



**PLANNING AND REGULATORY
COMMITTEE MEETING**

MINUTES

12 NOVEMBER 2019

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**REPORT OF THE PLANNING AND REGULATORY COMMITTEE MEETING
HELD AT COUNCIL CHAMBERS, 232 BOLSOVER STREET, ROCKHAMPTON
ON TUESDAY, 12 NOVEMBER 2019 COMMENCING AT 9.00AM**

1 OPENING

2 PRESENT

Members Present:

Councillor C E Smith (Chairperson)
The Mayor, Councillor M F Strelow
Councillor N K Fisher
Councillor C R Rutherford

In Attendance:

Mr E Pardon – Chief Executive Officer
Mr D Scott – Manager Planning and Regulatory Services
Ms K Moody – Coordinator Health and Environment
Ms T Fitzgibbon – Coordinator Development Assessment
Mr J McCaul – Coordinator Development Engineering
Mr B Diplock - Strategic Planner
Mr S Hill – Development Compliance Officer
Mr P Spreadborough – Development Compliance Officer
Mr B Robson – Senior Building Surveyor
Ms G Dwyer – Media Officer
Ms L Leeder – Senior Committee Support Officer

3 APOLOGIES AND LEAVE OF ABSENCE

Leave of Absence for the meeting was previously granted to Councillor Drew Wickerson

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

COMMITTEE RESOLUTION

THAT the minutes of the Planning and Regulatory Committee held on 29 October 2019 be taken as read and adopted as a correct record.

Moved by: Councillor Smith
Seconded by: Councillor Fisher

MOTION CARRIED

5 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA

6 BUSINESS OUTSTANDING

Nil

7 PUBLIC FORUMS/DEPUTATIONS

Nil

8 OFFICERS' REPORTS

8.1 REQUEST FOR AN 'OTHER CHANGE' TO DEVELOPMENT PERMIT D/278-2013 FOR A MATERIAL CHANGE OF USE FOR AN EXTRACTIVE INDUSTRY

File No: D/278-2013

Attachments:

1. Locality Plan
2. Site Plan

Authorising Officer: Tarnya Fitzgibbon - Coordinator Development Assessment
Doug Scott - Manager Planning & Regulatory Services
Colleen Worthy - General Manager Community Services

Author: Brandon Diplock - Planning Officer

SUMMARY

Development Application Number: D/278-2013

Applicant: P. Waardyk and M. Stokes

Real Property Address: Lot 100 on SP120491, Parish of Rockhampton

Common Property Address: Lot 100 Nine Mile Road, Fairy Bower

Area of Site: 74.39 Hectares

Planning Scheme: Rockhampton Region Planning Scheme 2015

Planning Scheme Zone: Rural Zone

Planning Scheme Overlays: Biodiversity Overlay – MSES Wetlands
Flood Hazard Overlay – Extreme Hazard

Existing Development: Extractive Industry

Existing Approvals: D/278-2013

Approval Sought: Request for an 'Other Change' to Development Permit D/278-2013 for a Material Change of Use for an Extractive Industry

Level of Assessment: Impact Assessable

Submissions: Nil

Referral Agency(s): Department of State Development, Manufacturing, Infrastructure and Planning

Infrastructure Charges Area: Charge Area 3

9:02AM

Councillor Cherie Rutherford informed the meeting of a perceived conflict of interest as one of the applicants for Development Permit D/278-2013, Mr Waardyk, is a neighbour.

Council considered the conflict of interest.

COMMITTEE RESOLUTION

THAT Council considers that there is no conflict of interest in the matter, and Councillor Rutherford may participate in the meeting and vote in the public interest.

