

2<sup>nd</sup> May 2021

For the attention:

**Liam Jukes**

Senior Planner - Major Assessment  
City Development Branch  
Council of City of Gold Coast

Dear Liam Jukes,

Re: Nucrush Quarry development application COM/2019/81

Rural 'B' prohibited development area et al

Further to your email on 21<sup>st</sup> April.

Sorry, to mention the Rural 'B' area once again, and appreciate your statement on the matter i.e. "We have already provided our view on the Rural B matters". However, I am extremely concerned that the view the Council officers have adopted is, in my opinion, incorrect and does not in any way represent the legal situation.

I appreciate that the Rural 'B' area is now part of Key Resource Area 68 (in the most part I believe because incorrect details were furnished to the author of the KRA 68). But, Council should realise that the *"Identification of a site as a Key Resource Area (KRA) and inclusion in the State Planning Policy (SPP) does not in any way authorise the extraction of the resource nor give anyone the right to establish or operate a quarry"* (Attachment A1).

And, as the Judge said in 'Robertson DCJ, Neilsens Quality Gravels Pty Ltd v Brisbane County Council': *"I think Council's submission to the effect that the designation of the site KRA60 by SPP02/07 'merely protects the land from encroachment by inappropriate development and preserves access to it', understates the importance of this fact in the assessment process. It goes further in its terms, but does not 'guarantee' an approval which will be subject to impact assessment against the relevant planning scheme provisions"*.

Further, from the judges' comments from the Appeals Land Court, Brisbane, when the Nerang Pastoral Co Pty Ltd appealed against an unimproved valuation - Valuation of Land Act 1944: 'Nerang Pastoral Co Pty Ltd v Chief Executive of Natural Resources (formerly Department of Lands)' on 3<sup>rd</sup> July 1997 ('[1997] QLC 102'), where the judge said: *"encroaching development may bring about an early cessation of quarrying and processing activities where the quarry is located in the path of encroaching residential development. Dust, noise from trucks and machinery and the carrying out of explosions constitute substantial nuisances to residential areas nearby and generate concern and consequent pressure on the local authority to discontinue the quarry use when opportunity presents"*. I believe 'encroaching development' describes this development application appropriately and this must be reason enough for timely cessation on 15<sup>th</sup> February 2022, as currently scheduled.

Is Key Resource Area 68 correctly defined?

It should also be remembered the Key Resource Area 68 also included approximately 10 hectares of Lot 906 (the quarantined land area). It would seem this was also incorrectly added as part of KRA68. The applicant has already been forced to rescind this area from development application COM/2019/81.

I believe the agreed 'Prohibited development' area of Lot 467, or Rural 'B', is in a very similar category as Lot 906, having been incorrectly included as part of the Key Resource area because the council and the applicant failed to reveal the pre agreed protected status of these areas when the Key Resource Area was devised.

Please note it would seem all the Neranleigh-Fernvale beds extending from Brisbane in the north down to New South Wales in the south is made of the same rock beds and hence could all theoretically be classified as Key Resource areas (as shown in attachment A2 and attachment A3). However, it would seem a pre-existing Nucrush quarry, and failed notification of the protected status surrounding it, has resulted in KRA 68 being incorrectly, or ill-advisedly, defined to include quarantined land areas (to the east), prohibited development areas (to the north), buffer land areas (to the south west) and 'Permanent trees and shrub screening areas' (to the west).

The inclusion of all these predefined protected areas for the life of the quarry within KRA68 does not, I believe, override the clear definition of these areas and the clear intent of why they were originally conceived for the life of the quarry.

#### KRA key components

Just in case you are in any doubt as to this quarry's incompatible KRA status with regard to the local environment it is now located within, I believe, I should also bring the transport route requirements for a KRA to light. *"An identifiable KRA is made up of four components as shown in Table 2 and Figure 2" (Spp-guidance-mining-and-extractive-resources-july-2017.pdf).*

From Table 2 *"Transport route separation area: The area surrounding the transport route needed to maintain separation of people from undesirable levels of noise, dust and ground vibration produced as a residual impacts from the transportation of extractive material. The distance is measured 100m from the centre line of the indicated transport route for a KRA".*

This Transport Route has been highly compromised. Thus, it is not a compliant KRA as per the KRA guidelines. And, there is NO mitigation of this clear requirement of the KRA (Spp-guidance-mining-and-extractive-resources-july-2017.pdf).

Please note, there are hundreds of sensitive receptors within 100m either side of the centre line of the transport route to the Pacific Motorway, thus, the Nucrush quarry can no longer, I believe, be a viable KRA for this reason alone. There is no mitigating factors. As per City Plan 8.2.7 Extractive Resources overlay code - Separation Area and 100m Transport route separation area': Acceptable Outcome AO2: *"No acceptable outcome provided"* (Attachment B12).

#### MP Jeff Sweeney's letter dated 15<sup>th</sup> April 2014

I am concerned that the letter you reference from MP Jeff Sweeney to Mayor Tom Tate is being taken out of context by the Council.

The letter merely states: *"1. ... to appropriately protect key resource areas within the draft plan by: d). Identifying the amended resource / process area for KRA68 Oxenford"*. Therefore, it is particularly worrying that you state in your email on 7<sup>th</sup> April: *"The current scheme's extractive zone for Oxenford matches the State's mapped KRA, and not the earlier mapping of court orders, because that was the direction provided by the Deputy Premier in 2014"*.

I agree the *"The current scheme's extractive zone for Oxenford matches the State's mapped KRA"*. However, the contents of the letter does not, I believe, in any way shape or form dictate approval for a quarry to extract within all areas within KRA 68 as it would seem the Council and the applicant are assuming. It is merely stating a requirement *"to appropriately protect key resource area"*. However, as we are only too well aware, the location of KRA68, within a now predominantly residential environment has meant homes, businesses, schools, and all forms of suburbia have been permitted to be built within this area both before the existing quarry's inception and very much since; rendering, I strongly believe, the quarry (and its massive expansion and extension plans) highly inappropriate and obsolete within its current very much suburban location. It has not (because of massive population expansion in the area) been *"appropriately"* protected by the Council. Thus, I believe, can be viewed as very much a victim of its own success within this area.

#### Transport Route

Why has the 'key-resource-area-reports-and-maps-41-to-80.pdf' KRA 68 map failed to identify a transport route to the pacific motorway (as is clearly required) instead only extending a couple of hundred metres from the entrance (as shown in Attachment B1)? However, it is included for all other quarries in the Gold Coast region (Attachment B2)?

Why has the 'key-resource-area-reports-and-maps-41-to-80.pdf' KRA 68 map failed to even extend to the John Muntz roundabout? Is this to surreptitiously avert the need for a safety analysis of the John Muntz Bridge, as is surely required, yet omitted from the DA?

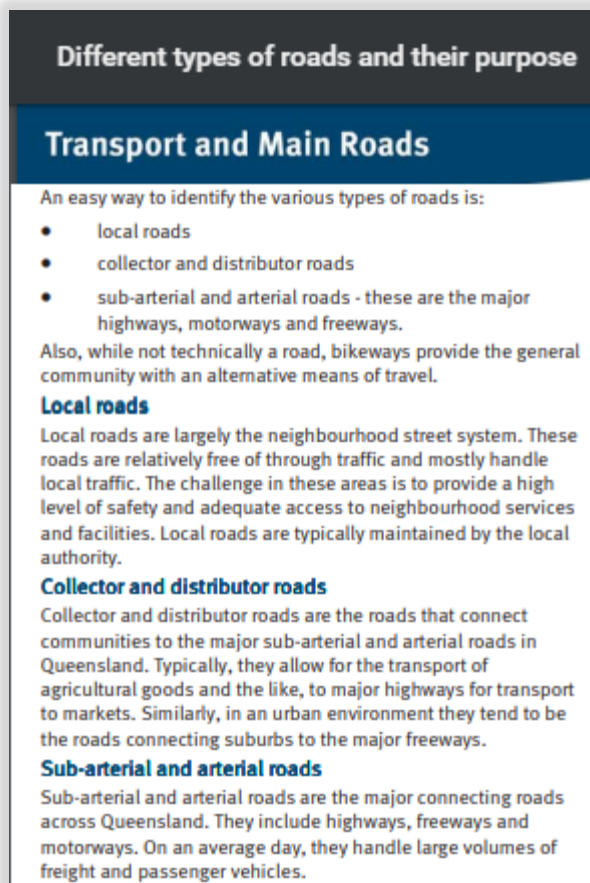
Why has the Gold Coast Council' City plan failed to identify the transport route (Attachment B3)?

In fact, why does the Council's City Plan show the Transport route as what can only be construed as an engineered map to carefully ignore the inclusion of the John Muntz bridge (Attachment B4)?

Is the City Plan derived from the transport route in 'key-resource-area-reports-and-maps-41-to-80.pdf' KRA 68 map or is it the other way around? Either way, it can be clearly seen both are not appropriate transport routes for the Nucrush quarry to the major road as required?

The guidelines for a KRA Transport Route, as taken from the State Planning Policy, is: *"The shortest practical route used to transport extracted resources to market. The transport route is a road or a rail link from the boundary of the resource/processing area to a major road or railway"* (See Attachment B5).

For complete clarification the roads definition is as follows (As specified by Transport and Main Roads, Attachment B6):



From this definition from TMR we can classify the Tamborine-Oxenford Road and the Maudsland Road as: “Collector and distributor roads” i.e. “roads that connect communities to the major sub-arterial and arterial roads in Queensland. Typically, they allow for the transport of agricultural goods and the like, to major highways for transport to markets. Similarly, in an urban environment they tend to be the roads connecting suburbs to the major freeways”.

The Tamborine-Oxenford Road and the Maudsland Road are clearly not (As defined by TMR): “**Sub-arterial and arterial roads are the major connecting roads across Queensland. They include highways, freeways and motorways. On an average day, they handle large volumes of freight and passenger vehicles**”. It would seem the only large freight movement is the Nucrush quarry with its trucks an assumed couple of minutes apart. And the only passenger vehicles are, I would assume, commuters from Tamborine Mountain and Maudsland traversing to and from the Pacific Highway and tourists visiting the Tamborine Mountain and the Hinterland.

Therefore, it is clear to conclude that both the Tamborine-Oxenford Road and the Maudsland road are not MAJOR roads. Therefore, as defined in the State Planning Policy, “**The shortest practical route used to transport extracted resources to market. The transport route is a road or a rail link from the boundary of the resource/processing area to a major road or railway**” is to the Pacific Motorway and not to the junction (or actually nearly to the junction, stopping as fair few metres short to apparently surreptitiously avoid including the John Muntz bridge!) with the Tamborine-Oxenford road as has been incorrectly shown on the Gold Coast City Plan Version 6, 7 and Version 8.

The fact that the Tamborine-Oxenford road is a State owned road has no bearing on whether it is a Transport route or not as is clearly demonstrated in Attachment B7 showing the Boral, Stapylton Quarry (KRA69) transport route that is via a state controlled road to the Pacific Motorway (as shown in Attachment B8). Attachment B9 demonstrates the Oxenford quarry is accessed from the Pacific Highway in the same manner as the Stapylton quarry yet the City Plan has failed to show the required Transport Route correctly for the Oxenford Quarry, KRA68.

This is also confirmed by the Council's Information request to this DA where the Council states: *"The applicant has not satisfactorily addressed Performance outcomes PO7/ Acceptable outcome AO7 and Performance outcome PO20/Acceptable outcome AO20 of the Transport code. The applicant is therefore requested to identify the route that haulage vehicles use to access the Pacific Motorway and the wider road network"* and the applicants responds: *"All heavy vehicles generated by the site use the Tamborine-Oxenford Road route to and from the Pacific Motorway. This is the most efficient route between the site and the Pacific Motorway"* (Attachment B10).

Therefore, having established the Transport route is to the Pacific Highway, a full safety analysis should have been provided for every intersection to the closest major road i.e. For the Tamborine-Oxenford route the Pacific Motorway. It has not. This development application has failed, I believe, to submit the required safety analysis for every (any) junction to the major road. This is contra to the clear requirements for a Traffic Impact Assessment for a development application of this magnitude as is required by TMR.

Similarly, transport routes to the South and West should be thoroughly analysed as per TMR requirements (used by, I believe, a significant 15% of haulage trucks).

This is yet another clear oversight in this development application.

### **John Muntz Bridge (with respect to Transport Route)**

The John Muntz Bridge is an important link for the Nucrush quarry to its sister site in Hart Street Upper Coomera as part of their 'Transport Route' heading west. It is also a highly important aspect of the 'Transport Route' heading north (as it is within the 100m corridor that needs to be considered). It is also within 125 metres of the blast area making up the extractive footprint of the proposed quarry. The John Muntz Bridge has spectacularly failed three times in the last ten years.

With all these factors in mind, how has the Traffic Impact Assessment been permitted to ignore this highly important aspect of the safety concerns for this proposed development application? Why has neither the TMR assessment nor the Council Transport assessment noticed the absence of this clear safety requirement?

Why has the 'key-resource-area-reports-and-maps-41-to-80.pdf', along with the Gold Coast City Plan (V6, 7 and 8), all failed to identify that the Transport Route should clearly encompass the John Muntz Bridge, however, it appears to be negligently terminated prematurely (Attachment B4) before having to include the clear safety requirements of having a vulnerable structure as a very active part of the transport route and within a mere 125 metres of proposed blasting?

## Hart Street Sister site

Why has the City Plan (V6, 7 and 8) failed to show an appropriate Transport Route from the Hart Street, Upper Coomera Site into Reserve Road as is clearly required to access the Pacific Motorway and/or the Nucrush quarry site (Attachment B11)? Or, from this DA perspective, why is there no Transport Route, despite a clear requirement given the amount of Nucrush interaction between its sites, from the quarry to its sister site in Hart Street (Attachment B11)?

It would seem some inappropriate intervention has been applied here by the council in an apparent vain effort to look like the Transport Route was vaguely viable when of course it is clearly non-compliant for both the Nucrush quarry and the Hart Street sites. This, I believe, is very much to the detriment of the health, safety and welfare of this residential area and the residents personal amenity.

It would seem the City Plan has been developed to be very beneficial for Nucrush transport routes (the quarry and the Hart Street, Upper Coomera, sister site also) as shown in Attachment B11. Why has this clear benefit being bestowed on Nucrush despite the clear negative implications this will have for local residents in the area? Why has this seeming abuse of the transport route rules been permitted by the State and the Council? What are the Council going to do to address this seemingly clear manipulation of the Nucrush transport routes? Are the Council going to correct these glaring errors within the City Plan?

### City Plan 8.2.7, Performance Outcome PO2

Please remember, in the City Plan 8.2.7, Performance Outcome PO2 states: *“Separation Area and 100m Transport route separation area: Development where located within the Separation Area and 100m Transport Route Separation area: (c) ensures an appropriately sized buffer between sensitive land uses, the resource/processing area and the transportation route of the KRA”*. Clearly this proposed development does not ensure *“an appropriately sized buffer between sensitive land uses, the resource/processing area and the transportation route of the KRA”* (Attachment B12) as it is proposing ignoring the clear intent of the prohibited development Rural ‘B’ buffer area to the north. It is also ignoring the buffer land to the south west. It is also ignoring the clear intent of ‘The Permanent Trees and shrub screening’ to the west. This would seem in direct contravention of the requirements of *“(b) is orientated away from the resource Area/Processing Area to minimise views/limit visual impact of Extractive Industry”* as this will significantly change the views and any former attempts to *“limit visual impact of Extractive Industry”* (Attachment B12).

