

8.1 WALLACE QUARRYING AND MINING PTY LTD - MATERIAL CHANGE OF USE - EXTRACTIVE INDUSTRY (UP TO 5,000 TONNES PER ANNUM) - LOT 231 ON NR4837 - 269 SHANTY CREEK ROAD, MAREEBA - MCU/24/0005

Date Prepared: 7 August 2024
Author: Senior Planner
Attachments:

1. Proposal Plan
2. Submissions
3. Applicants Response to Submitter Concerns

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Wallace Quarrying and Mining Pty Ltd	ADDRESS	269 Shanty Creek Road, Mareeba
DATE LODGED	29 January 2024	RPD	Lot 231 on NR4837
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Extractive Industry (up to 5,000 tonnes per annum)		
FILE NO	MCU/24/0005	AREA	82.859ha
LODGED BY	Anson Advisory	OWNER	I & R Wallace
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Sixteen (16)		

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. During the mandatory public notification period, 16 properly made submissions were received, all of which objected to the proposed development.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.

Key submitter concerns related to perceived impacts the proposed extractive industry operation would have on rural amenity, Emerald Creek water quality and the local road network. With an annual extraction capacity of just 5,000 tonnes, the proposed operation is small scale, and will not involve any hard rock crushing or blasting. For sand extraction, the Planning Scheme includes a desired separation distance of 200 metres from any sensitive land use which has been achieved in this instance with the majority of submitters situated in excess of 350 metres from the extraction area and in excess of 600 metres from the more operationally intensive sand screening/washing area. It should be noted that the setbacks achieved in this instance exceed the setbacks in place for a number of other large scale sand extraction operations established within the Shire, all of which continue to operate without complaint. In addition to these setbacks, a number of operational

restrictions will be imposed through conditions of approval to further minimise impacts on the existing rural amenity of the area.

A 5,000-tonne extraction limit will produce an average of just four (4) truck movements per week from the site, which will not noticeably impact on amenity or road safety. With regards to water quality, conditions have been imposed that only allow sand extraction to occur in the dryer parts of the year when water is not discharging from the dam spillway, ensuring the dam itself acts as a large settling pond to help maintain water quality of downstream Emerald Creek.

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.

OFFICER’S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Wallace Quarrying and Mining Pty Ltd	ADDRESS	269 Shanty Creek Road, Mareeba
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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), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

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 (up to 5,000 tonnes per annum)

- (B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Figure 2	Quarry Operations Map – sites and distances to neighbours	Anson Advisory	-

- (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 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.
 - 3.2 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.
 - 3.3 Where relevant, 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.
 - 3.4 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.

- 3.5 The Site Based Management Plan must be amended to include any operational requirements/limitations required under these conditions of approval. The amended Site Based Management Plan must be provided to Council for review and approval prior to the commencement of extraction. All operations pursuant to the extractive industry must be carried out in accordance with the amended Site Based Management Plan at all times.
- 3.6 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.
- 3.7 Scale and Intensity
- The extraction volume must not exceed 5,000 tonnes per annum.
- 3.8 The Applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis, including the number of truck movements associated with each monthly quantity.
- 3.9 No mature vegetation is to be removed from the southern edge of the extraction area (southern edge of dam).
- 3.10 No extraction must occur from the extraction area whatsoever while water is discharging across the dam's spillway. This is to ensure the larger dam itself remains a sediment trap to help maintain Emerald Creek water quality.
- 3.11 Material extracted or sold from the site must only be transported via Leotta Road. No transport via the sites north-east access from Shanty Creek Road, or via the undeveloped road reserve to the east of the site is permitted. The internal access road that runs parallel to the common boundary with Lot 232 on NR4837 must not be used to transport material to Leotta Road.
- 3.12 No blasting is permitted to occur on-site where associated with the approved extractive industry operation.
- 3.13 Rehabilitation (northern edge of dam only)
- A Site Rehabilitation Management Plan (SRMP) 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. The SRMP must address vegetation proposed to be removed from the northern edge of the dam extraction area.
- Site rehabilitation works must include the replanting of native vegetation along the northern edge of the expanded dam area once extraction is complete. Rehabilitation must be provided in a progressive manner in accordance with any 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.

3.14 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

The existing access crossover (between the end of Leotta Road and the site access) must be maintained with a compacted all weather gravel standard in accordance with the FNQROC Development Manual, for the life of the development, 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 \$3,360.00 for each 167 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 Leotta Road, Shanty Creek Road and Gilmore 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) 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.dcceew.gov.au.

- (d) 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.dsdsatsip.qld.gov.au.

- (e) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under

their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

(f) Transportation of Soil

All soil and material 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) 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).

