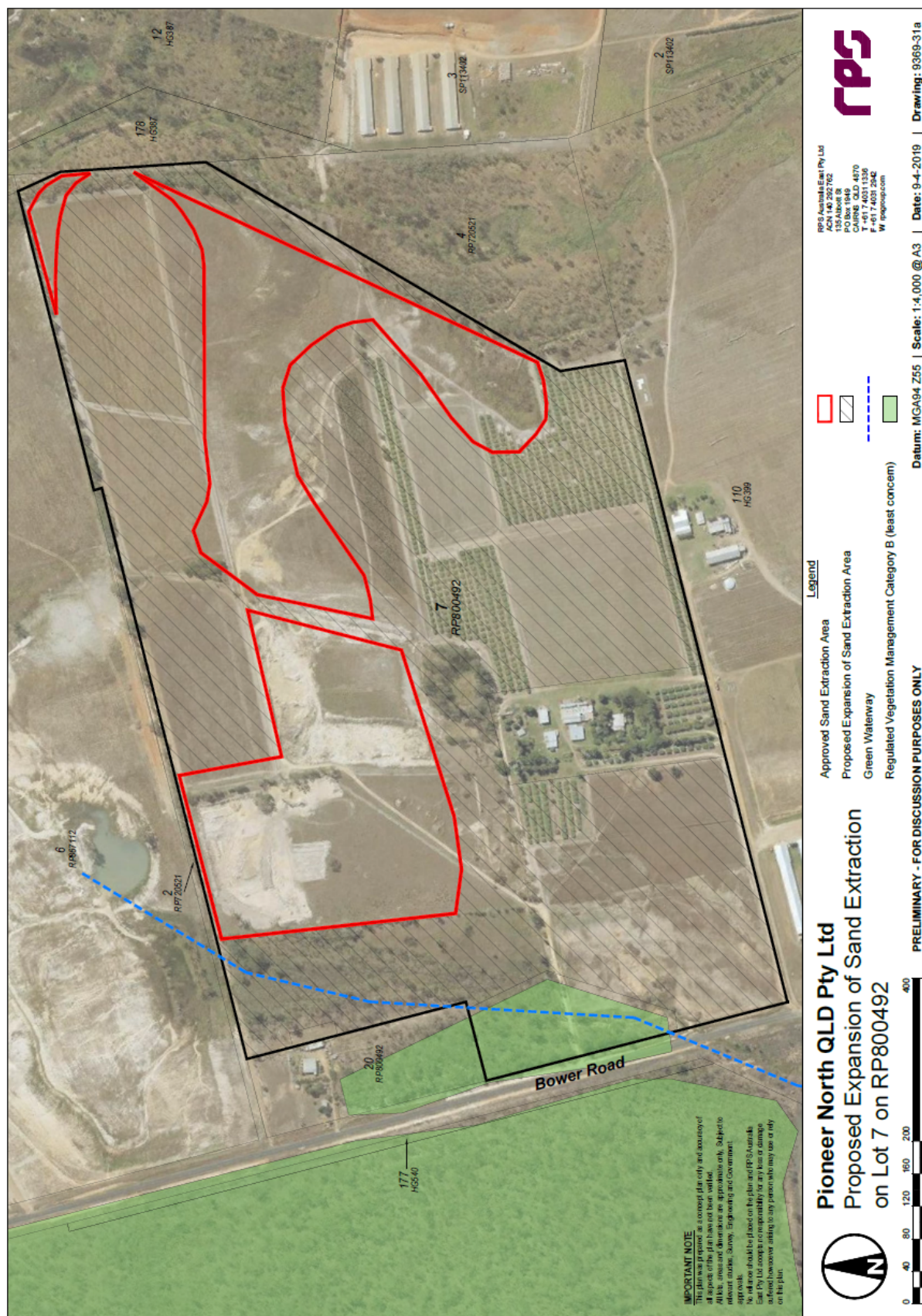
BRIAN MILLARD
SENIOR PLANNER



ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS



ATTACHMENT 2

RA6-N



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

SARA reference: 1905-11079 SRA
 Council reference: MCU/19/0005
 Applicant reference: 9369-9

18 June 2019

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

Attention: Carl Ewin

Dear Sir/Madam

SARA response—Bower Road, Mareeba

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 20 May 2019.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	18 June 2019
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use for an extractive industry
SARA role:	Referral Agency	
SARA trigger:	10.9.4.1.1.1 (Planning Regulation 2017) - Development application for a material change of use that exceeds the thresholds identified in Schedule 20 of the Planning Regulation 2017 (10 000 tonnes)	
SARA reference:	1905-11079 SRA	

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Far North Queensland regional office
 Ground Floor, Cnr Grafton and Hartley
 Street, Cairns
 PO Box 2358, Cairns QLD 4870

1905-11079 SRA

Assessment Manager: Mareeba Shire Council
Street address: Bower Road, Mareeba
Real property description: Lot 7 on RP800492
Applicant name: Pioneer North Queensland Pty Ltd
Applicant contact details: C/- RPS Australia East Pty Ltd
135 Abbott Street
Cairns QLD 4870
owen.caddick-king@rpsgroup.com.au

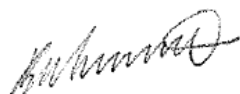
Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Pioneer North Queensland Pty Ltd, owen.caddick-king@rpsgroup.com.au
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Change representation provisions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
Material change of use		
10.9.4.1.1.1—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(s):		
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 Bowen Road and North Walsh Road / Mareeba Dimbulah Road T intersection.	At all times

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) (v2.4). If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The department carried out an assessment of the development application against State code 6 and with conditions the proposal complies with the relevant performance outcomes.
- The proposed development will utilise the local road network and the Mareeba-Dimbulah / North Walsh Road intersection which has been upgraded to accommodate extractive haulage vehicles within the key resource area.
- The proposed development does not compromise the safe and efficient management or operation of the state-controlled road.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version (2.4)), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – change representation provisions are separately attached)

Development Assessment Rules—Representations about a referral agency response (concurrence)

The following provisions are those set out in sections 28 and 30 of the *Development Assessment Rules*¹ regarding representations about a referral agency response (concurrence).

Part 6: Changes to the application and referral agency responses and Part 7: Miscellaneous

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.