Moved by: Mayor Strelow
Seconded by: Councillor Smith
MOTION CARRIED

COMMITTEE RECOMMENDATION**RECOMMENDATION A**

THAT in relation to the request for an 'Other Change' to Development Permit D/278-2013 for a Material Change of Use for an Extractive Industry, made by P.Waardyk and M. Stokes, located at Lot 100 Nine Mile Road, Fairy Bower, described as Lot 100 on SP120491, Parish of Rockhampton, Council resolves that:

1. Item 9 and Condition 2.1 be amended and replaced with the following condition:

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Proposed Site Development Layout	WD1057.1 Rev C.	14 September 2011
Location of Proposed Project Area	6208-06 Rev B	18 November 2011
Material Change of Use (Extractive Industry) 'Other Change'	7379-01-MCU-A	14 June 2019
Hydraulic and Water Quality Assessment	228155	15 March 2012
Aurecon letter in Addendum to Hydraulic and Water Quality Assessment	-	27 March 2013
Site Management Plan to Extract Sand from the Corner of Fogarty Road & Nine Mile Road (Lots 431 & 432 on LIV401245)	Not numbered	Not Dated
Preliminary Acid Sulphate Soil Investigation Proposed Sand Extractive Industry	3798-100810-1.0	August 2010
Letter from McMurtrie Consulting Engineers to DTMR regarding Traffic Engineering Assessment of Proposed Use		15 May 2013

2. Condition 3.1 to 3.3 be deleted.**3. Condition 9.3 be included:**

9.3 Noise emitted from the activity must not cause an environmental nuisance.

4. Condition 9.4 be included:

9.4 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.

5. Condition 9.5 be included:

9.5 When requested by Council, nuisance monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise, light or dust. An analysis of the monitoring data and a report, including nuisance mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation.

RECOMMENDATION B

That to reflect the above changes, P. Waardyk and M.Stokes, be issued with an Amended Decision Notice:

1.0 ADMINISTRATION

1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.

1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.

1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the commencement of the use, unless otherwise stated.

1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the commencement of the use, unless otherwise stated.

1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:

1.6.1 Operational Works:

- (i) Road Works;
- (ii) Access Works;
- (iii) Stormwater Works; and
- (iv) Site Works;

1.6.2 Plumbing and Drainage Works.

1.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.

1.8 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

1.9 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

1.10 Lot 257 on LN882, Lot 428 on LIV401245, Lot 431 on LIV401245, Lot 432 on LIV401245 must be amalgamated and registered as one title prior to the commencement of the use.

2.0 APPROVED PLANS AND DOCUMENTS

2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Proposed Site Development Layout	WD1057.1 Rev C.	14 September 2011
Location of Proposed Project Area	6208-06 Rev B	18 November 2011
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2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works.

3.0 STAGED DEVELOPMENT

3.1 Deleted.

3.2 Deleted.

3.3 Deleted.

4.0 ROAD WORKS

4.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works on the site.

4.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational

Works (road works).

- 4.3 The existing intersection of Fogarty Road and Nine Mile Road must be upgraded to incorporate, as a minimum, a Basic Left Turn on a Rural Road with adequate turning radius. The intersection must comply with the *Road Planning and Design Manual Figure 13.79*, and the *Guide to Traffic Engineering Practice*.

Alternatively, the Development may enter into an Infrastructure Agreement with Council to pay half the cost of the intersection works for Fogarty Road and Nine Mile Road, Fairy Bower. The agreement must be prepared and finalised by Council’s solicitors at no cost to Council (including the payment of any State tax) and must be executed by the Developer. The agreed repayment date must be negotiated between Council and the Developer as part of the Infrastructure Agreement process.

- 4.4 A road maintenance agreement must be entered into with the Rockhampton Regional Council. The agreement must provide for payments, from the start of the operations, on a six monthly basis, for the duration of this activity calculated by the owner/operator of the development, based on audited returns of the tonnage transported per period. The calculation, is based on this clause:

“A maintenance levy must be paid on a six monthly basis on the following calculation. The amount shown below dates to March 2013 values and will be calculated in future years adjusted each year by the Current Price Index (All Groups Brisbane).”