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

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

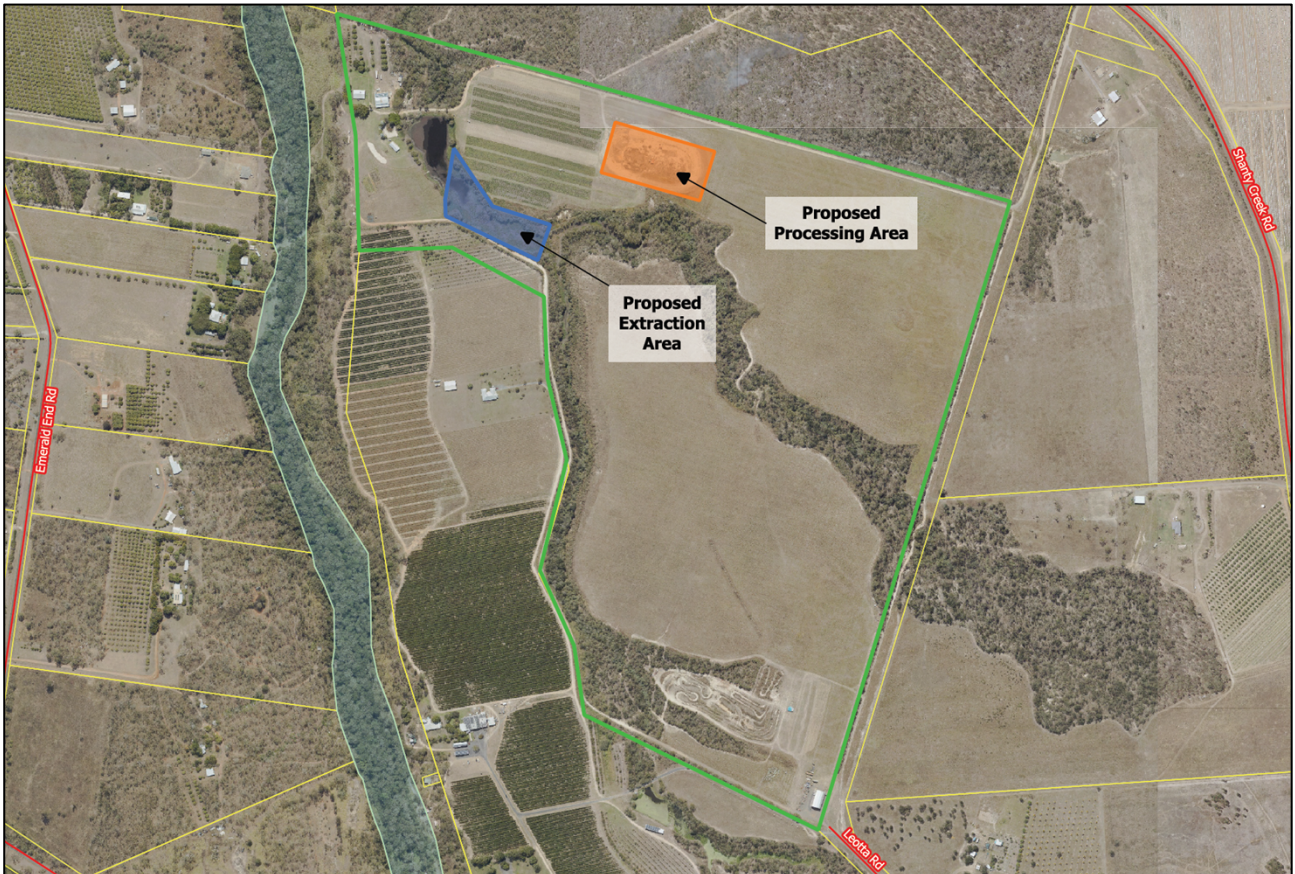
- Nil

THE SITE

The subject site is situated at 269 Shanty Creek Road, Mareeba, and is described as Lot 231 on NR4837. The site is irregularly shaped with an area of 82.859 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site is accessed off Shanty Creek Road however also contains frontage to the very end of Leotta Road, both of which are bitumen sealed.