Also, City Plan 8.2.7, Performance Outcome PO1 states: *“Development where located within the Resource Area/Processing Area does not: (b) does not introduce or increase uses that are sensitive to the impacts of Extractive Industry”* (Attachment B12). The proposals would significantly increase the impacts of Extractive Industry on local residents with its highly significant proposed reduction in buffers, its decrease in visual amenity throughout the area and its significant increase on production and haulage vehicles required to match this planned increase in production from an average of 600,000 tonnes per annum (Attachment B13) up to a proposed million tonnes per annum.

It is also noted that, City Plan 8.2.7, Performance Outcome PO1 states: *“Development where located within the Resource Area/Processing Area does not: (a) compromise the ability to extract the natural resources in a safe, efficient and sustainable manner”* (Attachment B12). I would question the safety of extraction/blasting within 150 metres of residential homes and closer than 40 metres of the busy

Tamborine Oxenford Road (Attachment B14) and within 40m of the Maudsland Road (Attachment B14). And, also, on the boundary to the North (with an Open Space Lot not owned by the applicant) that is within the Rural 'B' prohibited development area (Attachment B14).

Given the extremely close proximity of local residents, local traffic and local Open space areas, I do not see that this can be guaranteed to be *"safe"*, especially with the inexact science of blasting and the unexpected results that will occur. And, obviously these reduced separation buffers proposed will have dramatic effects on the dust (including respirable crystalline silica) exposure of the local residents and their families. Obviously the *"sustainable manner"* is also highly questionable with the apparent proposals to destroy an additional 125,000 square metre of koala habitat and environmentally significant areas of biodiversity, priority species, vegetation (as shown in Attachment C1).

#### City Plan 9.3.8 Extractive Industry Code Performance Outcome PO3

City Plan 9.3.8 Extractive Industry Code Acceptable Outcome AO3.1 states: *"Extraction or processing activities are not conducted within 40m of any boundary of the site"* and AO3.2 states: *"Views of significant infrastructure and visually obtrusive development including quarry floors, benches and faces, are screened from the road frontage, major road corridors and adjoining residential areas"* (Attachment D1).

However, this development application proposes ignoring the clear intent of the prohibited development, Rural 'B', area and extending the extractive footprint in the north right up to the boundary with the open space area of 241 Tamborine Oxenford Road, Lot 1 on RP138386 (not owned by Nucrush) as shown in Attachment D2. Clearly this is in direct opposition to City Plan 9.3.8 Extractive Industry Code Performance Outcome PO3 requirements.

#### City Plan 9.3.8 Extractive Industry Code Performance Outcome PO4

City Plan 9.3.8 Extractive Industry Code, Performance Outcome PO3 states: *"Development protects the visual character and amenity of the area by ensuring ridgelines are retained as a natural feature and buffer"* and Acceptable Outcome AO4 states: *"Development is located at least 40m away from any ridgeline as measured horizontally from the ridge peak"* (Attachment D1).

However, this proposed development application ignores these clear City Plan requirements by intending to engulf the ridgeline in the northeast ((part of the prohibited development Rural 'B' area as highlighted in Attachment D3.

Also, the proposed extractive footprint ignores the City Plan Extractive Industry Indicative buffer (as highlighted in Attachment D4). This is also within 40m of the extractive boundary which is contra to City Plan 9.3.8 Extractive Industry Code Acceptable Outcome AO3.1 which states: *"Extraction or processing activities are not conducted within 40m of any boundary of the site"* (Attachment D1).



### Missing Information from development application

#### **‘Third Schedule’ of Rezoning Agreement or ‘Plan 362-010’**

It is with utter contempt that I must reveal the copy of the current approval (by way of Rezoning agreement dated 17<sup>th</sup> September 1992), submitted as part of the development application, was, it would seem, fraudulently misrepresented by replacement of the ‘Third Schedule’ with a seemingly innocuous alternative map (the ‘Fourth Schedule’).

The existence of the correct version of ‘Third Schedule’ (or ‘Plan 362-010’ as it also appears to be known) was only found by accident as a result of a subsequent Right to Information (RTI) inquiry. By comparing the original Rezoning agreement with the applicants submitted copy it can be seen the original ‘Third Schedule’ was, it would seem, culpably removed and the existing ‘Fourth Schedule’ (a largely irrelevant map) of the current approval had its title removed and was slotted in to the ‘Third Schedule’ position within the submitted copy of the Current approval in what would seem was a culpable attempt to hid the existence of the ‘Third Schedule’ (reproduced in Attachment E1).

Why was this ‘Third Schedule’ removed from the submitted copy of the current approval?

It would seem this ‘Third Schedule’ contains highly important information about 15.5 ha of ‘Buffer land’ and ‘Permanent Trees and shrub screening’ (highlighted in Attachment E2). As the applicant now wishes to ignore these protected areas (believed to be protected for the life of the quarry) and now include as part of the extractive footprint is this why this plan was omitted to culpably remove information pertaining to these protected areas?

Were the SARA referral team aware of these protected areas at the time of their referral?

Were the KRA authors made aware of these protected development areas when the KRA was being considered? Were the Council involved in this process? Did the Council inform the KRA authors of the legally agreed ‘Buffer land’ and ‘Permanent trees and shrub screening’ areas? It would seem not.

#### **Map C1495:00:13B**

It should also be remembered that the applicant seemingly chose not to share the existence of the prohibited development area (Rural ‘B’) by failing to submit the highly important and relevant plan: ‘C1495:00:13B’ that I see as an intrinsic part of the current approval and highly relevant for the proposed development application. The original plan is reproduced in Attachment F1 with a close-up for clarity and an annotated close-up in Attachments F2 and F3.

This, I believe culpable omission, led to the SARA referral team being unaware of the existence of this prohibited development area and therefore being led to make, I believe, false assumptions of the scale of the proposed development size. This is emphasised in correspondence to me from DES Deputy Director-General Rob Lawrence who clearly was completely oblivious to the current approval extractive footprint (Attachment F4). Believing the proposed extraction area was only a relatively small increase whereas I believe it is a highly significant increase. In fact, I believe the current approved extraction area is not the claimed 56.02 ha (or 55.4 ha as quoted in Rob Lawrence’s letter) but is in fact approximately 23.77 ha (as shown in the annotated ‘Third Schedule’ of the ‘Rezoning agreement’ / ‘Plan 362-010’ reproduced in Attachment E2). Thus, the proposed scale of the increase in extraction area is not the claimed 18 % (56.02 has to 66 ha) but was in fact a gigantic 277% (23.77 to 66ha). A highly significant difference that it would appear the SARA referral was unaware of, as is, it would seem, the Council who should have been fully aware of this information.



This, as I see it, clear failure to reveal the existence of the prohibited development (Rural 'B') area, and thus the failure to reveal the true extent of the scale of the proposed extraction I believe put local residents at a distinct disadvantage at the time of public notification who were led to believe the proposed increase in extraction footprint was a mere fraction of what it actually is i.e. a proposed increase to 277% of the currently approved extractive footprint as opposed to a mere 18% increase (Attachment F5).

### **Deed of Novation (or Rezoning Deed)**

The highly important, and relevant to the current approval, 'Deed of Novation' (dated 12<sup>th</sup> September 1989) was also, I believe, culpably omitted from the development application.

Was it omitted because it reveals that the applicant has failed to rezone as agreed: *"APPLICATION FOR REZONING - The Applicant shall forthwith make application to the Council for the rezoning of that part of the quarry land shown as "proposed Rural B" on the plan comprising the Second Schedule ("the buffer land") by excluding it from the "Extractive Industry" zone under the Town Plan and including it in the "Rural B" zone. Such application shall be made in the form required by the Council's by-laws and shall contain or be accompanied by all information and particulars required by law or otherwise reasonably required by the Council to enable it to determine the said application as required by law"* (Attachment G1). For ease, the 'Second Schedule' within the 'Deed of Novation' referred to above is reproduced in Attachment G2.

In the original rezoning agreement this is confirmed in Recital 'M': *"There is presently a dispute between the parties as to the Applicant's performance of certain obligations regarding rezoning part of the existing Extractive Industry Zoned land contiguous to the north as referred to in Recital H to the Rural B Zone as contained in clause 5 of the said Rezoning Deed"* (Attachment G3).

### **Summary**

It would seem highly negligent of both the applicant and the Council that thirty years later this matter has still yet to be resolved. This has led, it would seem, to the applicant now believing he can ignore the clear intent of the prohibited development area and now, as a rite of passage (due to it becoming part of the KRA), including this area in his extractive footprint. However, I suspect its subsequent inclusion as part of the Key Resource Area was as a result of the applicants and the Council's failure to rezone the area as clearly agreed and the KRA author being unaware of the legal restrictions in the area.

In a Court of Law, I believe, the clear intent and legally agreed status of this prohibited development, Rural 'B', area would be upheld (and both the applicants and the Council's subsequent failure to address the legally agreed rezoning agreement would be questioned). Hopefully, this option will not have to be undertaken.

### **Processing Area within Prohibited development area**

It should also be remembered the applicant, upon purchase of Lot 463 (the northern end of Lot 467 encompassing the prohibited development area, Rural 'B' as shown in Attachment H1) is contractually bound by Special Conditions agreed at the time of purchase e.g. *"Clause 37.1 of the contract acknowledges that the vendor wishes to develop the "estate land" to the east and the purchaser undertakes not to apply for the consent of the local authority to allow crushing and processing*

*activities to be carried out on the land which is the subject of the sale*” as stated by the judge in the Appeals Land Court, Brisbane, when the Nerang Pastoral Co Pty Ltd appealed against an unimproved valuation - Valuation of Land Act 1944: ‘Nerang Pastoral Co Pty Ltd v Chief Executive of Natural Resources (formerly Department of Lands)’ on 3<sup>rd</sup> July 1997 ([1997] QLC 102’). And, as the judge further states: *“Abutting the “quarantined land” to its west is part of the land, which I will call the “north-east corner”, which has an area of 10.5 ha and which the letter says will be the subject to an application for rezoning from its existing “Extractive Industry” zone to “Rural B”. The intent appears to be one of extending the buffer area beyond that provided by the “quarantined land”. The party bound by an undertaking to apply to rezone the land in the “north-east corner” of the sale land is effectively saying that neither quarrying activity nor processing will not be carried out in that part of the land”* (where the letter referred to is a letter dated 19<sup>th</sup> October 1988 attached to the contract binding the purchaser to certain obligations).

The clear intent of the Rural ‘B’ is clear to see. And, it must be remembered that the *“purchaser undertakes not to apply for the consent of the local authority to allow crushing and processing activities to be carried out on the land which is the subject of the sale”*. It is clear to see the applicant agreed never to perform crushing and processing activities within this area, as has been verified in a Court of Law, thus, it would seem, the planned repositioning of the processing/plant area and the concrete production area as clearly shown in Attachment D2 is not permissible for the life of the quarry.

#### Concrete Production / Batching facility

It is noted that the on-site Concrete Production / Batching facility is planned to be moved from its current location within the *“Ancillary operations”* area (Attachment E2) to the north-east of the site (As shown in Attachment D2).

As stated above I do not believe this is permissible due to the applicants agreed obligations with respect to *“purchaser undertakes not to apply for the consent of the local authority to allow crushing and processing activities to be carried out on the land which is the subject of the sale”* for, what is believed to be, the life of the quarry. Where: *“the land which is the subject of the sale”* is Lot 463, which fully encompasses the prohibited development, Rural ‘B’, area (as shown in Attachment H1).

However, over and above this, it should be realised that the on-site concrete production facility, despite being a major part of the extractive industry operation within the Nucrush site has, it would appear, to have been largely omitted from the development application.

No account has been made within the Traffic Impact Assessment submitted for the highly significant number of deliveries required of sand, cement, fly ash, silica fume and/or additives, etc. that are required to make up the approximately 50% of the volume of the concrete. The Traffic Impact Assessment also makes no references to concrete deliveries from the site, seemingly inferring all vehicles exiting the site are hauling the extracted product and not the on-site produced concrete.

This would seem a serious omission from the development application given the enormity of effect this has on the noise, emissions and level of haulage traffic operations. Given that the Concrete production is all but missing from the development application has the Noise and Dust impact assessment included the Concrete production / batching operations in its modelling?

In fact, a simple observation of the submitted noise modelling will establish that the Concrete Plant has been, it would seem, simply ignored from the sound modelling. The submitted noise modelling

for Stage 6 has been included in Attachment I1. I have identified the location of the Concrete Plant on this diagram that will, by now, be relocated in the north-eastern corner as indicated. However, It can be clearly seen there is no point source for noise identified at this location and there is no additional noise highlighted in this area as would be expected given the amount of machinery (including mechanical loaders etc.) that would be operating here. In my opinion it would seem the Concrete plant has been simply and negligently ignored in the noise modelling.

Also, for the Dust submission, in Stage 1 the area where the Concrete Plant is located the Predicted TSP annual average is dangerously above the EPP objective of  $90 \mu\text{g}/\text{m}^3$  (Attachment I2). However, by Stage 7, when the Concrete Plant has moved to within a couple of hundred metres of homes the Predicted TSP annual average has mysteriously and surprisingly dropped to between  $40$  and  $60 \mu\text{g}/\text{m}^3$  (Attachment I3). It would seem the Concrete Plant has also negligently not been included in the dust modelling either. Given the extreme health and safety issues associated with dust (including respirable crystalline silica) this would seem an unforgiveable omission that could be in the future endangering the lives of local residents in the area.

It should be pointed out that I believe it should not be permissible to operate a concrete plant on this land as it should not be able to gain the appropriate approval. The current approved area, as defined in the original rezoning agreement dated 17<sup>th</sup> March 1992, is for areas zoned for 'Extractive Industry' (extractive footprint) and 'Special Facilities' (ancillary operation) areas which include: 'Weighbridge and offices', 'Decantation Ponds', 'Workshops/stores', 'Stockpiling', 'magazines', 'water storage', 'Processing plant', 'Buffer land' and 'Permanent tree and shrub planting' (As defined in Plan 362-010 annotated and reproduced in attachment E2). It is also shown in the historical Lot definition in Attachment I4. It does not, it would seem, include the facility to operate a concrete plant in this area which is not an ancillary operation to extractive industry.

Just to clarify the 'Processing plant' includes recovery operations such as extraction of metal ores and minerals from the mined rock. Concentrating or separating the metal ore is the goal of a processing plant IT IS NOT the production of concrete and/or cement.

Further, 'Extractive Industry' is defined as: *"Any premises used or intended for use for the purpose of carrying on an industry involving extraction, storage, loading or cartage of sand, gravel, soil, rock, stone or similar substances from land. **The term does not include crushing, screening, washing or other treatment process, or manufacture of products from such substances, or a mine under the mining act 1968-1983**".* Therefore, the ancillary operations i.e. Crushing, screening, etc. cannot be performed in the same location as the 'Extractive Industry'. This is why the existing set up in the Nucrush quarry has an extractive area and an additional ancillary purposes area to the south-west (as shown in Attachment E2).

For complete clarification, the planning scheme states: *"Extractive Industry - Any premises used or intended for use for the purpose of carrying on an industry involving extraction, storage, loading, or cartage of sand, gravel, soil, rock, stone or similar substances from land. **The term DOES NOT include crushing, screening, washing, or other treatment processes** or manufacture of products from such substances, or a mine under the Mining Act 1968-1983".*

This development application shows the ancillary area (Crushing, screening, etc.) will stay in the existing Southwest location for the initial stages. However, it is proposed that this is to be reassigned as "Extractive footprint" (being part of the proposed extractive boundary). Therefore, this area can no longer be used for these ancillary purposes. As there is nowhere specified, within the development

application, for the ancillary operations over and above the Extractive industry area the quarry cannot function as proposed. Therefore, I believe, it is clear this development application is fundamentally flawed.

