

DELEGATED REPORT

SUBJECT: PIONEER NORTH QLD PTY LTD – MATERIAL CHANGE OF USE – EXTRACTIVE INDUSTRY (EXPANSION) – LOT 77 ON CP902753 – KIMALO ROAD, ARRIGA – MCU/18/0014

DATE: 10 July 2018

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Pioneer North QLD Pty Ltd	ADDRESS	Kimalo Road, Arriga
DATE LODGED	4 May 2018	RPD	Lot 77 on CP902753
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Extractive Industry (expansion)		

FILE NO	MCU/18/0014	AREA	157.4 hectares
LODGED BY	RPS Australia East Pty Ltd	OWNER	MP Australia Investments 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 – 5 July 2018

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 QLD Pty Ltd	ADDRESS	Kimalo Road, Arriga
DATE LODGED	4 May 2018	RPD	Lot 77 on CP902753
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), referral 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
9369-24	Site Layout Plan	RPS	3-05-2018

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by 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 combined extraction volume of development approvals MCU/17/0009 and MCU/18/0014 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

All access/es between Kimalo Road and the extractive industry must be constructed and maintained to commercial access standard, in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

(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 the 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) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response dated 5 July 2018.

(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

- Nil

THE SITE

The subject land is described as Lot 77 on CP902753, situated at Kimalo Road, Arriga, approximately 14.5 km west of Mareeba.

The land has an area of 157.4 hectares, with a frontage of approximately 1.06 kilometres to Kimalo Road. Access to the land is obtained directly off Kimalo Road via an established farm access.

Kimalo Road is constructed to at least 7 metre wide bitumen sealed standard from its intersection with Bower Road and North Walsh Road, up to and including the full frontage of the subject land.

The land is located within the Rural Zone and surrounded by agricultural activities, primarily sugar cane and horticultural production.

The land is relatively flat with minor undulations of alluvial plains. The Environmental Significance - Waterways Overlay of the Mareeba Shire Council Planning Scheme 2016 depicts waterways traversing the subject land to a drainage line immediately adjacent to Kimalo Road.

The applicant advises that the subject land has been inspected by the Department of Natural Resources and Mines (DNR&M) and it has been determined that the mapped waterways are Drainage Features pursuant to the *Water Act 2000* and not a watercourse pursuant to the *Water Act*.

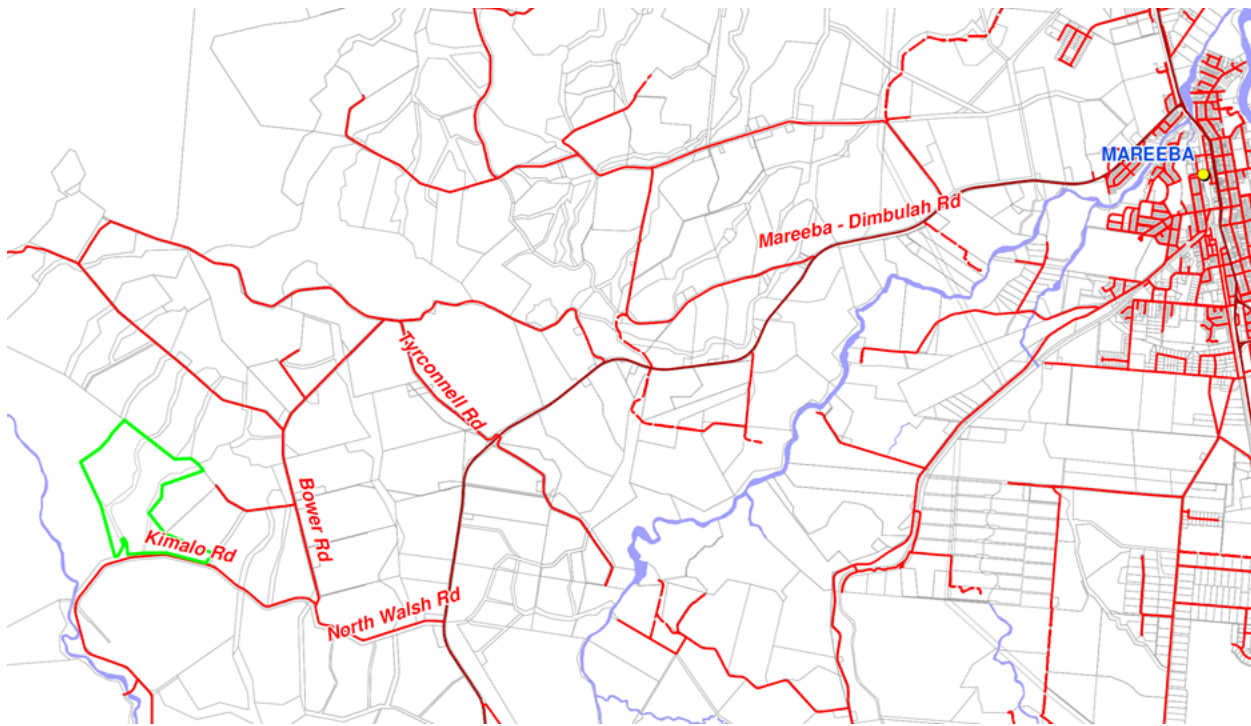
A residential dwelling and ancillary farming sheds exist on the site, approximately 380 metres, north of Kimalo Road and approximately 200 metres to the closest point of proposed extraction. Except for the land owners residence, the nearest sensitive receptors to the proposed extraction area are rural residences, located:

- Approximately 900m to the north north east;
- 700m to the north east; and
- 650m to the south west.