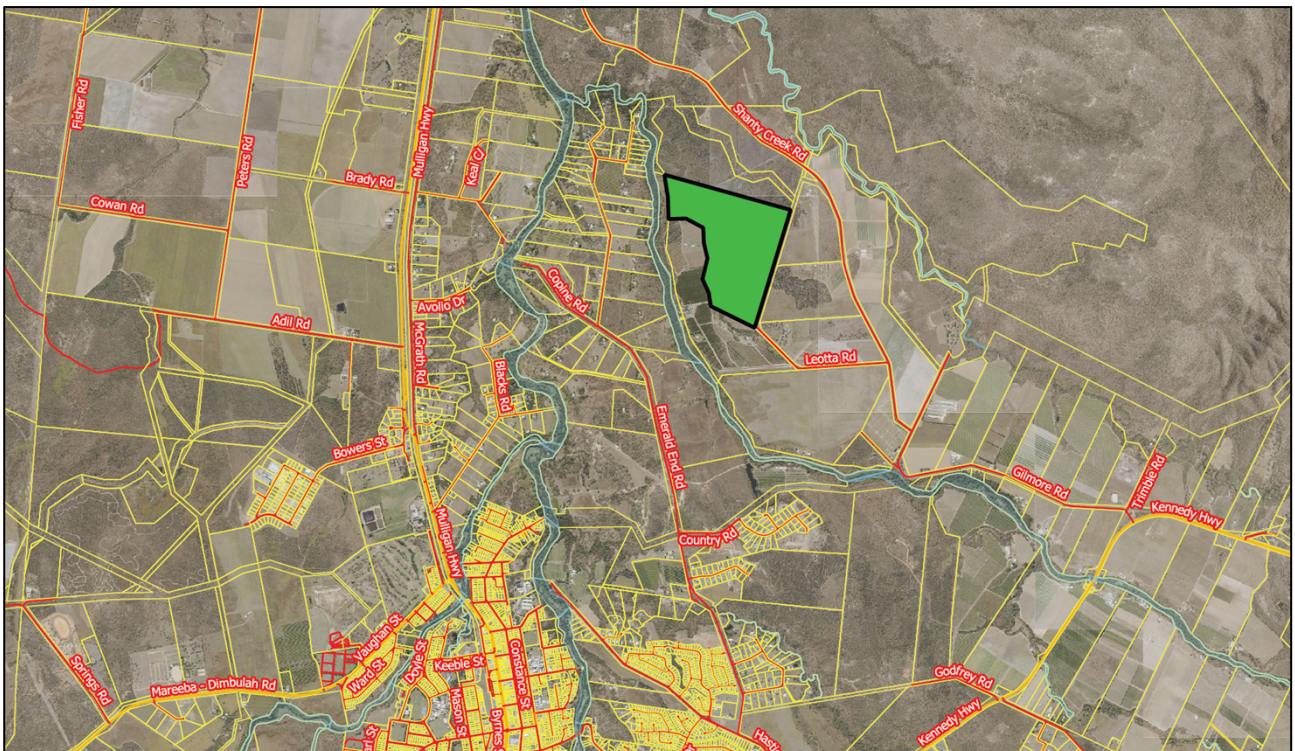
The site is improved by a dwelling and outbuildings clustered in the north-west corner of the property as well as a farm shed in the south-east corner of the site close to the Leotta Road entrance. The site is characterised by two large, cleared farm paddocks totalling approx. 53 hectares in area as well as two (2) distinct vegetated seasonal gullies that form tributaries to the large dam situated in the north-west corner of the site adjacent the dwelling. The dam spillway discharges into a seasonal gully that then flows into Emerald Creek which runs parallel to the site to the west. The site is separated from Emerald Creek by a piece of State land approximately 100 metres wide.

All immediate surrounding lots are zoned Rural and contain a mix of uses including cropping, lifestyle lots and tourist uses (Jaques Coffee Plantation and Café) established on the adjacent lot to the south. A cluster of Rural residential zoned allotments exists on the western side of Emerald Creek, situated approximately 570 metres to the north-west of the proposed sand extraction site.