I believe, the existing concrete plant is not permitted to operate in this area either. This highlights, yet again, that this quarry is operating beyond its current approval and is proposing to continue doing so as part of the current development application.

I note that the Concrete plant was apparently given development approval in 1994. However, I find this confusing as the intent of this area, as stated in the original rezoning agreement: 'Proposed zone, (Recital B and Clause 1.14)' is a 'Special facilities' area (Ancillary purposes to extractive industry) including processing, plant, stockpiling, magazines, water storage, workshops, stores, weighbridge and offices, decantation, ponds, dams, access in accordance with Plan of development No. 362-010 Attachment E2). Clearly it is not part of the extractive footprint but an ancillary operations area to it. This is further demonstrated in 'Section I' of the Rezoning Agreement reproduced in Attachment 15.

This 'Special facilities' area is clearly not for the production of concrete which is NOT an ancillary operation of extractive industry. It may be very convenient for the applicant and cost effective. However, I believe, it is not appropriate and/or permissible within an Extractive Industry zone.

I also note the concrete production facility has apparently been bestowed with beneficial operating hours inconsistent with the City Plan requirements for Extractive Industry 9.3.8 Hours of Operation, Performance Outcome PO6, which states: *"Activities undertaken on site are conducted within appropriate hours to minimise nuisance to adjoining and surrounding development"* and Acceptable Outcome AO6.1 which states operating hours: *'Monday to Friday are 7:00am to 6:00pm'* (Attachment 16). However the hours stated in the development application, hidden deep in the BAAM Ecological assessment, is: *"For batching plant: October to April Commence 4am cease 3pm, May to Sept Commence 5am cease 3pm"* (Attachment 17). I see this as a clear attempt to outwardly look to be compliant with the City Plan requirements when of course they are clearly not.

It should also be remembered the Concrete Production plant is currently approximately 520 metres from the closest local resident's home and 1.38 km from the Oxenford State School. However, the proposal is to reduce this down to 200 metres from local residents and 450 metres from the Oxenford State School. It would seem these required non-compliant operating hours (Attachment 17) are clearly highly inappropriate given the severe reduction in separation buffer proposed.

I know of no other quarry in the Gold Coast region that has been permitted an on-site concrete production / batching facility. This is clearly as you would expect given the strict requirements of an Extractive Industry Zone. Why has Nucrush been permitted, despite having ridiculously small separation buffers from local residents (well below the 1000m separation buffer requirements), to perform on-site concrete production / batching that is clearly at odds with the requirements of City Plan Extractive Industry code and their Current Approval also? And, why has the hours of operation been amended to the ridiculous unsocial start times of 4am and 5am much to the detriment of local residents despite the City Plan Extractive Industry Code requirements, 9.3.8, PO6 which clearly states: *"to minimise nuisance to adjoining and surrounding development"*?

Finally, I would also like to bring your attention to the Nucrush premix concrete Material Data Sheet. This identifies that the premixed concrete produced contains crystalline silica which is classified as hazardous. Also, the following risks are highlighted: Harmful by inhalation (Risk Phase R20), harmful in contact with skin (R21), harmful if swallowed (R22) may cause skin irritation (R43 and danger of serious damage to health by prolonged exposure through inhalation (R48). This is reproduced in Attachment I8. Thus, showing the additional risk local residents are being subjected to by the production of premixed concrete on the site that is supposed to be an extractive industry site and is NOT a concrete batching and/or mixing site.

It is noted these additional risks, of having an on-site concrete production facility, are, negligently in my opinion, not included as part of the development application.

### Rezoning approval Conditions

Under the Queensland Planning Act 2016, Chapter 8, Part 2, Division 7, Section 137, 'Rezoning approval conditions', it states: *"(2) If a person wants to change a rezoning condition, the person must make a change application under this Act as if the rezoning condition had been imposed by the local government as assessment manager"* (reproduced in Attachment J1).

Therefore, to change this area to an extension to the extractive footprint would require a change application under this act. However, I do not see that reducing clearly defined buffers, that were established for clear reasons at the inception of the quarry from residential homes and suburban areas would be an appropriate use of this act.

## Conclusion

It is clear the intent of the Rural 'B' prohibited development area was to ensure the quarry did not encroach on the planned residential development for the area. This residential development has over the intervening time now happened with fully legally built homes with full council approval right up to the quarry boundary, as agreed, and protected by the clear requirements of the original current approval for the life of the quarry by way of the prohibited development area.

It is, in my opinion, negligent that the applicant did not rezone this area as agreed. It is also, I believe, negligent that the Council failed to enforce this clear requirement. However, it is clear the intent of this area and I do not believe the redefinition as part of a KRA changes the clear intent of this area for the life of the quarry and thus does not permit the inclusion of this area for use as extractive footprint and ancillary plant area and the proposed concrete production facility in this area too. And within 150 metres of homes. I am sure a judge will agree with my strong belief that this would not be acceptable use of this prohibited development area.

It is also noted the 'Buffer land' and 'Permanent tree and shrub screening' agreed areas have also been, in my opinion, incorrectly, or ill-advisedly, included as part of the KRA. However, as the judge said in 'Robertson DCJ, Neilsens Quality Gravels Pty Ltd v Brisbane County Council': *"I think Council's submission to the effect that the designation of the site KRA60 by SPP02/07 'merely protects the land from encroachment by inappropriate development and preserves access to it', understates the importance of this fact in the assessment process. It goes further in its terms, but does not 'guarantee'*

an approval which will be subject to impact assessment against the relevant planning scheme provisions”.

Any council approval of quarry expansion into any of these protected development areas will, I believe, force me to challenge this in court on behalf of the large number of residents of the area who will be deeply affected by the development application proposals to reduce the separation buffer to an untenable 150 metres, as will the local Oxenford State School also, if their separation buffer is effectively halved to within 345 metres in the northeast. Also, within 370 metres of homes to the south and west as would appear to be proposed. Obviously, I hope common sense will prevail and legal action against the Council, on behalf of the large number of affected residents, will not be necessary.

Thank you in anticipation,

Kind regards

Tony Potter

\* Disclaimer. Please note my findings are believed correct and are to the best of my ability. However, there may be errors and assumptions I have made that are incorrect. I do not believe this to be the case, but, realise with the vast amount of submitted data from the applicant, errors and assumptions on my part may occur. Hopefully this is not the case, but please accept my apologies if this is so. Thank you.



Attachment A1 - Identification of a Key Resource Area does not authorise extraction and/or development approvals

business.qld.gov.au/industries/mining-energy-water/resources/quarries/key-resource-areas/development-approvals

 **Queensland Government**

**Business Queensland**

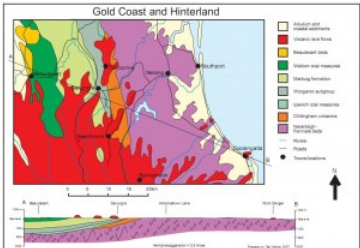
## Development approvals in Key Resource Areas

### Quarries and other extractive industries

Identification of a site as a Key Resource Area (KRA) and inclusion in the State Planning Policy (SPP) does not in any way authorise the extraction of the resource nor give anyone the right to establish or operate a quarry. The SPP is designed to maintain access to resources so they can be approved under the development assessment process when they are needed.

Attachment A2 - Neranleigh-Fernvale Beds, Map 1 of 2

## Geological maps show geological history of the Gold Coast, Australia

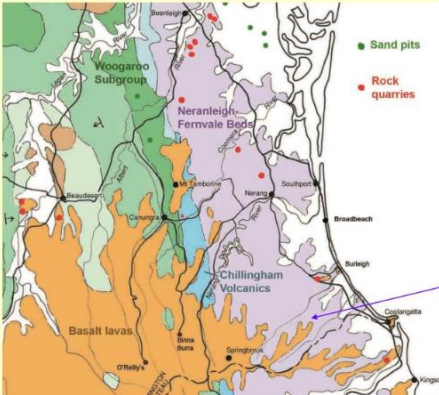


This geological map (figure 1) of the Gold Coast area in Queensland has each geological unit marked in a different colour. The legend on the map signifies what each colour refers to, and is arranged with the youngest rocks at the top and the oldest at the bottom, the same way they are found in the field. The diagram also shows an interpreted geological cross section across the map on the diagonal line.

The purple area represents the Neranleigh-Fernvale Beds, which cover a large part of the map and are visible in rock outcrops (figure 2) and road cuts on the Gold Coast. A number of different kinds of rocks make up the Neranleigh-Fernvale Beds but geologists have lumped them together under the same name because they are pushed around, tipped up, mixed up, and not clear how they all connect together. The different kinds of rocks include: sandstone, mudstone, altered basalt, and beds of crystallized silica called chert.

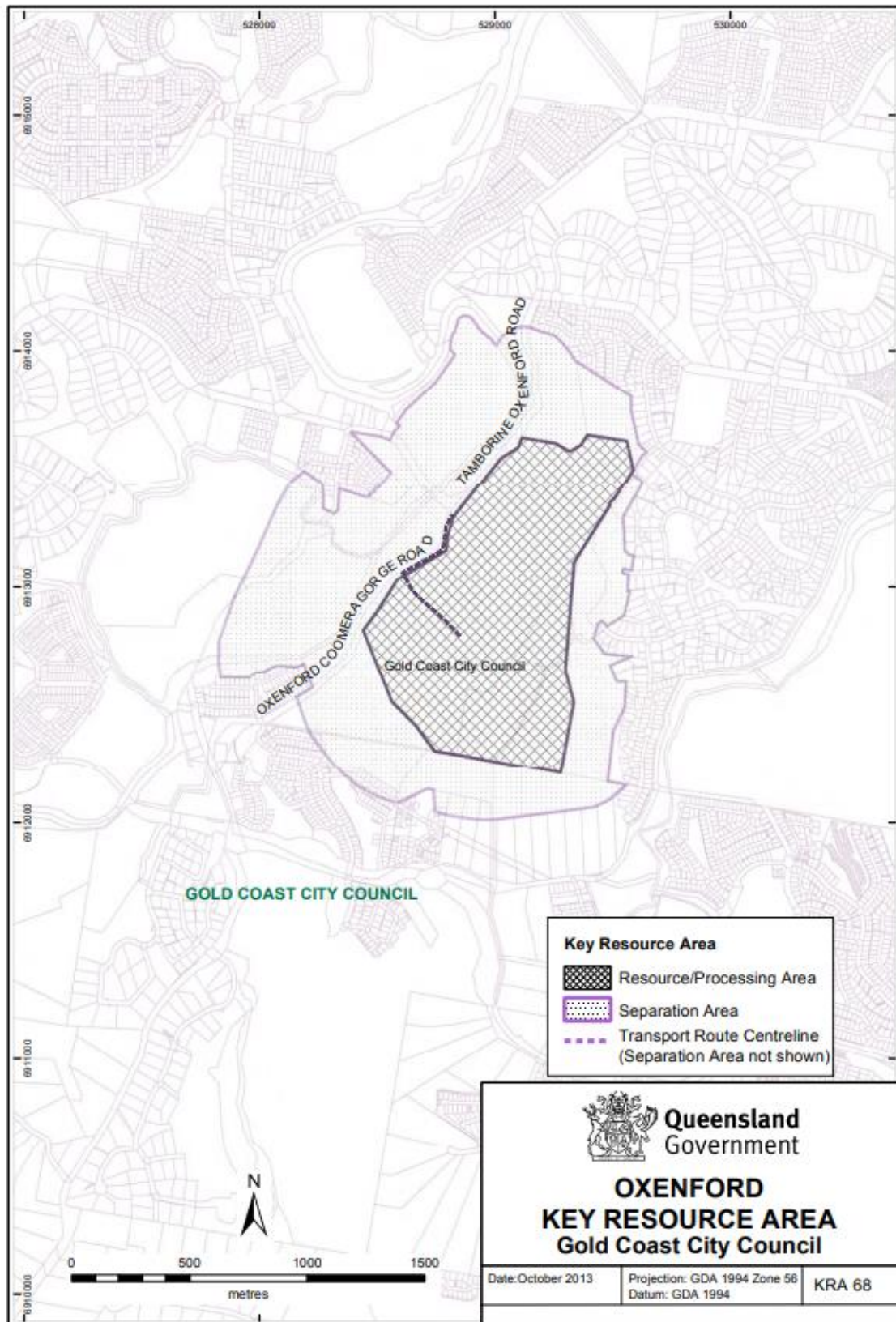
Figure 1. Geological map and cross section of the Gold Coast and Hinterland, Australia.