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 21 December 2017, Council issued a development permit (MCU/17/0009) for Material Change of Use – Extractive Industry over land described as part of Lot 77 on CP902753.

The approval allows for the progressive extraction of sand from approximately 21.8 hectares of Lot 77.

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 2.02 hectares of Lot 77. This 2.02 hectare area was excluded from the previous development application due to problems relating to out of date remnant vegetation mapping.

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 Kimalo Road; and
- Stabilisation and rehabilitation of disturbed areas

The area proposed for sand extraction provides for an exclusion area of not less than 10m 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:

- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories
	▪ Rural Other
Zone:	Natural Resource Elements
	▪ Key Resource Area
Overlays:	Rural zone
	Airport environs overlay
	Bushfire hazard overlay
	Environmental significance overlay
	Extractive resources overlay
	Transport infrastructure overlay

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
- 8.2.12 Transport infrastructure 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 solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the 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).
Transport infrastructure 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

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.

REFERRALS

The application triggered a referral to the State Referral Agency for state transport infrastructure and clearing of vegetation matters.

That Department advised in a response dated 5 July 2018 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Technical Services

PLANNING DISCUSSION

NIL

Date Prepared: *10 July 2018*

DECISION BY DELEGATE

DECISION

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

Dated the 12TH day of JULY 2018



BRIAN MILLARD
SENIOR PLANNER



ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

APPROVED PLANS



ATTACHMENT 2

RA6-N



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

Our reference: 1805-5230 SRA
 Your reference: MCU/18/0014
 Applicant reference: 9369-7

5 July 2018

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

Attention: Brian Millard

Dear Sir

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 14 May 2018.

Applicant details

Applicant name:	Pioneer North Queensland Pty Ltd
Applicant contact details:	C/- RPS Australia East Pty Ltd PO Box 1949 Cairns QLD 4870 owen.caddick-king@rpsgroup.com.au

Location details

Street address:	Kimalo Road, Arriga
Real property description:	Lot 77 on CP902753
Local government area:	Mareeba Shire Council

Application details

Development permit	Material change of use for extractive industry (expansion).
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Referral triggers

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

- 10.3.4.3.1 Clearing native vegetation
- 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.

Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version
Aspect of development: Material change of use				
Technical Agency Response (Vegetation) Plan Plan of Area A in Lott 77 on CP902753	Queensland Government	22 June 2018	TARP 1805- 5230 SRA TSV18109-veg	-

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—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Approved plans and specifications

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use		
10.3.4.3.1 Clearing native vegetation—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Natural Resources Mines and Energy 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.	No clearing of vegetation is to occur within the area identified as Area A as shown on the attached Technical Agency Response Plan (TARP) 1805-5230 SRA dated 22 June 2018.	At all times
2.	<p>Prepare a management plan addressing salinity:</p> <ul style="list-style-type: none"> a) The management plan must be prepared by a suitably qualified professional experienced in salinity management and recommend measures to ensure: <ul style="list-style-type: none"> i. no worsening of the salinity levels of the soil and surface or ground as a result of the changes in hydrology of the subject land; and ii. no increase in the incidence of waterlogging. At a minimum, the management plan must identify: <ul style="list-style-type: none"> iii. the spatial and temporal extent of monitoring to establish baseline values and identify impact related trends; iv. trigger values that will initiate specified management actions to prevent waterlogging or increasing salinity levels of the soil and surface or ground as a result of the changes in hydrology; v. an irrigation plan detailing the irrigation location and circumstances under which it will be carried out; vi. the extent of proposed water impoundment and details of construction, including how an appropriate level of permeability will be achieved to prevent seepage to groundwater. b) Submit, for information purposes only, a copy of the Management Plan mentioned at part (a) of this condition to: <p style="margin-left: 40px;">Vegetation Management Department of Natural Resources and Mines Address: PO Box 5318, Townsville Qld 4810 Email: northvegetation@dnrm.qld.gov.au</p> c) Implement and maintain all required salinity management measures identified within the Management Plan mentioned at part (a) of this condition. 	<ul style="list-style-type: none"> a) Prior to clearing commencing b) Prior to clearing commencing c) For the duration of the clearing
3.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of clearing authorised by this development approval.	Prior to clearing commencing

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure that any future clearing complies with the performance outcomes of the State development assessment provisions – State code 16: Native vegetation clearing.
- To ensure that the clearing of vegetation does not contribute to or accelerate land degradation through salinization of groundwater, surface water or the soil.
- To ensure compliance with the development approval.

1805-5230 SRA