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

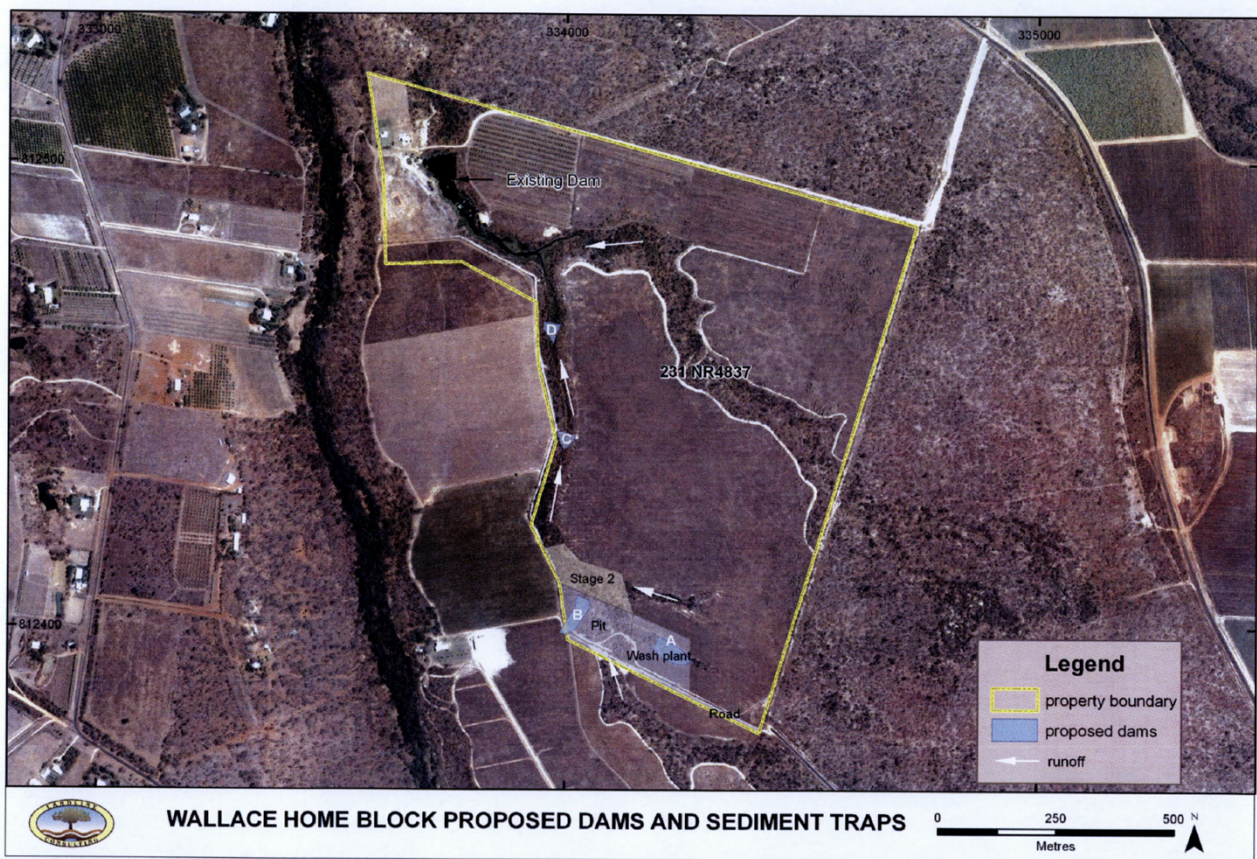
1. 2002 Council approval to extract material

On 18 September 2002, Council issued approval to extract 2,000m³ of material from Lot 231 on NR4837 for the purpose of creating a dam. This volume of material equates to approximately 3,000 tonnes.

2. MCU/09/0009 - Material Change of Use – Extractive Industry

This 2009 application did not proceed after the concurrence agency Department of Environment and Resource Management directed Council to refuse the application on 29 September 2009.

The 2009 application proposed extraction of sand from the areas marked as Pit and Stage 2 on the proposal plan below. The 2009 application would have necessitated significant vegetation clearing and disturbance of the north-south waterway for extraction and construction of sediment dams.



Map 5 Proposed surface water and sediment control structures

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use – Extractive Industry (up to 5,000 tonnes per annum) in accordance with the plans shown in **Attachment 1**.