Attachment A3 - Neranleigh-Fernvale Beds, Map 2 of 2

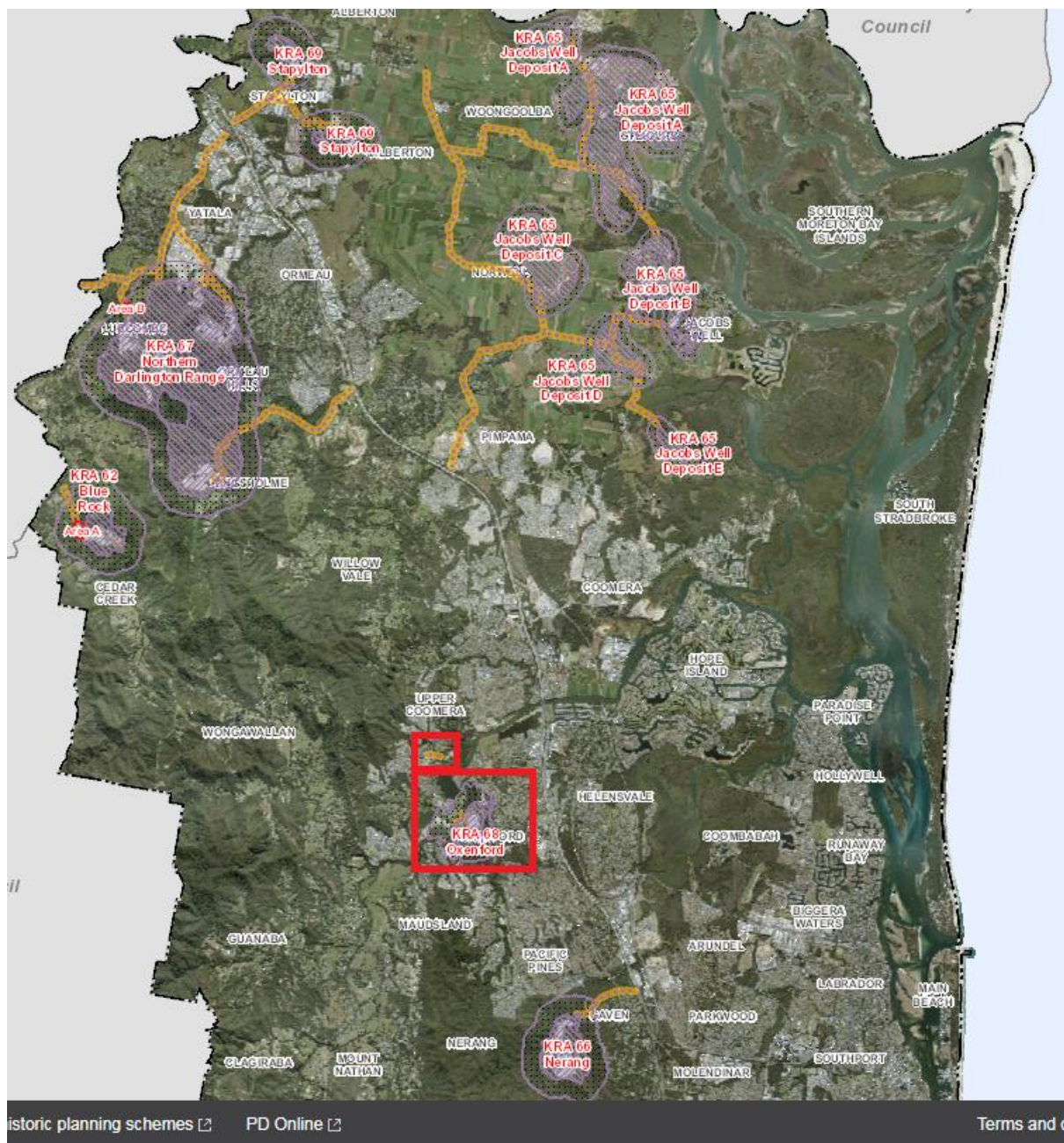


**One convenient geological unit can provide much of the rock – the Neranleigh-Fernvale beds**

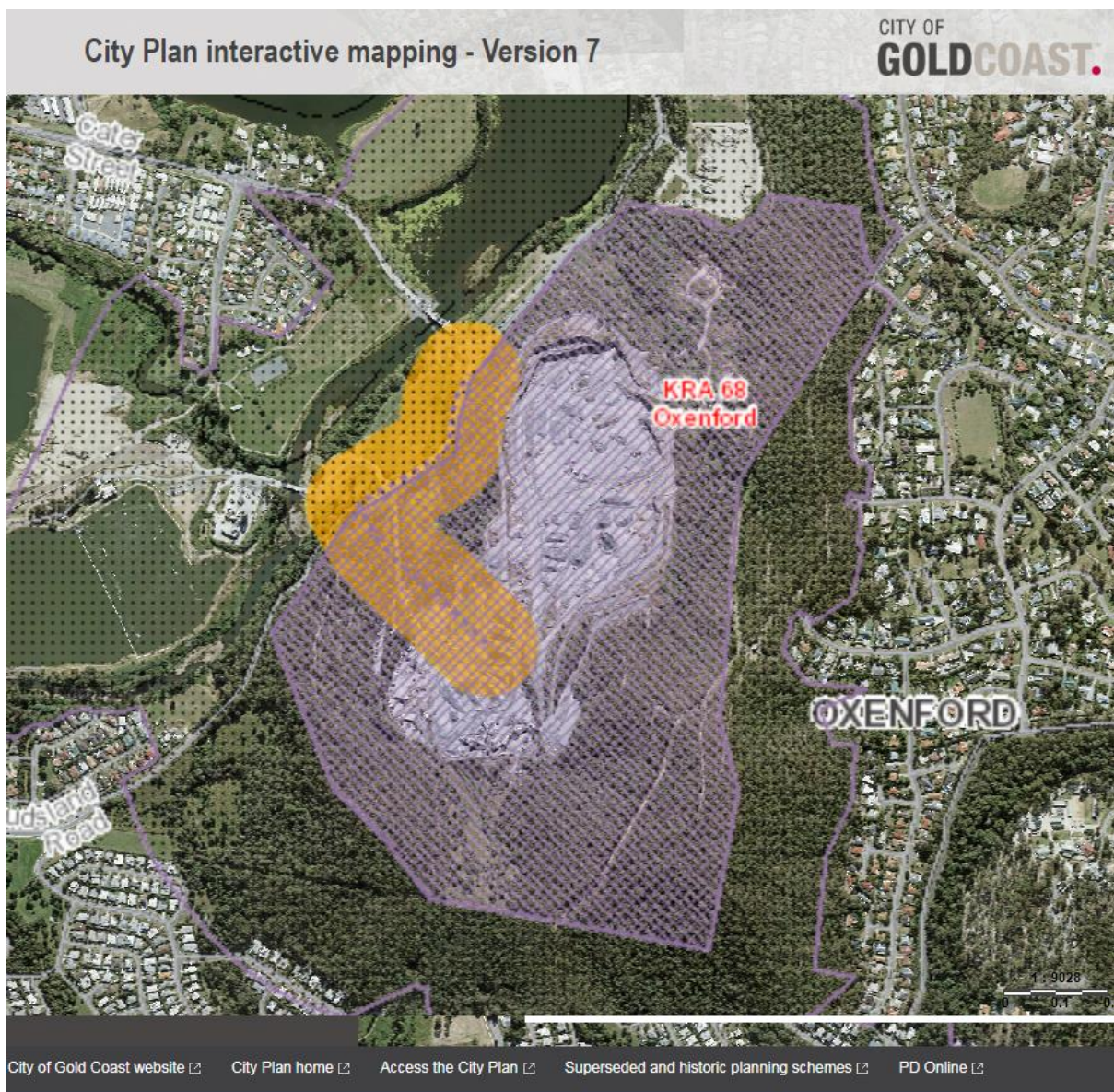




Attachment B2 - Gold Coast City Council Transport routes for quarries in the Gold Coast

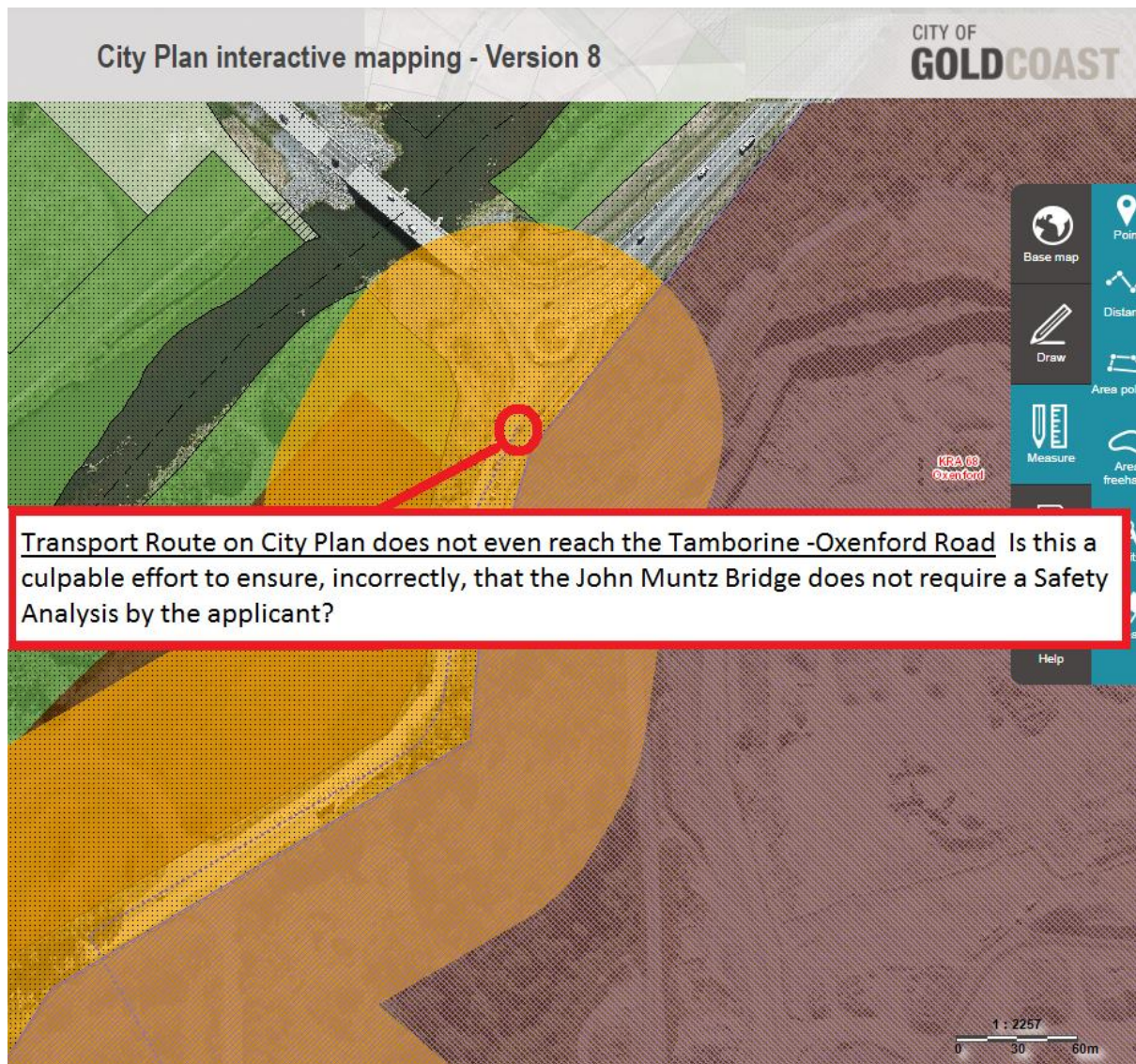








Attachment B4 - Gold Coast City Council City Plan Haulage route deficient in only protruding 285 metres from Nucrush entrance, falling short of the John Muntz bridge, despite the 'Transport Route' being a full 4km to Pacific motorway



Attachment B5 - Transport Route:

As extracted from: State Planning Policy - Mining and extractive resources

(spp-guidance-mining-and-extractive-resources-july-2017.pdf)

**Table 2: KRA components**

Component	Detail
Resource/ processing area	<p>The extent of the extractive resource and any operational areas associated with the extraction and processing of the resource.</p> <p>The boundary of the area is defined by the potential for extractive industry activities, and includes the resource area where blasting and other primary extraction would take place.</p> <p>The area can include adjacent areas where other extractive activities (such as crushing, screening and stockpiling) may occur.</p>
Separation area	<p>The separation area is the area surrounding the resource/processing area required to maintain separation from people who may be affected by residual impacts such as noise, dust and ground vibrations of existing or future extractive operations in the resource/processing area.</p> <p>The minimum distance is 200 metres for resources that do not require blasting or crushing to extract (sand, gravel and clay) and 1,000 metres for hard rock resources where blasting and crushing of material is required.</p> <p>An extractive resource might extend beyond the boundary of the resource/processing area and, where this occurs, an extractive industry could take place in the separation area, provided that the function of the separation area is not compromised.</p> <p>In some cases the separation area may be less than the minimum distances in consideration of local features such as topography or existing development commitments for incompatible land uses.</p>
Transport route	<p>The shortest practical route used to transport extracted resources to market.</p> <p>The transport route is a road or a rail link from the boundary of the resource/processing area to a major road or railway.</p>
Transport route separation area	<p>The area surrounding the transport route needed to maintain separation of people from undesirable levels of noise, dust and ground vibration produced as residual impacts from the transportation of extractive material. The distance is measured 100m from the centre line of the indicated transport route for a KRA.</p>



As defined by the Transport and Main Roads (TMR)

## Different types of roads and their purpose

### Transport and Main Roads

## Different types of roads and their purpose

#### What are the different roads?

Queensland's road network forms a vital link connecting communities with goods, services and leisure activities. As you drive through Queensland, you will notice that all roads are not the same. That is because we need different roads for different purposes.

An easy way to identify the various types of roads is:

- local roads
- collector and distributor roads
- sub-arterial and arterial roads - these are the major highways, motorways and freeways.

Also, while not technically a road, bikeways provide the general community with an alternative means of travel.

##### Local roads


Local roads are largely the neighbourhood street system. These roads are relatively free of through traffic and mostly handle local traffic. The challenge in these areas is to provide a high level of safety and adequate access to neighbourhood services and facilities. Local roads are typically maintained by the local authority.

##### Collector and distributor roads

Collector and distributor roads are the roads that connect communities to the major sub-arterial and arterial roads in Queensland. Typically, they allow for the transport of agricultural goods and the like, to major highways for transport to markets. Similarly, in an urban environment they tend to be the roads connecting suburbs to the major freeways.

##### Sub-arterial and arterial roads

Sub-arterial and arterial roads are the major connecting roads across Queensland. They include highways, freeways and motorways. On an average day, they handle large volumes of freight and passenger vehicles.



#### Major arterial roads

##### Ipswich Motorway upgrade: Dinmore to Goodna

This \$1.95 billion project, funded by the Australian Government, involves upgrading eight kilometres of the Ipswich Motorway between Dinmore and Goodna. Construction started in mid 2009 and is expected to be completed by the end of 2012.

The project will deliver many benefits to Queensland, including:

- More reliable travel times along the motorway.
- Reduced congestion by significantly increasing motorway capacity and traffic flow.
- Improved pedestrian and cyclist facilities.
- New and upgraded local roads and cross-motorway connections.
- Improved motorway safety through smoother geometry and longer, more evenly spaced on and off ramps.

The Department of Transport and Main Roads has formed Origin Alliance to deliver this project. For more information, visit [www.tmr.qld.gov.au/dinmore2goodna](http://www.tmr.qld.gov.au/dinmore2goodna). Alternatively, you can contact the Community Engagement Team on 1800 465 682.


#### Overtaking lanes

A two-lane road with overtaking lanes provides a level of service between that of two lanes and four lanes. The role of overtaking lanes is to provide an economical and practical method of breaking up traffic queues and improving traffic flow. Before traffic volumes demand an upgrade to dual carriage-ways, overtaking lanes maximise use of the road. Overtaking occurs when drivers want to overtake another, slower moving vehicle. Overtaking lanes provide an opportunity to overtake safely. When planning overtaking opportunities, designers employ a number of different technical methods to determine where and when overtaking opportunities should exist.

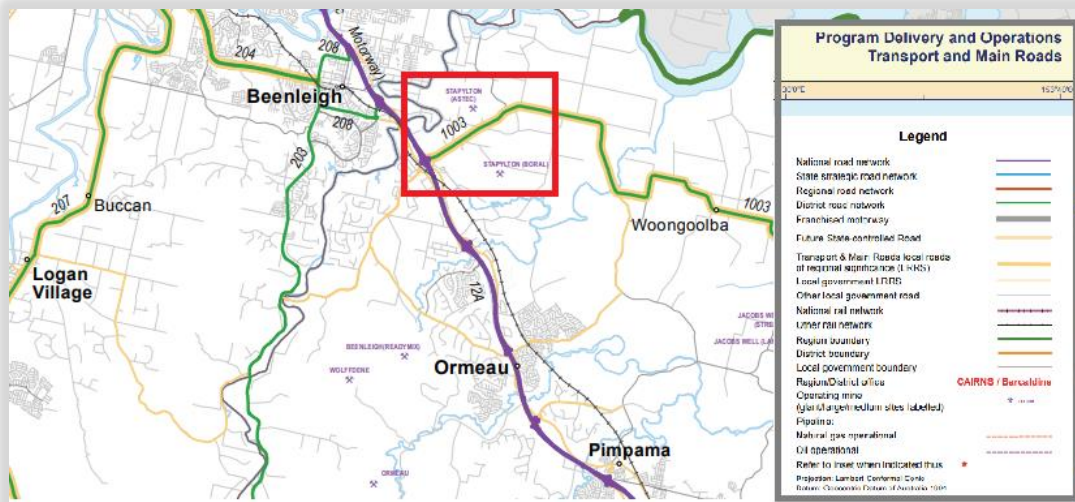
Factors such as site distances, the nature of the traffic on the road, location of gradients, the geometry of the road, intersections and accesses, the length of road and spacing are all considered when overtaking lanes are designed. The provision of overtaking lanes is one of the ways the department provides a positive, safer road user experience.