Tonnage (in 6 month period)	Rate
0-250,000 tonnes	\$0.4153 per tonne

5.0 ACCESS WORKS

- 5.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works on the site.
- 5.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 “Parking Facilities”* and the provisions of a Development Permit for Operational Works (access).
- 5.3 A rural access must be provided to the development in accordance with the *Capricorn Municipal Development Guidelines*.

6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any drainage works on the site.
- 6.2 All stormwater drainage must be in accordance with the requirements of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*.
- 6.3 All stormwater drainage must be discharged such that it does not restrict, impair or change the natural flow of runoff water or cause a nuisance to adjoining properties or infrastructure.
- 6.4 A detailed Stormwater Treatment Strategy must be prepared in accordance with the Hydraulic and Water Quality Assessment (refer to condition 2.1) and submitted as part of the application for a Development Permit for Operational Works (stormwater).

7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 7.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks’ plan which clearly identifies the following:

- 7.2.1 the location of cut and/or fill;
 - 7.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 7.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 7.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - 7.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 7.3 As recommended in the report titled Preliminary Acid Sulphate Soil Investigation (refer to Condition 2.1), further testing for acid sulphate soils must be completed in accordance with the *State Planning Policy 2/02 – Planning and Managing Development Involving Acid Sulphate Soils*, the *Guidelines for Sampling and Analysis of Lowland Acid Sulphate Soils in Queensland 1998* and *Queensland Acid Sulphate Soil Technical Manual – Soil Management Guidelines*. The results of this further testing must be submitted to Council as part of any application for a Development Permit for Operational Works (site works).
- 7.4 Groundwater extraction activities (including drainage, pumping or other activity that removes groundwater) carried out in association with excavation activities require a groundwater investigation in accordance with Section 7 of the *State Planning Policy 2/02 Planning and Managing Development Involving Acid Sulphate Soils*. The results of this investigation are to be submitted as part of any application for a Development Permit for Operational Works (site works).
- 7.5 Sampling associated with the acid sulfate soils investigation should follow the *Guidelines for Sampling and Analysis of Lowland Acid Sulphate Soils in Queensland (Ahern et al 1998)*. Laboratory analysis associated with the acid sulphate soils investigation should follow the *Laboratory Methods Guidelines of the Queensland Acid Sulphate Soil Technical Manual*.
- 7.6 If Acid Sulphate Soils are found to be present an appropriate management plan must be submitted to Council for approval along with any application for a Development Permit for Operational Works (site works).
- 7.7 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 7.8 Any vegetation cleared or removed must be:
- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
 - (ii) removed for disposal at a location approved by Council;
- within sixty (60) days of clearing. Any vegetation removed must not be burnt.
- 7.9 All site works must be undertaken to ensure that there is:
- 7.9.1 no increase in upstream or downstream flood levels for all levels of immunity up to Q100;
 - 7.9.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
- 7.10 No bund walls are to be constructed around the perimeter of the site.
- 8.0 ASSET MANAGEMENT
- 8.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains,

and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.

- 8.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 8.3 As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

9.0 ENVIRONMENTAL

- 9.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Erosion and Sedimentation Control Plan as detailed in the Site Management Plan To Extract Sand From The Corner of Fogarty Road and Nine Mile Road (Lots 431 and 432 on LIV401245) prepared by Hardcore Performance Pty Ltd.
- 9.2 The Erosion and Sedimentation Control Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion and Sedimentation Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 9.3 Noise emitted from the activity must not cause an environmental nuisance.
- 9.4 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 9.5 When requested by Council, nuisance monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise, light or dust. An analysis of the monitoring data and a report, including nuisance mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation.