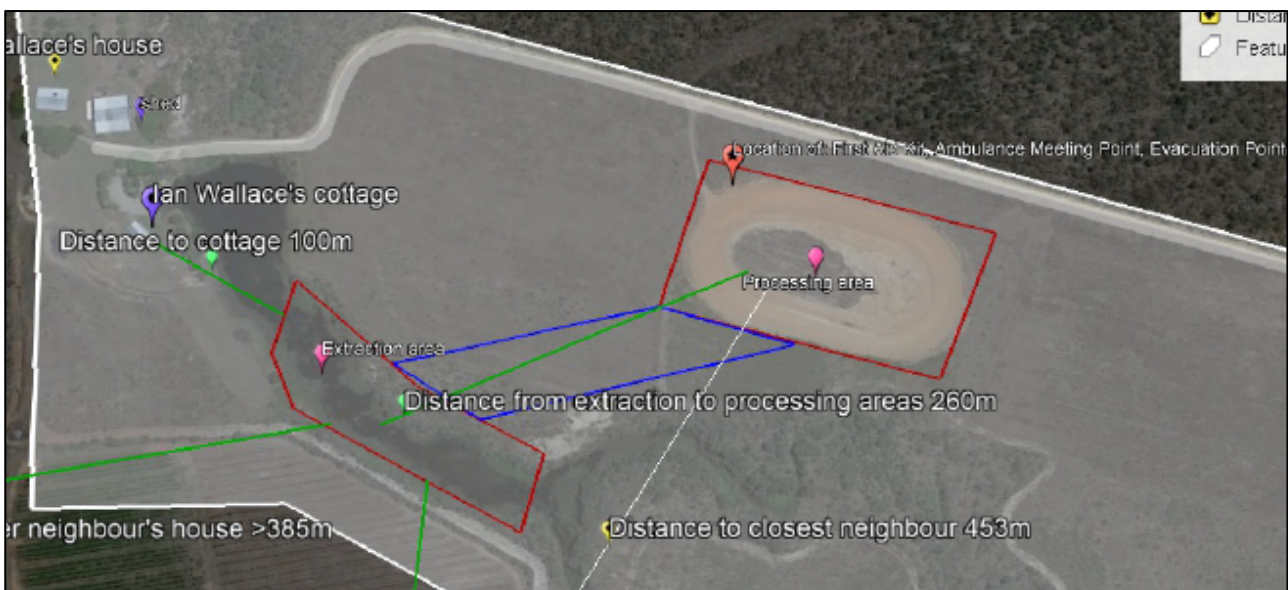
The applicants propose the extraction of sand, sediment and gravel from an approximate 1.5-hectare portion of the site, the majority of the extraction area footprint lies within part of the existing dam. The application describes the activity as essentially a “dam cleanout” which will remove built up sediment and increase the dam’s capacity by approximately 5 megalitres. The extracted material will be screened and washed, stockpiled and used both on-site by the applicant as well as sold off-site as a raw material. Extraction will extend outside the existing footprint of the dam to the north as shown on the below map.

The material will be extracted by excavator, transported to the proposed processing area situated approximately 190 metres to the north-east of the extraction area. Here the material will be screened, washed and stockpiled. The processing area is situated within the centre of a bunded ex stock/rally car track which has been cut in below natural ground level.

The extraction of material will ONLY occur within the dryer parts of the year when the dam water level is low and water is not discharging across the spillway. This will ensure the dam itself acts as a sediment trap/settling pond to help protect water quality downstream from the dam.

Material sold for use off-site will be transported between the processing area to Leotta Road via an internal access road. No materials will be transported out via the sites northern access onto Shanty Creek Road. Truck movements associated with the proposed extraction of 5,000 tonnes of material per annum will equate to an annual average of 167 x 30 tonne truckloads, or just over 3 truckloads per week on average.

A plan of the proposed operation is shown below:



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:	Land Use Categories <ul style="list-style-type: none"> Rural Agricultural Area Rural Other Natural Resource Elements <ul style="list-style-type: none"> Biodiversity Area
Zone:	Rural zone
Overlays:	Agricultural Land Overlay Airport Environs Overlay Bushfire Hazard Overlay Environmental Significance Overlay Flood Hazard Overlay Hill and Slope Overlay Transport Overlay

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
Extractive industry	Premises used for the extraction and/or processing of extractive resources and associated activities, including their transportation to market	Quarry	

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

Strategic Framework

3.3 Settlement pattern and built environment

3.3.1 Strategic outcomes

- (5) *Primary industries in Rural areas are not compromised or fragmented by incompatible and/or unsustainable development, including but not limited to subdivision that results in a detrimental impact on rural productivity or fragments rural land. The valued, relaxed rural lifestyle, character and scenic qualities of the rural area are preserved and enhanced. The rural area is largely maintained to its current extent, while accommodating development directly associated with or reliant on natural resources including rural activities and tourism. Rural areas protect the shire's agricultural area and ensure food security. Other rural areas predominantly remain agricultural grazing properties.*

Comment

The proposed extractive industry operation will occur predominately within the footprint of the site's existing dam. The sand processing area is also pre-disturbed and not currently used for agricultural production or livestock grazing.

Once complete, the increased capacity of the water storage dam will only value add to the site's agricultural production potential by increasing the amount of water available for cropping.

The development complies with Strategic outcome (5).

3.3.11 Element—Rural areas

3.3.11.1 Specific outcomes

- (1) *Rural areas include rural activities and land uses of varying scale, consistent with surrounding rural land use, character and site conditions.*

Comment

The proposed development is for a sand extraction operation for up to 5,000 tonnes per annum. Sand extraction like that proposed does not include blasting and is considered reasonably low impact, particularly for operations where volumes will not exceed 5,000 tonnes per annum (compared to your typical larger operations of 100,000 – 200,000 tonnes per annum).

Sand extraction operations of varying scales are a common place within the Rural zone, and it is considered that this particular development, which is essentially a dam clean-out operation, is consistent with surrounding rural land uses and character. Surrounding sensitive land uses are appropriately setback to ensure land use conflict is minimised.