Connecting Queensland  
[www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)

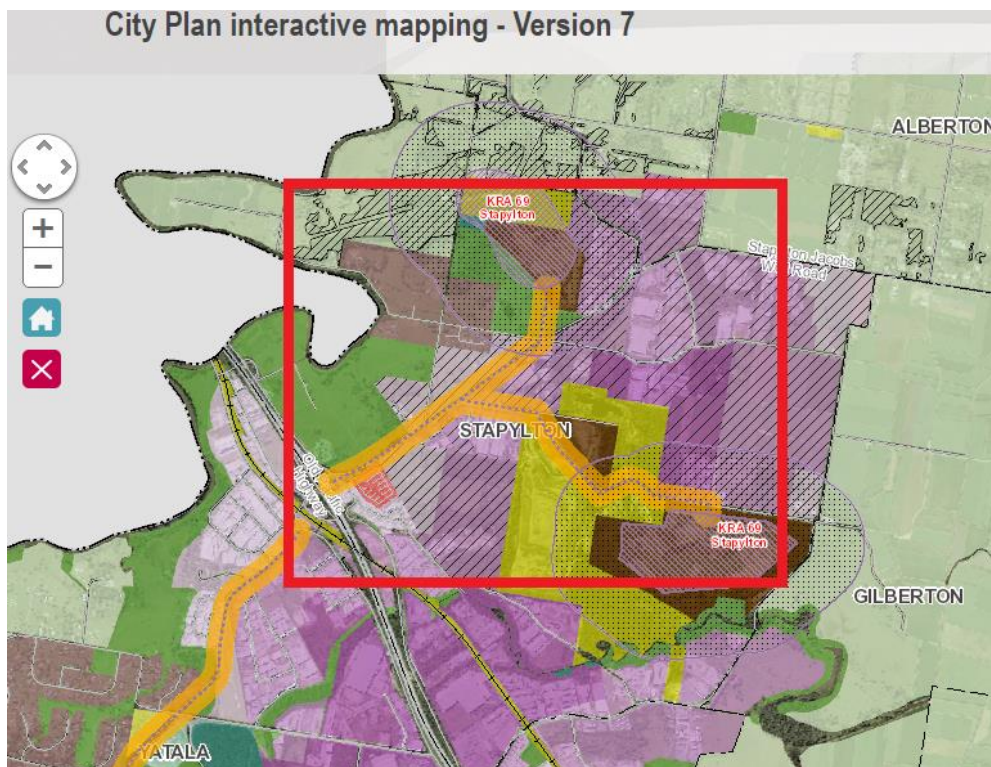
**Toward** <sup>2</sup>  
Tomorrow's Queensland

 **Queensland**  
Government

## Attachment B7 - State Controlled Road - Boral Stapleton (KRA69)

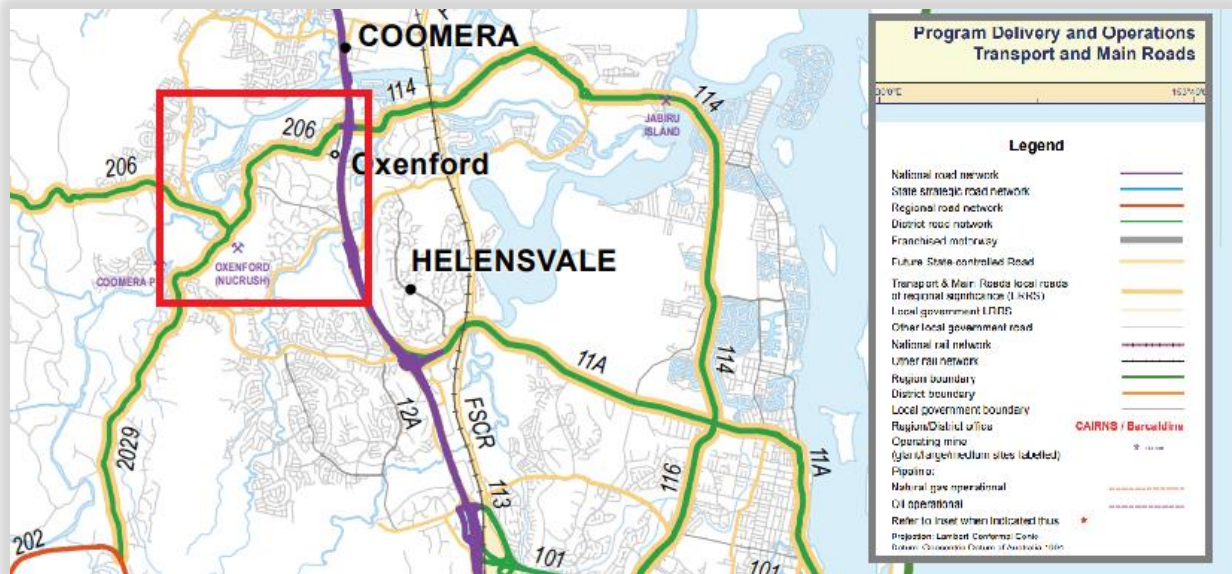


## Attachment B8 - Transport Route - Boral Stapleton (KRA69)





Attachment B9 - State Controlled Road - Oxenford (KRA68)



Attachment B10 - Haulage Route - Council Info request and applicant response

**2019-10-28 council Attachment no. 8 Traffic Engineering response to information request.pdf** 3 / 9

**24. Haulage route**

The applicant has not satisfactorily addressed Performance outcome PO7/ Acceptable outcome AO7 and Performance outcome PO20/ Acceptable outcome AO20 of the Transport code. The applicant is therefore requested to identify the route that haulage vehicles use to access the Pacific Motorway and the wider road network. Figure 4.1 of the Rytenskild Traffic Engineering Traffic Impact Assessment shows vehicles turning to and from the south on Maudsland Road, however the nature of these vehicles is unclear.

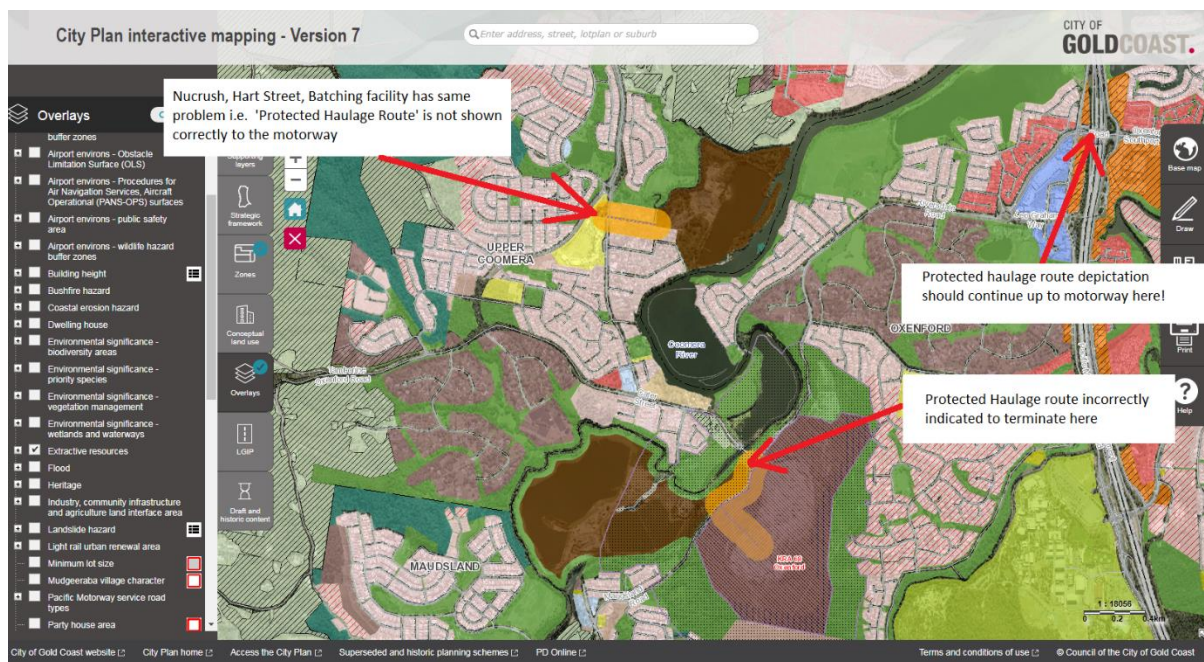
The applicant is requested to confirm:

- Whether haulage vehicles travel to/from the south from the subject site;
- If haulage vehicles do travel to/from the south, whether they use Council's road network (e.g. Gaven Arterial Road/Binstead Way) to access the Pacific Motorway; and
- The number of haulage vehicles that use this route on a daily basis.

**Response:**

All heavy vehicles generated by the site use the Tamborine– Oxenford Road route to and from the Pacific Motorway. This is the most efficient route between the site and the Pacific Motorway. Any use of local roads such as the Gaven Arterial Road and Reserve Road would only be for deliveries to projects in the local area that those roads provide access to.

## Attachment B11 - KRA 68 Transport route should be to Pacific Motorway



## Attachment B12 - City Plan Extractive Resources Overlay Code - 8.2.7

**City Plan** **CITY OF GOLD COAST**

City Plan / Part 8 Overlays / 8.2 Overlay codes / 8.2.7 Extractive resources overlay code

Print Bookmark Compare

**PART B – ASSESSABLE DEVELOPMENT BENCHMARKS**

**Table 8.2.7-1: Extractive resources overlay code – for assessable development**

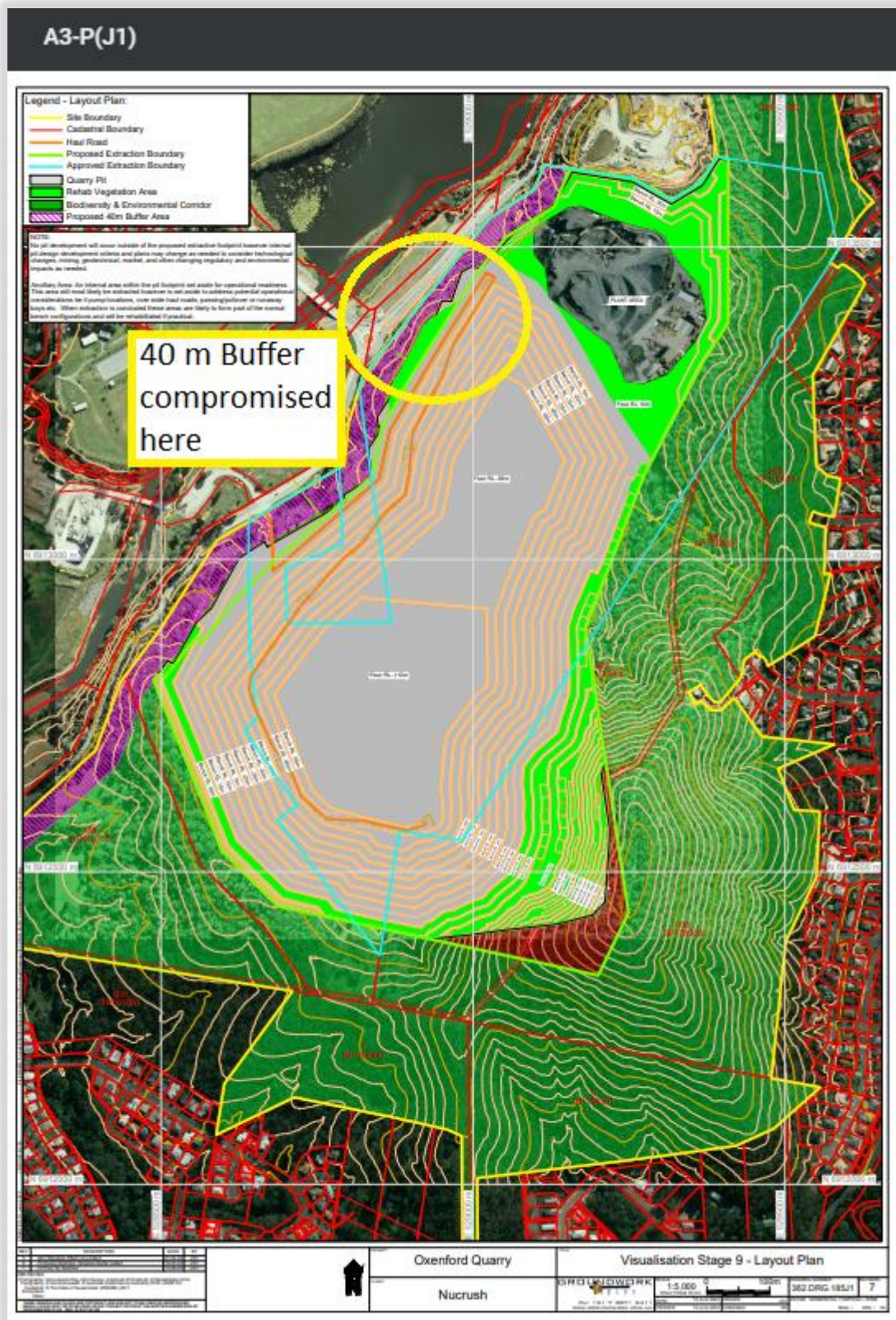
Performance outcomes	Acceptable outcomes
<b>Resource Area/Processing Area</b>	
<b>P01</b> Development where located within the Resource Area/Processing Area does not: (a) compromise the ability to extract the natural resource in a safe, efficient and sustainable manner; and (b) does not introduce or increase uses that are sensitive to the impacts of Extractive industry.	<b>A01</b> No acceptable outcome provided.
<b>Separation Area and 100m Transport route separation Area</b>	
<b>P02</b> Development where located within the Separation Area and 100m Transport Route Separation Area: (a) does not compromise the current and/or future extraction, processing and transportation of resources; (b) is orientated away from a Resource Area/Processing Area to minimise views/limit visual impact of Extractive industry, and (c) ensures an appropriately sized buffer between sensitive land uses, the resource/processing area and the transportation route of the KRA.	<b>A02</b> No acceptable outcome provided.

## Attachment B13 - Average annual production is 600,000 tonnes per annum

<b>Section 2 - The main application.pdf</b>	<b>24 / 354</b>
<b>4.3 Traffic Impact Assessment – Rytenskild Traffic Engineering</b>	
<ul style="list-style-type: none"> <li>The average annual production rate is approximately 600,000 tonnes per annum.</li> </ul>	