10.0 OPERATING PROCEDURES

- 10.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Fogarty Road or Nine Mile Road.
- 10.2 This approval is for the extraction and transportation of sand from the subject premises which must be undertaken in accordance with the endorsed plans (refer to condition 2.1) and at an extraction rate of no more than 250,000 tonnes per annum.
- 10.3 The hours of operations must be limited to:
- (i) 0600 hours to 1800 hours on Monday to Saturday; and
 - (ii) no operations on Sunday or Public Holidays
- 10.4 A detailed record of the extraction, including date, quantity extracted and transported from site must be maintained on site for inspection by Council.
- 10.5 There must be no servicing or maintenance of vehicles on the site.
- 10.6 Excavation and filling must be located sufficiently clear of the boundary so that there is no damage to adjoining properties or road reserves due to the effects of erosion.

10.7 Dust suppression:

- (i) Measures must be implemented to suppress dust during the operation. There must be no visible dust emissions onto any adjoining properties during excavation, processing loading or transport of the material. All haulage trucks associated with the transportation of material extracted by this operation must have their loads covered by dust-proof material, to prevent sand and dust loss during transportation.
- (ii) If any dust creates a nuisance to neighbouring properties, all activities must cease until corrective measures have been implemented to Council's satisfaction.

10.8 No contaminated water must be directly or indirectly released from the premises on to the ground, into groundwater or natural run-off systems.

10.9 Cleaning of plant and trucks must be carried out in area where contaminants cannot be released into the environment.

Moved by: Councillor Smith

Seconded by: Mayor Strelow

MOTION CARRIED

9 NOTICES OF MOTION

Nil

10 URGENT BUSINESS QUESTIONS

11 CLOSED SESSION

In accordance with the provisions of section 275 of the *Local Government Regulation 2012*, a local government may resolve to close a meeting to the public to discuss confidential items, such that its Councillors or members consider it necessary to close the meeting.

COMMITTEE RESOLUTION

THAT the meeting be closed to the public to discuss the following items, which are considered confidential in accordance with section 275 of the *Local Government Regulation 2012*, for the reasons indicated.

12.1 Enforcement Proceedings For Development Offences

This report is considered confidential in accordance with section 275(1)(g), of the *Local Government Regulation 2012*, as it contains information relating to any action to be taken by the local government under the Planning Act, including deciding applications made to it under that Act.

Moved by: Mayor Strelow
Seconded by: Councillor Rutherford

MOTION CARRIED

COMMITTEE RESOLUTION

9:11AM

THAT pursuant to s5.11 *Council Meeting Procedures* the meeting moves into Closed Session and be closed to the public.

Moved by: Mayor Strelow
Seconded by: Councillor Rutherford

MOTION CARRIED

COMMITTEE RESOLUTION

9:18AM

THAT pursuant to s5.11 *Council Meeting Procedures* the meeting moves out of Closed Session and be opened to the public.

Moved by: Mayor Strelow
Seconded by: Councillor Rutherford

MOTION CARRIED

12 CONFIDENTIAL REPORTS

12.1 ENFORCEMENT PROCEEDINGS FOR DEVELOPMENT OFFENCES

File No:	4842
Attachments:	Nil
Authorising Officer:	Philip Harrison - Coordinator Building Plumbing and Compliance Colleen Worthy - General Manager Community Services
Author:	Steven Hill - Development Compliance Officer
Previous Items:	12.1 – Enforcement Proceedings for Development Offences - Planning and Regulatory Committee - 02 October 2018

This report is considered confidential in accordance with section 275(1)(g), of the *Local Government Regulation 2012*, as it contains information relating to any action to be taken by the local government under the Planning Act, including deciding applications made to it under that Act.

SUMMARY

This report is a follow up to Report 12.1 of the Planning and Regulatory Committee held on 2 October 2018 summarising the continued failure to comply with a Development approval regarding illegal filling of the property.

COMMITTEE RECOMMENDATION

THAT Council adopt Option 1 as detailed in this report.

Moved by: Mayor Strelow
Seconded by: Councillor Rutherford
MOTION CARRIED

13 CLOSURE OF MEETING

There being no further business the meeting closed at 9:19am.

SIGNATURE

CHAIRPERSON

DATE