The development complies with Specific Outcome (1).

- (6) *Agricultural areas will be retained in large holdings (60ha or greater) and not fragmented or compromised by unsuitable development. Uses and development within this precinct will not cause land use conflicts with primary production or will ensure these conflicts are mitigated.*

Comment

The proposed extractive industry operation will occur predominately within the footprint of the site's existing dam. The sand processing area is also pre-disturbed and not currently used for agricultural production or livestock grazing.

Once complete, the increased capacity of the water storage dam will only value add to the site's agricultural production potential by increasing the amount of water available for cropping.

The development complies with Specific outcome (6).

- (7) *Rural areas preserve lands for future uses beyond the life of the planning scheme.*

Comment

The proposed extractive industry operation will occur predominately within the footprint of the sites existing dam. The sand processing area is also pre-disturbed and not currently used for agricultural production or livestock grazing.

Once complete, the increased capacity of the water storage dam will only value add to the site's agricultural production potential by increasing the amount of water available for cropping.

The development complies with Specific outcome (7).

3.4 Natural resources and environment

3.4.3 Element—Pest and weed management

3.4.3.1 Specific outcomes

- (1) *Development within, adjoining or surrounding conservation areas, biodiversity areas, wetlands or watercourses avoids the incursion of weeds and pests through best practice management practices, sensitive design, landscaping and appropriate setback and buffer distances.*
- (4) *Operational works ensure appropriate management practices are adopted to minimise the spread of weed species.*

Comment

The proposed extraction area is not a conservation area or biodiversity area, nor is the dam mapped as a significant wetland or watercourse. The proposed extraction process is not likely to introduce any new weeds or pests into the existing dam/watercourse environment.

The development complies with Specific outcomes (1) and (4).

3.4.4 Element—Biodiversity areas

3.4.4.1 Specific outcomes

- (1) *Development avoids adverse impacts on the ecological values of biodiversity areas and where avoidance is not possible the adverse impacts are minimised and, for an area of high ecological significance, no net loss in biodiversity values is achieved.*

Comment

The extraction area is not considered to be an area of high ecological significance. Existing vegetation is sparse and limited to a narrow row of vegetation along the banks of the existing dam extraction area. This vegetation will be removed, however appropriate conditions have been included to ensure the new expanded dam edge area is rehabilitated with native vegetation (along the banks of the dam area) once extraction is complete.

The development is not likely to impact on the sites biodiversity values and is therefore considered to comply with Specific outcome (1).

3.4.6 Element—Watercourses and wetlands

3.4.6.1 Specific outcomes

- (1) *Hydrological flows, riparian ecology and ecosystem services of watercourses and wetlands are maintained, protected and enhanced.*
- (3) *The water quality of rivers and creeks, which ultimately flow to the Great Barrier Reef and the Gulf of Carpentaria, is not compromised or polluted through sediment, gross pollutants or chemical run off from new or existing development.*
- (5) *Where development occurs on land including and adjoining watercourses and wetlands it provides appropriate setbacks and buffers and enhances these areas through revegetation.*

Comment

The majority of the proposed extraction area falls within the footprint of the sites existing dam. Extraction from the dam area will only be permitted to occur when the dams water level is below the spillway to ensure that the dam acts as a natural sediment trap ensuring downstream Emerald Creek is protected from any sediment contamination as a result of the extraction operation.

Sand extraction from watercourses and dam environments is a permitted practice and can generally occur without environmental impact.

The proposed development complies with Specific outcomes (1), (3) and (5).

3.4.8 Element—Air and noise quality

3.4.8.1 Specific outcomes

- (1) *The health, well-being, amenity and safety of the community and the environment is protected from the impacts of air emissions, noise and odour through appropriate management and adequate separation distances.*

Comment

The proposed extraction area, and more importantly the more intensive processing area achieves the Planning Scheme's desired setbacks from surrounding sensitive land uses. The setbacks achieved exceed those achieved for a significant number of other larger scale sand extraction operations established within the Shire.

Through the implementation of appropriate setbacks, the development is not likely to impact on the amenity of surrounding sensitive land uses.

3.6 Transport and infrastructure

3.6.1 Strategic outcomes

- (1) *Local collector road and state-controlled road networks support the identified hierarchy of activity centres and the rural economy of Mareeba Shire. The location, density and scale of development supports the efficient and convenient movement of goods, services and people. Roads are progressively upgraded (including construction of future state roads and future local connections) and maintained to a high standard to support higher urban densities, rural production, tourism, commerce, industry and major trip generators.*

Comment

The proposed extractive industry operation is predicted to place an additional average of 4 vehicle movements per week on Leotta Road, Shanty Creek Road, and Gilmore Road. This amount of additional traffic is not considered significant.