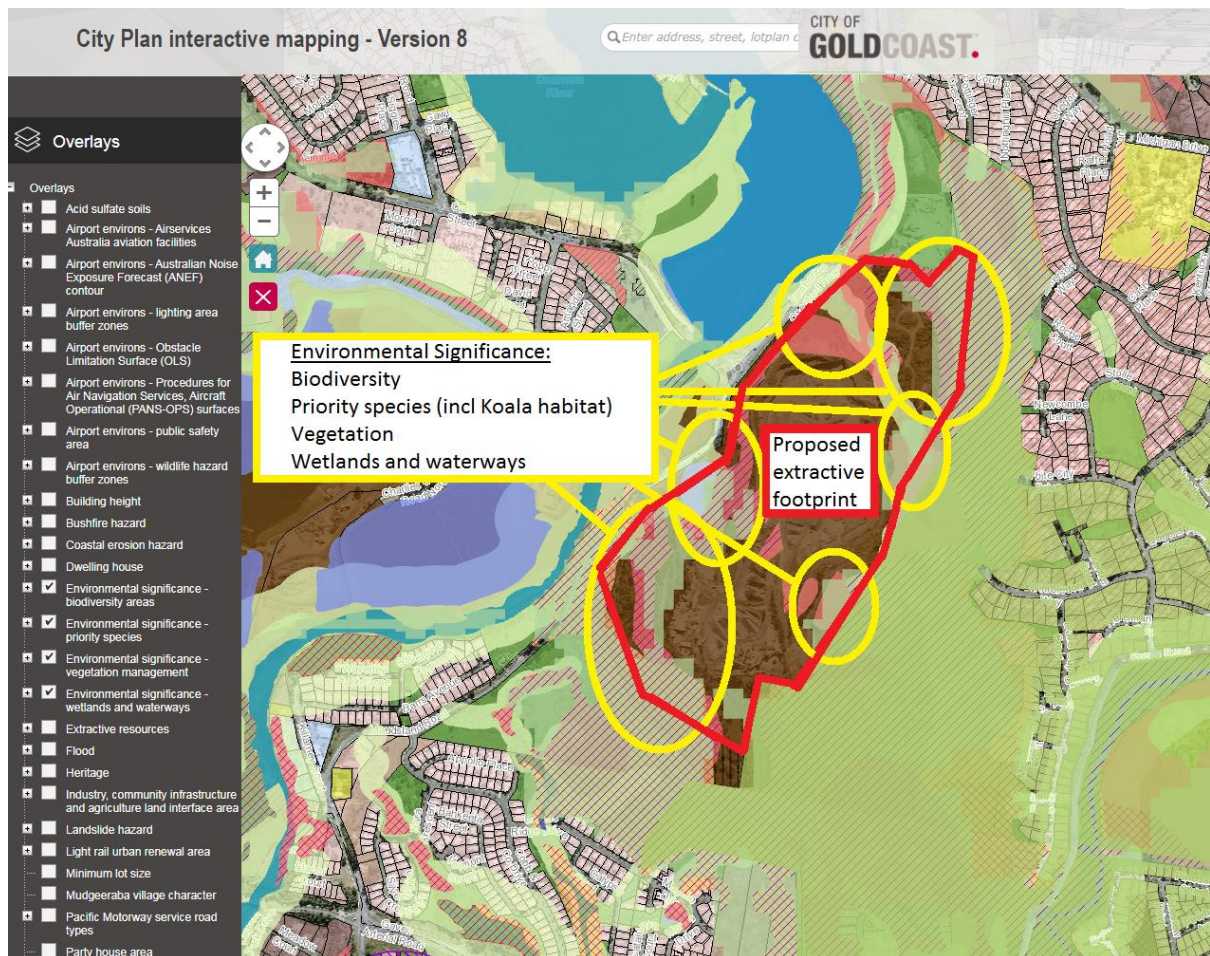


Attachment B14 - Required 40 metre buffer from road compromised





## Attachment C1 - City Plan Environmental Significant areas within proposed extractive footprint



## Part 9.3.8 Extractive industry code

2 / 4

## PART B - ASSESSABLE DEVELOPMENT BENCHMARKS

Table 9.3.8-1: Extractive industry development code – for assessable development

Performance outcomes	Acceptable outcomes
<b>Visual amenity</b>	
<b>PO3</b> Extractive industry developments are screened or located in areas of least visual impact and minimise views of any significant infrastructure and visually obtrusive development from major roads and surrounding residential areas.	<b>AO3.1</b> Extraction or processing activities are not conducted within 40m of any boundary of the site.  <b>AO3.2</b> Views of significant infrastructure and visually obtrusive development including quarry floors, benches and faces, are screened from the road frontage, major road corridors and adjoining residential areas.
<b>PO4</b> Development protects the visual character and amenity of the area by ensuring ridgelines are retained as a natural feature and buffer.	<b>AO4</b> Development is located at least 40m away from any ridgeline, as measured horizontally from the ridge peak.

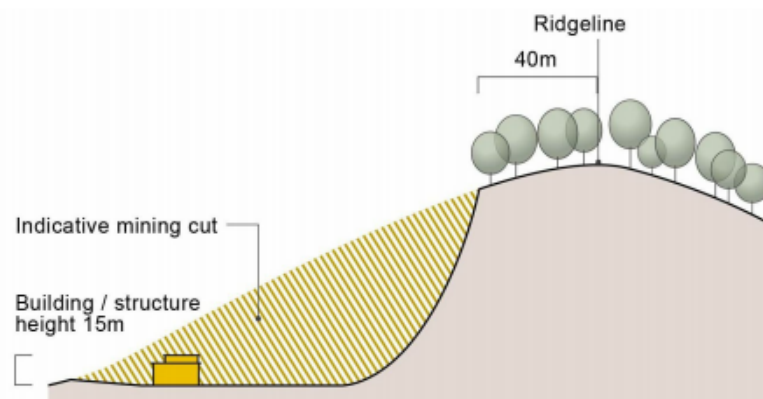
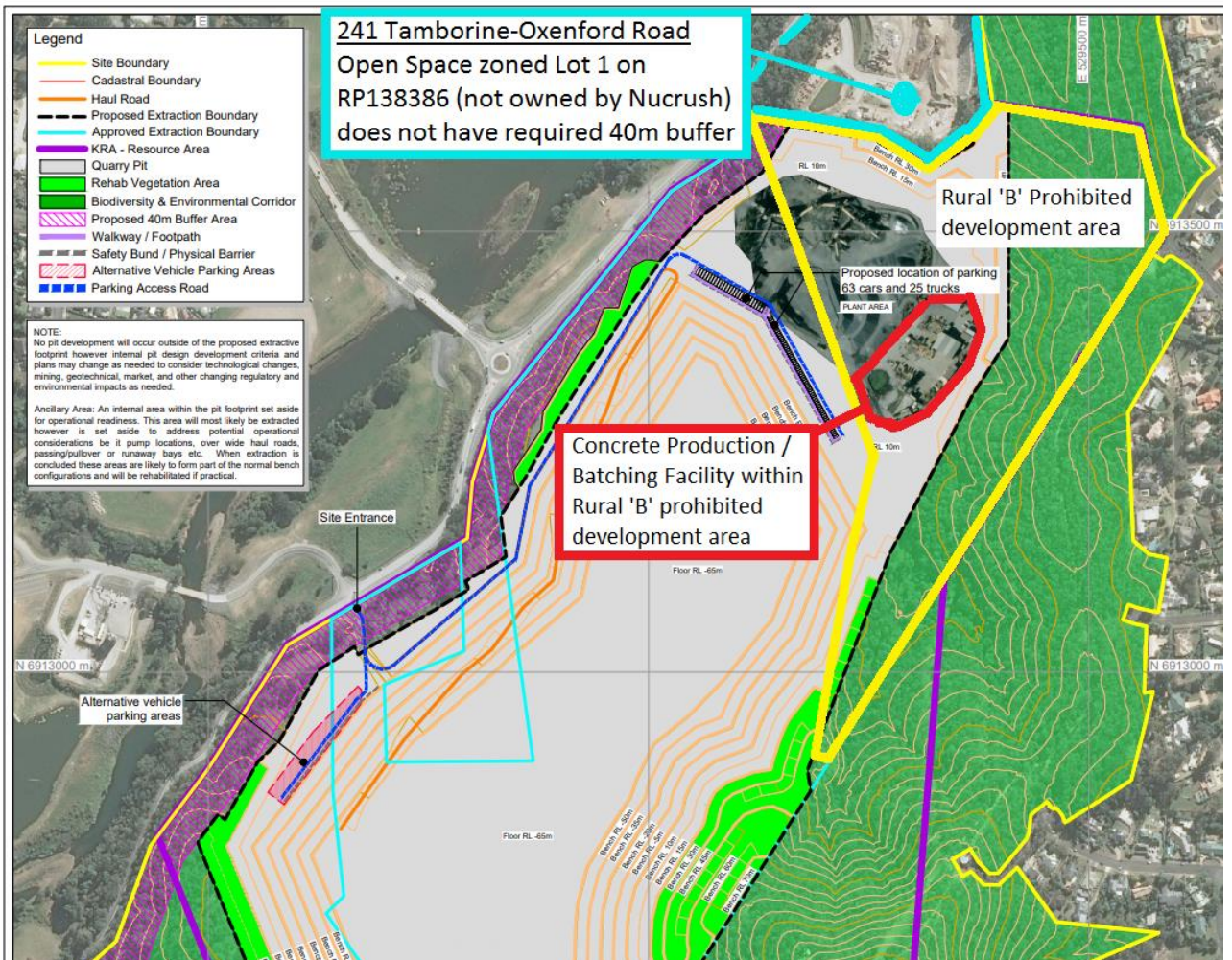
**Figure 9.3.8-1**

Illustration showing Extractive industry development is located at least 40m away from the top of the ridgeline, as measured horizontally from the ridge peak.