The development complies with Strategic outcome (1).

3.6.8 Element—Stormwater management

3.6.8.1 Specific outcomes

- (2) *Stormwater is managed, and measures are implemented to ensure erosion is prevented or minimised and contaminants are not released into surrounding environs.*

Comment

Extraction will only occur when the dam is below full supply level and water is not discharging across the spillway. This will ensure the dam itself acts as a sediment trap. The processing area is also bunded to ensure sediment runoff is contained.

The development complies with Specific outcome (2).

3.7 Economic development

3.7.2 Element—Rural and Agricultural land

3.7.2.1 Specific outcomes

- (1) *Agricultural areas are preserved for the purpose of primary production and are protected from fragmentation, alienation and incompatible development.*

Comment

The proposed extractive industry operation will not impact on any existing or potential agricultural activity either on or off the site. The proposed development complies with Specific outcome (1).

- (5) *Development ensures rural activities in all rural areas are not compromised by incompatible development and fragmentation.*

Comment

The proposed extractive industry operation will occur predominately within the footprint of the sites existing dam. The sand processing area is also pre-disturbed and not currently used for agricultural production or livestock grazing.

Once complete, the increase capacity of the water storage dam will only value add to the sites agricultural production potential by increasing the amount of water available for agriculture.

The development complies with Specific outcome (5).

3.7.11 Element—Extractive resources**3.7.11.1 Specific outcomes**

- (2) Extractive industries:
- (a) mitigate impacts relating to air, noise, water and waste on local ecological and environmental values and the amenity of residential areas, and surrounding rural dwellings;
 - (b) avoid areas of ecological significance and values;
 - (c) progressively rehabilitate disturbed land on site and ensure ecological values are rehabilitated (where relevant).

Comment

The proposed extraction area, and more importantly the more intensive processing area achieves the Planning Scheme's desired setbacks from surrounding sensitive land uses. The setbacks achieved exceed those achieved for a significant number of other larger scale sand extraction operations established within the Shire.

Through the implementation of appropriate setbacks, the development is not likely to impact on the amenity of surrounding sensitive land uses.

- (3) Sand extraction in watercourses maintains and restores the environmental and hydrological values of the site, and does not impede community recreational usage and public access points to waterways.

Comment

Extraction will only occur when the dam is below full supply level and water is not discharging across the spillway. This will ensure the dam itself acts as a sediment trap and settling pond.

The processing area is also bunded to ensure sediment runoff is contained.

The proposed development is not likely to impact on the water quality of Emerald Creek.

Relevant Developments Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope 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 outcome 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 complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

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

(D) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring any development works be designed and constructed in accordance with FNQROC Development Manual standards.

(E) 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 applicant's roadworks contribution for each 5,000 tonnes would be as follows:

Length of road traversed by the applicant is 4.8 kilometres (haul route to State controlled road).

Truck and dog = 30 tonnes / load = 6 ESA * / load
 (* ESA - Equivalent Standard Axles)

Truck loads = tonnes (5,000) ÷ load of truck (30t)
 = 5,000 ÷ 30
 = 166.67

Number of axles = No. of loads (167 x ESA / Load (6))
 = 166.67 x 6
 = 1,000

Present road investment = \$1.40 / ESA

$$\begin{aligned}
 \text{Future road maintenance cost} &= \$2.10 / \text{ESA} \\
 &= \text{Difference in maintenance and present cost} \\
 &= \$2.10 - \$1.40 \\
 &= \$0.70 \\
 &= \$0.70 \times \text{ESA (1,000)} \\
 &= \$700.00 \\
 \text{Therefore, total contribution sought} &= \text{cost} \times \text{distance (km)} \\
 &= \$700.00 \times 4.8 \\
 &= \$3,360.00
 \end{aligned}$$

Based on Council's standard contribution calculation method, the applicant would be required to pay a roadworks contribution of \$3,360.00 for each 5,000 tonnes of material extracted.

Council's recent budgets have applied a special charge for extractive industries.

Council acknowledges 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.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Development Engineering

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 20 March 2024 to 12 April 2024. The applicant submitted the notice of compliance on 19 April 2024 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

Sixteen (16) properly made submissions were received, all objecting to the proposed development.

The grounds for objection are summarised and commented on below:

Grounds for objection	Comment
Nuisance caused by noise from machinery, reversing horns.	Refer to applicants' response to submitter concerns included as Attachment 3. Council officers consider that both the extraction area and processing area achieve adequate separation from nearby residences.