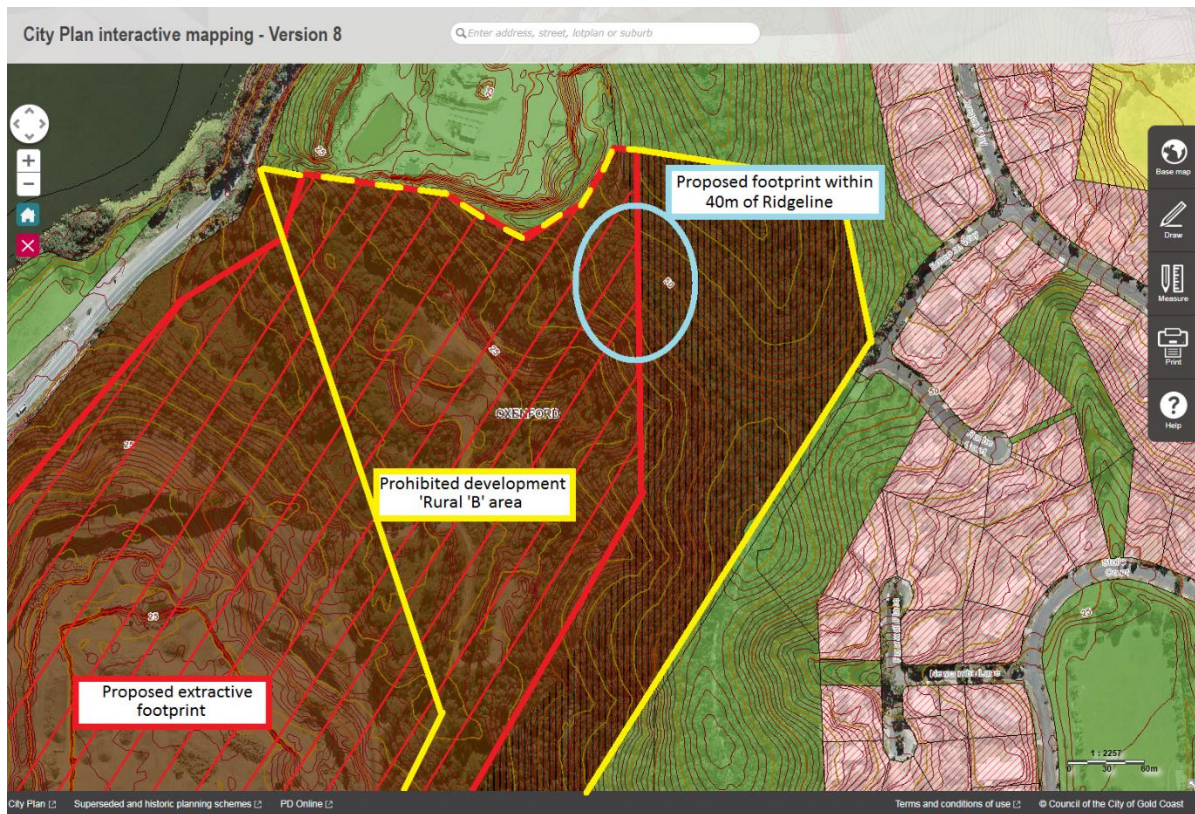


## Attachment D2 - Required 40 metre buffer from 241 Tamborine-Oxenford Road





### Attachment D3 - Required 40 metre buffer from 241 Tamborine-Oxenford Road



### Attachment D4 - Proposed extractive footprint ignores City Plan Indicative buffer



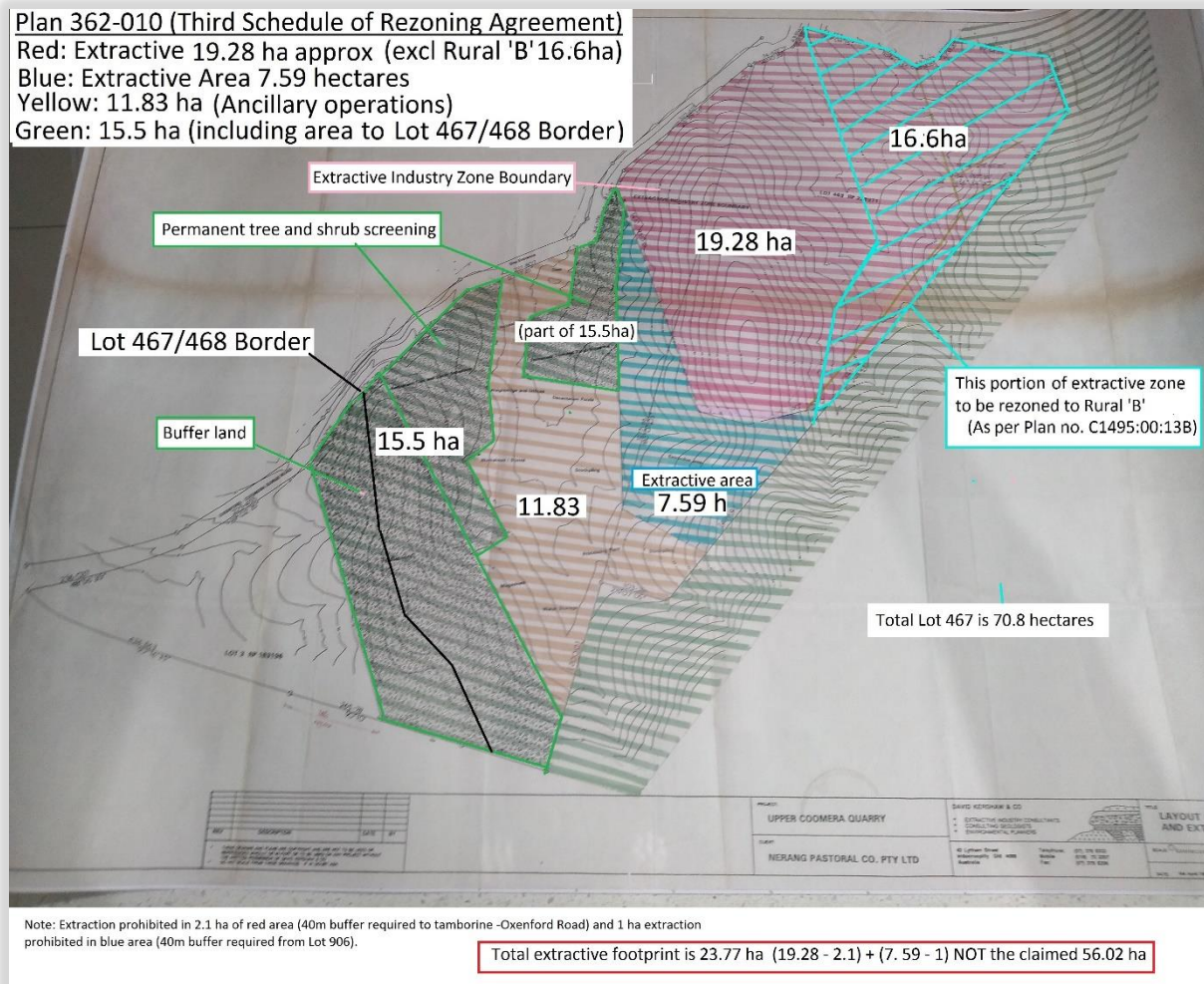


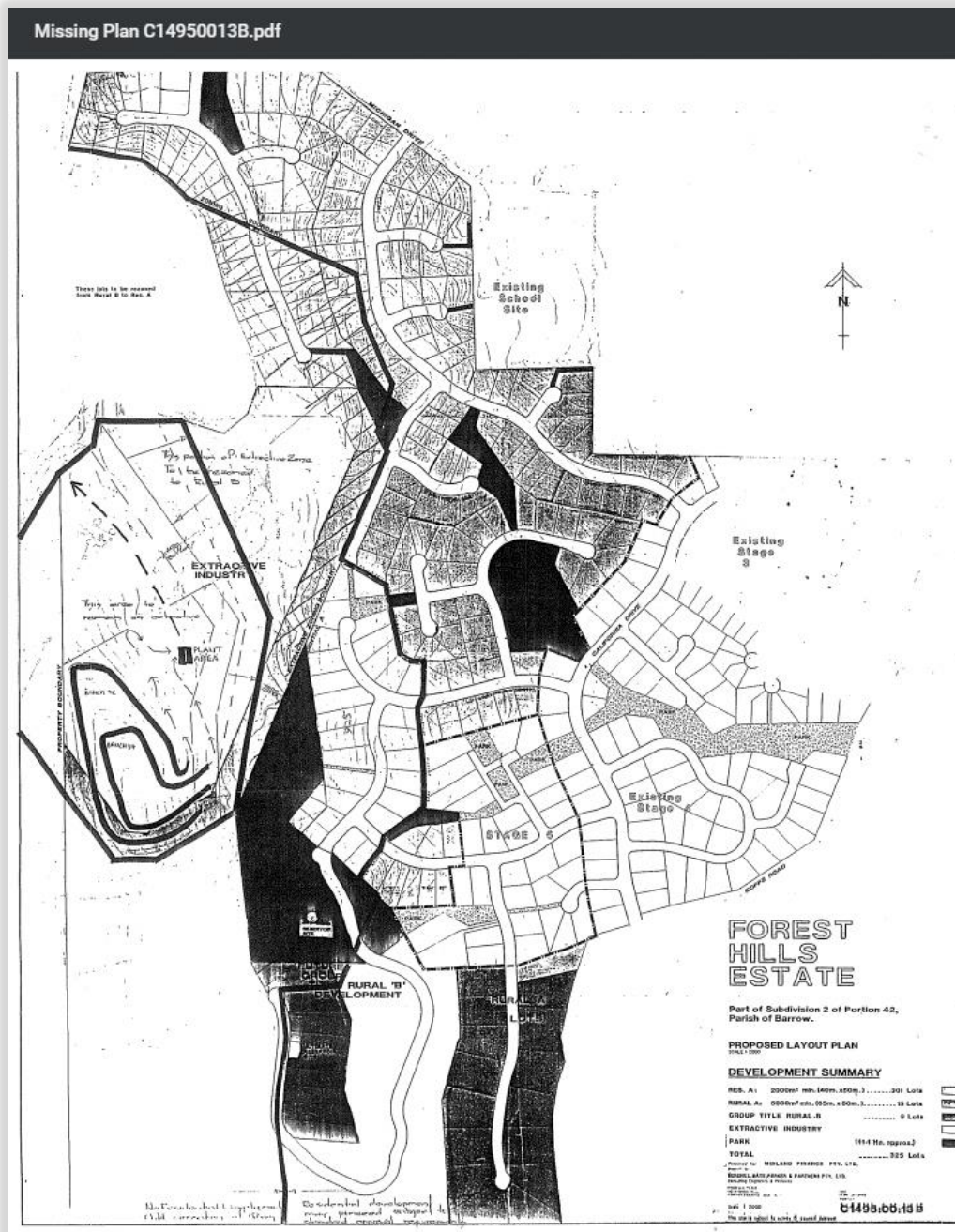
Attachment E1 - Missing 'Third Schedule' or Plan '362-010' from DA submitted copy of Rezoning agreement



Attachment E2 - Annotated copy of missing 'Third Schedule' or Plan '362-010' from Rezoning agreement

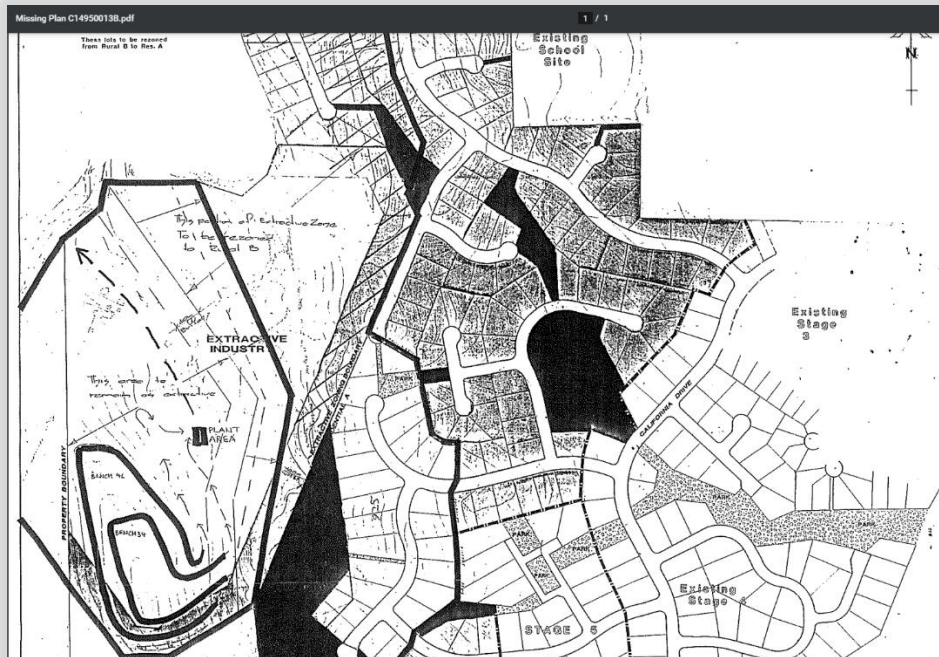
Note Extractive zone is approximately 23.77 ha



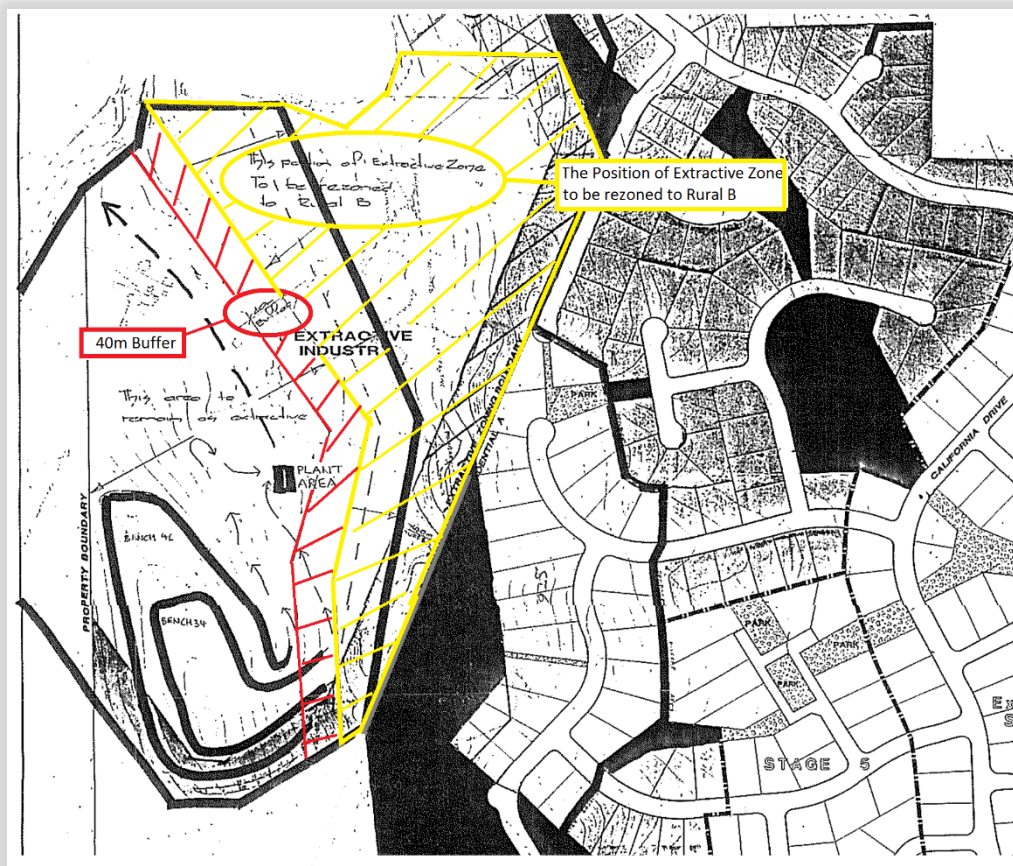




Attachment F2 - Plan C1495:00:13B, showing close up of: 'The portion of Extractive Zone to be rezoned as Rural 'B' (prohibited development area)



Attachment F3 - Plan C1495:00:13B, showing annotated close up of: 'The portion of Extractive Zone to be rezoned as Rural 'B' (prohibited development area)



Attachment F4 - DES Deputy Director General incorrect assumptions into scale of proposed development

2020-06-26 letter from Rob Lawrence.pdf

3 / 3

It should be noted that the current EA does not represent an expansion of 3.6 times the previously approved extraction area. The previous approved extraction area was approximately 55.4ha in size, with only 31.8ha disturbed to date, making the current approval of 66ha an expansion of 10.6 ha.

Yours sincerely



Rob Lawrence  
Deputy Director-General

Attachment F5 - Claimed extractive footprint is 56.02 ha

Claimed current extractive footprint 56.02 ha (66.62 ha - 10.6 ha)

2019-05-20 Section 2 - The main application.pdf

The proposal seeks an extension to the existing quarry by changing the approved quarry footprint to enable Nucrush to obtain better access to the existing natural resource present. The changes to the approved quarry footprint involves extending the footprint to the southeast and southwest whilst reducing the footprint to the northeast.

The proposal seeks to enlarge and realign the extraction footprint by approximately 10.6 hectares.

Accordingly the new footprint will ultimately have a total operational footprint of 66.62 hectares.

APPLICATION FOR REZONING

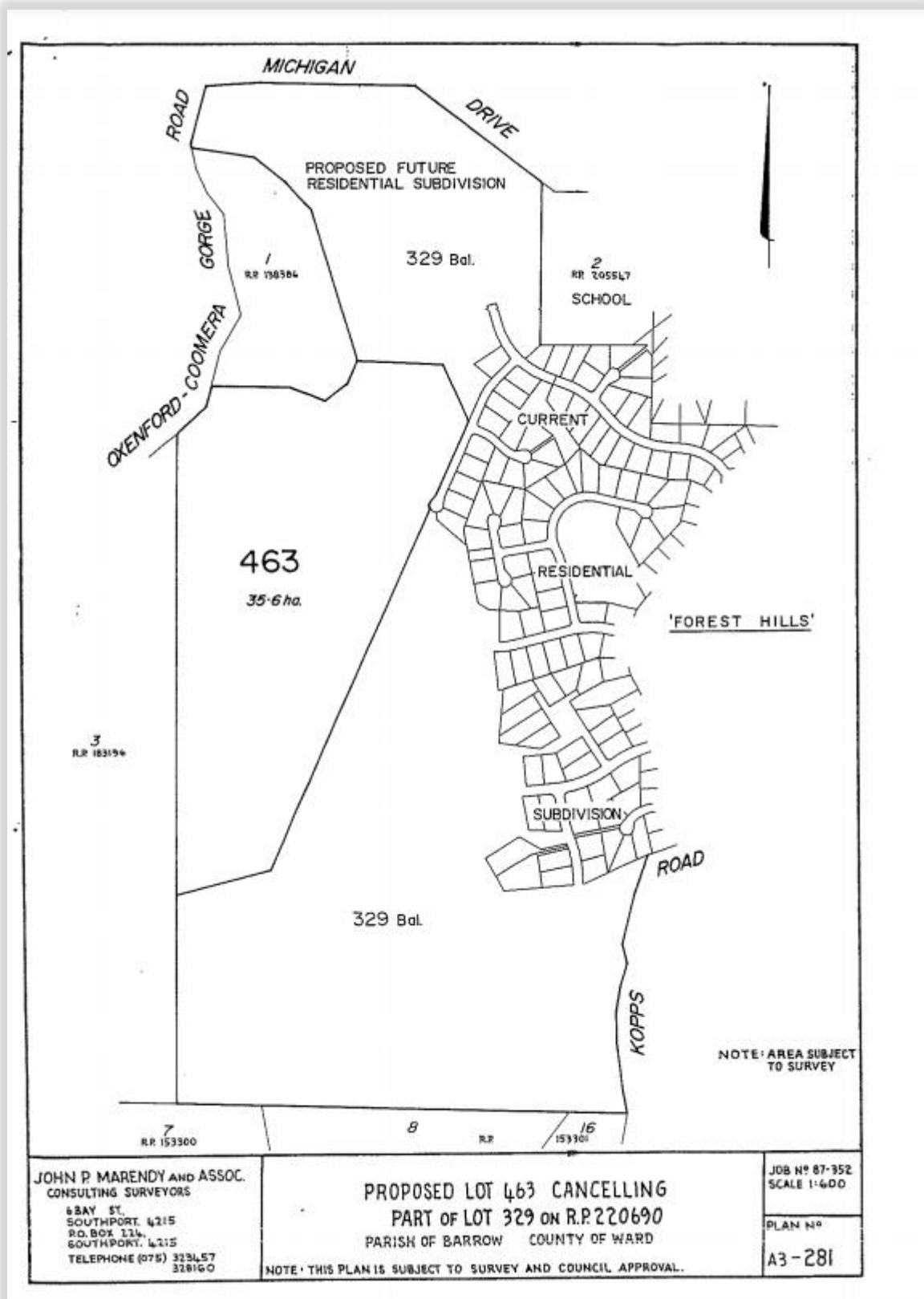
5. The Applicant shall forthwith make application to the Council for the rezoning of that part of the quarry land shown as "proposed Rural B" on the plan comprising the Second Schedule ("the buffer land") by excluding it from the "Extractive Industry" zone under the Town Plan and including it in the "Rural B" zone. Such application shall be made in the form required by the Council's by-laws and shall contain or be accompanied by all information and particulars required by law or otherwise reasonably required by the Council to enable it to determine the said application. The Applicant shall give public notice of the application as required by law.



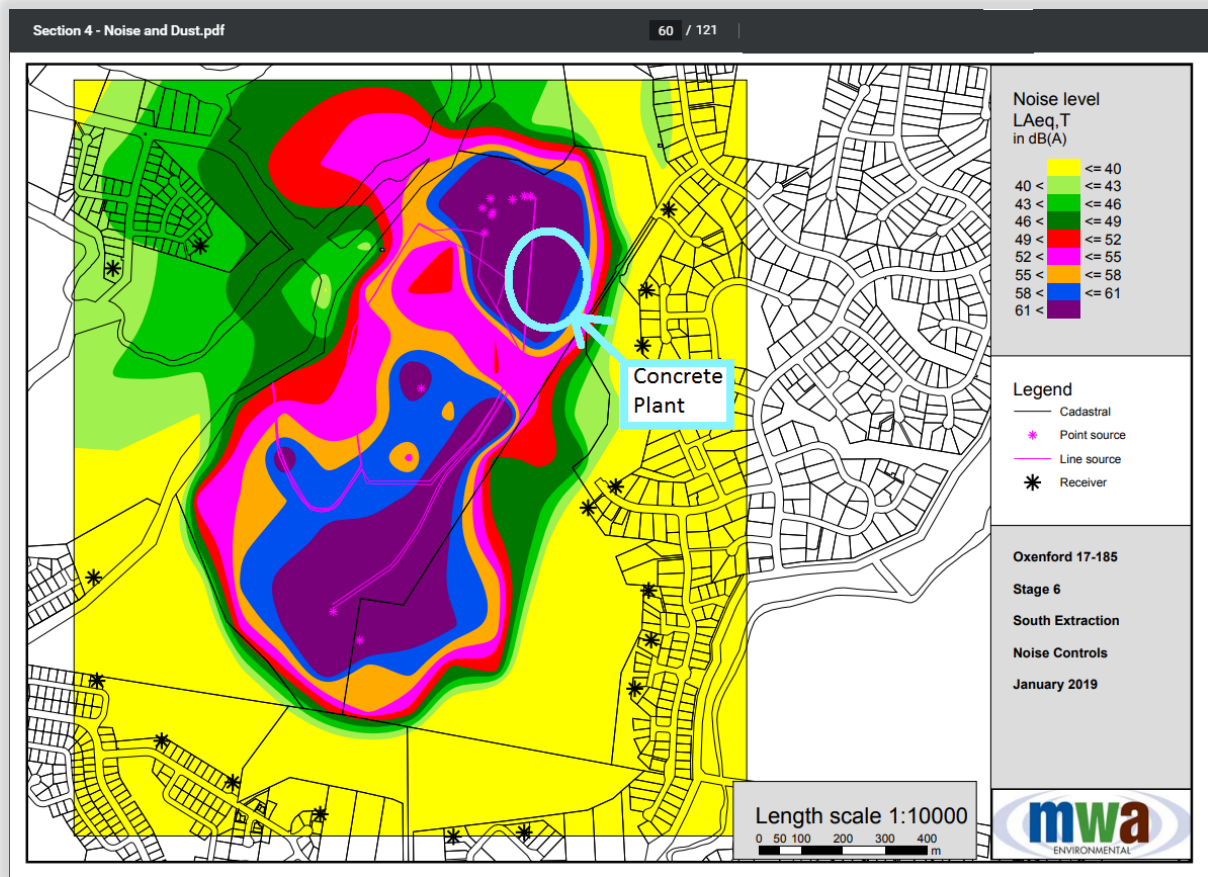


- L. The parties hereto are also party to a Deed of Novation dated 12<sup>th</sup> September, 1989 under which the Applicant agreed to be bound by the terms of a (Rezoning) Deed between the Council and Midland Credit Limited bearing the same date; as if it had originally executed the said Rezoning Deed.
- M. There is presently a dispute between the parties as to the Applicant's performance of certain obligations regarding rezoning part of the existing Extractive Industry Zoned land contiguous to the north as referred to in Recital H to the Rural B Zone as contained in clause 5 of the said Rezoning Deed.

Attachment H1 - Identification of Lot 463

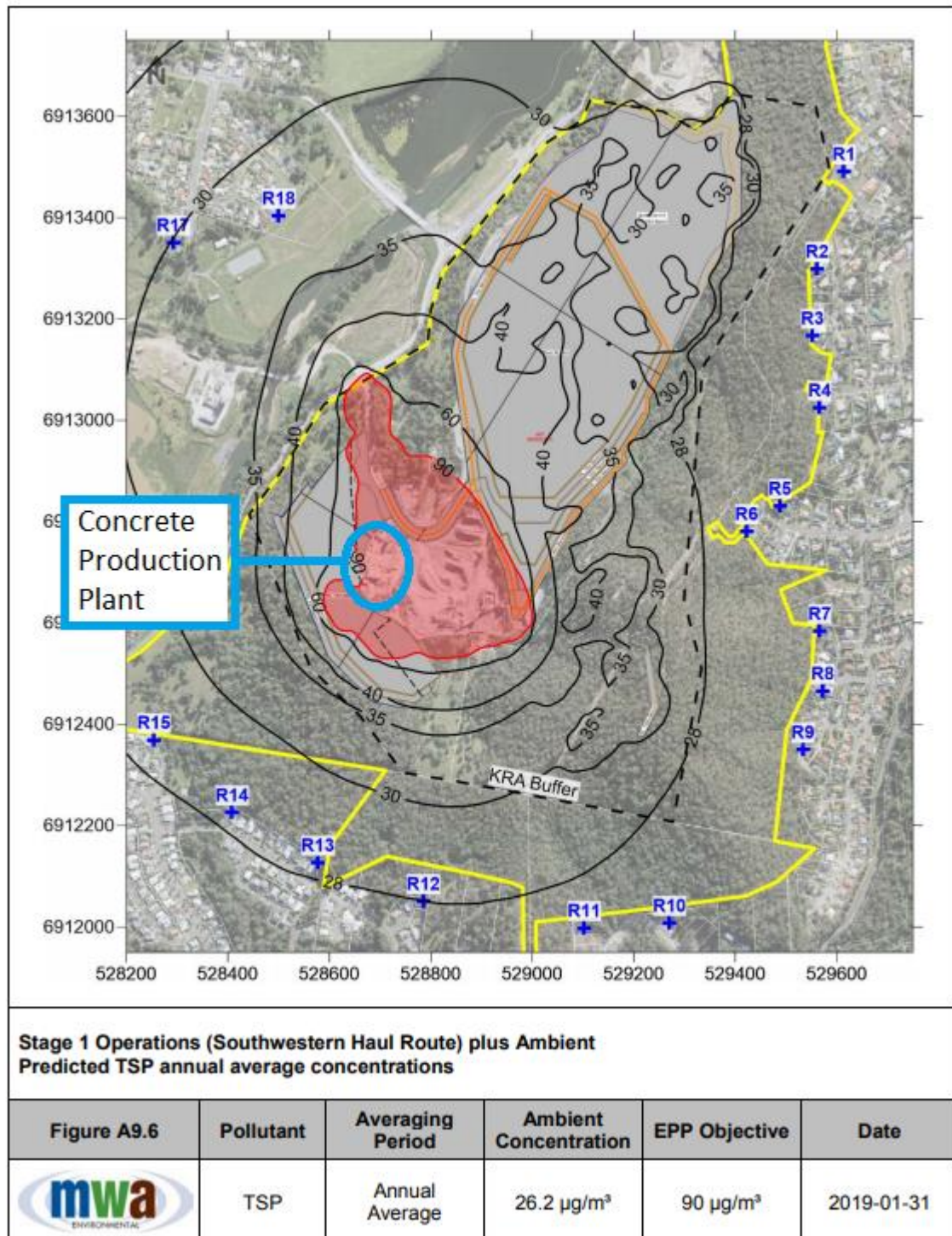


Attachment I1 - Noise modelling does not include Concrete Plant



## Section 4 - Noise and Dust.pdf

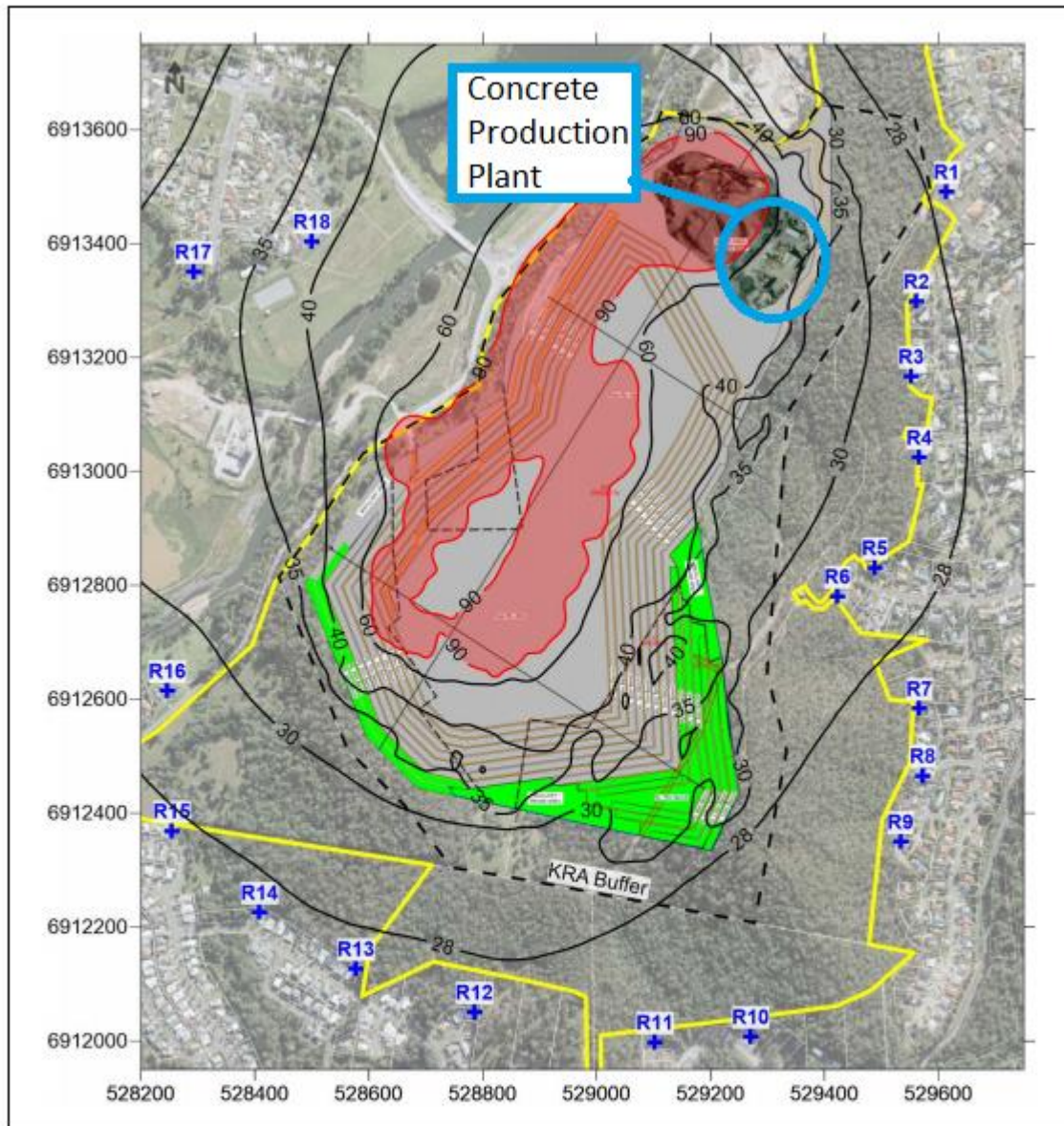
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Section 4 - Noise and Dust.pdf

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Stage 7 Operations plus Ambient  
Predicted TSP annual average concentrations

Figure A12.6	Pollutant	Averaging Period	Ambient Concentration	EPP Objective	Date
	TSP	Annual Average	26.2 µg/m³	90 µg/m³	2019-01-22



Attachment I4 - Existing setup showing Extractive Industry and Ancillary purposes area.



## Attachment I5 - 'Section I' of Rezoning agreement

### Original Rezoning agreement from Doc 5.pdf

H. The Applicant is also the registered proprietor of the land presently zoned Extractive Industry contiguous to the north of the subject land, described as part of Lot 463 on Registered Plan No. 228373 and part of Lot 3 on Registered Plan No. 183196, and, is coloured pink on the said Plan of Development.

I. Plan of Development No. 362-010 dated 5th April, 1991 comprising the Third Schedule is to be the Plan of Development for the whole area zoned Extractive Industry and Special Facilities (Ancillary Purposes to Extractive Industry including Processing, Plant, Stockpiling, Magazines, Water Storage, Workshops, Stores, Weighbridge and Offices, Decantation Ponds, Dams, Access, Permanent Tree and Shrub Screening) now owned by the Applicant (hereinafter referred to as "the Extractive Industry Area").

J. It is the intent of the parties, and is hereby agreed, that the whole Extractive Industry Area is to be operated as one comprehensive quarry operation, and that this Deed is intended to regulate the orderly development and operation of that quarry. The conditions of approval appearing in the Second Schedule are to be equally and severally applicable to both the land the subject of the said Amended Application, and the land presently zoned Extractive Industry, namely the whole of the Extractive Industry Area.

## Attachment I6 - City Plan, 9.3.8 Extractive Industry Code , Hours of Operation

### City Plan

#### 9.3.8 Extractive industry code

##### PART B - ASSESSABLE DEVELOPMENT BENCHMARKS

Table 9.3.8-1: Extractive industry development code – for assessable development

Performance outcomes	Acceptable outcomes						
<b>Hours of operation</b>							
<b>PO6</b> Activities undertaken on site are conducted within appropriate hours to minimise nuisance to adjoining and surrounding development.	<b>AO6.1</b> Extracting, crushing and screening operations, loading of materials and maintenance occur only within the following hours: <table><tr><td>Monday to Friday</td><td>7.00am – 6.00pm</td></tr><tr><td>Saturday</td><td>8.00am – 12 noon</td></tr><tr><td>Sunday and public holidays</td><td>nil</td></tr></table>	Monday to Friday	7.00am – 6.00pm	Saturday	8.00am – 12 noon	Sunday and public holidays	nil
Monday to Friday	7.00am – 6.00pm						
Saturday	8.00am – 12 noon						
Sunday and public holidays	nil						
	<b>AO6.2</b> Blasting and explosions are conducted between the hours of 9am and 5pm Monday to Friday excluding public holidays.						



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**5.2.1 Impact Avoidance**

It is also understood the proposed quarry extension will occur progressively, such that there will be no significant change in annual production levels. Resultantly there will be:

- No increase in traffic movements.
- No planned increase in plant or machinery operating on site.
- No change on hours of operation, i.e.:
  - For extraction: 7am to 6pm on Monday to Friday, 8am — noon on Saturdays and Public Holidays.
  - For batching plant: October to April Commence 4am cease 3pm, May to Sept Commence 5am cease 3pm.

Based on the above, there will be no ecological impacts expected as a result of artificial lighting, noise or traffic, beyond that already occurring in association with the existing quarry operations.



## SAFETY DATA SHEET

### PRODUCT: PREMIXED CONCRETE

Telephone: (07) 5573 8000  
Fax: (07) 5573 2908  
ABN 23 010 119 981

Product: **Premixed Concrete**  
Company Details: **NUCON PTY LTD**  
Address: **Hart Street, Upper Coomera, QLD, 4209**  
Telephone: **07 5573 8000**

### **HAZARDOUS SUBSTANCE**

This product contains crystalline silica. Crystalline silica is classified as hazardous.

(Australian Safety and Compensation Commission ASCC (formerly NOHSC) Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008] 3rd Edition)

The solid product as supplied is classified as non-Hazardous.  
Dust in/on the supplied product or created when the product is cut, abraded, or crushed contains crystalline silica. Some of which may be respirable (particles small enough to go into the deep parts of the lung when breathed in). A proportion of the fine dust in/on the supplied product may be respirable crystalline silica.

The following Risk and Safety phrases apply to this product:

**Risk Phrases:** **R20:** Harmful by Inhalation (applies to concrete dust),  
**R21:** Harmful in contact with skin,  
**R22:** Harmful if swallowed,  
**R43:** May cause sensitisation by skin contact  
**R48:** Danger of serious damage to health by prolonged exposure through inhalation (applies to concrete dust)

**Safety Phrases:** **S22:** Do not breathe dust,  
**S24:** Toxic in contact with skin,  
**S24:** Toxic if swallowed  
**S28:** After contact with skin wash immediately with plenty of water,  
**S29:** Do not empty into drains,  
**S36:** Wear suitable protective clothing,  
**S37:** Wear suitable gloves  
**S39:** Wear eye/face protection

legislation.qld.gov.au/view/html/inforce/current/act-2016-025#sec.50



## Queensland Government Queensland Legislation

### Planning Act 2016

Reprint current from 1 October 2020 to date

[Chapter 8](#) > [Part 2](#) > [Division 7](#) > [Section 317](#)

#### 317 Rezoning approval conditions

- (1) This section applies to the following conditions (a *rezoning condition*)—
  - (a) a condition decided under the repealed [LGP&E Act](#), section 2.19(3)(a);
  - (b) a condition of an approval given under the repealed [LGP&E Act](#), section 4.4(5).
- (2) If a person wants to change a rezoning condition, the person must make a change application under this Act as if the rezoning condition had been imposed by the local government as assessment manager.
- (3) A development approval applies instead of a rezoning condition, to the extent of any inconsistency.