<p>Extractive industry would be an eyesore and devalue land.</p>	<p>Sand extraction operations are commonplace within the Rural zone. This particular operation will be appropriately setback and screened from view from neighbouring dwellings.</p> <p>Property devaluation is not a town planning consideration.</p>
<p>Dust impact on neighbouring residents' health and tourist use.</p>	<p>Refer to applicants' response to submitter concerns in Attachment 3. The proposed extraction and processing operation is appropriately setback from sensitive land uses to ensure impacts are minimised. The setbacks achieved in this instance exceed those achieved for a lot of existing larger scale sand extraction operations established within the Shire that continue to operate without land use conflict (Council officers do not receive complaints from landowners living within close proximity of sand extraction operations).</p>
<p>Traffic impact from the haulage trucks and conflict with other traffic using Gilmore and Leotta Roads.</p>	<p>The proposed development, based on an annual extraction capacity of 5,000 tonnes, will generate an average of 4 truck movements per week on the local area road network. This amount of traffic is not likely to noticeably impact on the existing road users or residents in the area.</p>
<p>Dam wall was breached in the recent floods, risk of dam failure.</p>	<p>Refer to applicants' response to submitter concerns in Attachment 3. Council officers do not consider that the proposed extraction operation will increase the risk of dam wall failure, or place added pressure on the existing dam wall structure.</p>
<p>Sediment from extractive operations may impact on water quality in Emerald Creek, Barron River and the reef.</p> <p>Residents water supply is sourced from these waterways.</p> <p>Waterways are also habitat for wildlife.</p>	<p>Sand extraction from watercourses and dams is a permitted practice, and generally occurs without environmental harm.</p> <p>Extraction will only occur during the dryer parts of the year when the dam water level is below the dam's full supply level and water is not discharging over the dam spillway. This will ensure the dam itself acts as a sediment trap and protects downstream watercourse like Emerald Creek from sedimentation.</p>
<p>Previous application for extractive industry was rejected by Council.</p>	<p>Noted.</p>
<p>Application incorrectly refers to Barron River to the west, instead of Emerald Creek.</p>	<p>Noted.</p>
<p>Proximity of many nearby residents.</p>	<p>The proposed extraction area and more importantly the more intensive processing area is considered to be appropriately setback from neighbouring residents.</p> <p>The proposed development is not likely to impact on amenity.</p>
<p>Blasting impacts.</p>	<p>The proposed development will not involve blasting or crushing.</p>
<p>Impact on local area amenity. Residents chose to live in a quiet rural area.</p>	<p>Sand extraction operations are commonplace within the Rural zone. The Rural zone, particularly rural agricultural areas like the subject site and immediate surrounding land are generally not "pristine" environments and are subject to environmental impacts typically associated with farming and grazing activity such as noise, odour, dust, spray drift etc. Previous sand extraction operations have demonstrated that their impacts are</p>

	<p>not significantly different to that generated by typical farming operations.</p> <p>It is considered that submitters have an unreasonable expectation of amenity within the Rural zone. Notwithstanding this, it is considered that both the extraction area and the processing area achieve adequate separation from nearby residences.</p>
Building a dam is not site rehabilitation.	Noted.
There is no end date for the extractive industry.	The applicant is not required to provide an end date for extraction.
Is the 5,000 tonnes the cleaned sand or extracted sand? What will stop more extraction in the future.	The 5,000-tonne limit applies to cleaned sand extracted from the site. If the applicant/developer wants to increase annual production, a fresh material change of use application will need to be lodged with Council.
What is the depth of extraction and how much extra capacity will the dam hold? Is the dam wall strong enough for the extra water?	The applicants have not provided a depth measurement for the extraction, nor are they required to. Refer to applicants' response to submitter concerns included as Attachment 3. The proposed extraction operation will not place additional pressure on the existing dam wall structure.
If dam is drained for extraction, where will the water be drained to?	As mentioned in the application, dam water will be drained and irrigated onto farm paddocks on-site. A condition of approval will ensure that extraction does not occur while water is overtopping the dam spillway.
Who will monitor the extractive industry operations and who handles complaints?	The operator/developer is required to provide Council with monthly extraction/sales figures which is included as a condition of approval.
Increased risk of flooding.	If anything, the expansion of the dam footprint will increase the sites flood water capacity. The proposed development will not increase the risk of flooding.
Hours of operation?	The hours of operation that have been conditioned are consistent with all other extractive industry operations approved within the Shire in recent times.
Removal of vegetation.	A small strip of existing vegetation will be removed from the northern banks of the dam extraction area. A condition of approval has been included to ensure that once extraction is completed, the new bank of the dam is rehabilitated with native vegetation.

Submitters

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PLANNING DISCUSSION

Nil