

Agenda



ORDINARY MEETING OF COUNCIL

SUPPLEMENTARY AGENDA

14 AUGUST 2019

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11. ORGANISATIONAL DEVELOPMENT AND PLANNING SERVICES REPORTS

11.2 Request for Fee Reduction for Application for Development Permit for Extractive Industry (Water Harvesting) - MC2019/0041

Date: 09 August 2019
Author: Miriam Sharp, Planning Officer
Responsible Officer: Amanda Pugh, Manager Planning and Development Services

Summary:

The purpose of this report is to consider a request for a fee reduction for an application for a Development Permit for a Material Change of Use for Extractive Industry (Water Harvesting) on Lot 5 CC1472 at 284 Mulgowie Road, Townson (MC2019/0041).

The request has been considered and it is recommended that the request be refused in accordance with the Officer's recommendation.

Officer's Recommendation:

THAT the request for a fee reduction for an application for a Development Permit for a Material Change of Use for Extractive Industry (Water Harvesting) on Lot 5 CC1472 at 284 Mulgowie Road, Townson (MC2019/0041) be refused.

Report

1. Introduction

An application was made to Council on 27 June 2019 for a Development Permit for Material Change of Use for an Extractive Industry for Water Harvesting at 284 Mulgowie Road, Townson (MC2019/0041). The application has not been properly made and an Action Notice was issued on 10 July 2019 for a number of reasons including the non-payment of the application fee. The applicant is seeking a reduction of the application fee.

2. Background

The application received by Council was not properly made for a number of reasons, one of those being non—payment of the application fee. The applicable fee for Extractive Industry where extraction exceeds 100,000 tonnes per annum is \$43,710.00 in accordance with Council's Fees and Charges Schedule 2018/2019. The applicant is seeking a reduction of the application fee to \$4,370.00.

3. Report

Pre-application

The applicant first enquired via phone about making an application for water harvesting on 13 June 2019. They were advised that water harvesting constitutes an Extractive Industry under the *Laidley Shire Council Planning Scheme 2003* (LSPS) and that the associated application fees are based on the amount of extraction per annum.

No further correspondence or other communication took place with the applicant or property owner before the lodgement of the application on 27 June 2019.

Application

The application submitted described the proposed development as Rural Processing, which is defined as *"the use of premises for the handling, treating, processing or packing of primary products not grown on the subject land"*. This was contrary to the advice provided to the applicant on 13 June 2019. Based on the definitions in the LSPS and a number of other cases that officers are aware of, water harvesting is considered to be an Extractive Industry. Extractive Industry means *"the use of premises for the extraction of sand, clay, gravel, soil, rock stone or similar substances from land"*. A proposal for this type of use is Impact Assessable. It is noted that if the applicant is concerned about the definition applied by Council and wished to gain an alternate determination of this matter, they can seek a determination from the Planning and Environment Court.

The application materials indicate that *"production will be about 10-12 trucks per day, each carrying 32,000 litres x 6 days per week, excluding Sundays and public holidays"*. Over the course of a year, this translates to 119,808,000 litres or 119,808 tonnes of water. Therefore, the applicable application fee in accordance with Council's Fees and Charges Schedule for the previous financial year is \$43,710.00.

The application did not correctly identify the use, level of assessment or address the LSPS in full as is required for an Impact Assessable application. Further, the application plans are lacking detail and the applicable application fee hasn't been paid. Therefore, Council officers issued an Action Notice on 10 July 2019 in accordance with section 3.1 of the *DA Rules*.

Fee reduction request

Council received written correspondence from the applicant on 9 July 2019 requesting a reduction of the application fee to \$4,370.00. Their request states that the applicant feels that the applicable fee is excessive as *“the proposed use does not require the extent of assessment that a mine exceeding 100,000 tonnes production per year would require that would warrant such a high fee. The proposed development has minimal external impacts and would be comparable to that of a small scale ‘truck depot’, which would primarily only require assessment of traffic and noise specialists”*.

In response to the correspondence, the applicant was advised that the application fee is to be paid upon lodgement of the application, with the relevant justification for a fee dispensation to be considered by Council upon decision of the application. As the applicant has elected not to pay the full application fee upfront, the request for a fee reduction has been brought forward to assist the applicant in deciding whether to proceed with the application.

Assessment

Council’s Fees and Charges Schedule is set to be cost recovery only as per the *Local Government Act 2009*. The fee applicable to the application for Extractive Industry (Water Harvesting) is based on the cost to Council to assess the application. This includes Council officers’ time as well as the review of specialist reports by expert third parties.

Given the scale of the proposal and type of development, the application requires review of and assessment by officers in Council’s Planning and Development section, Infrastructure Works and Services, Environment and Pest and Regional Development. As Council did not have the opportunity to undertake any initial discussions with the applicant during a prelodgement process, additional time is required to be spent during the application process. Further, external assessment of a specialist reports such as a Noise Assessment and an Environmental Management Plan may be required.

Therefore, it is considered that the fee applicable to the application for Extractive Industry (Water Harvesting) as per Council’s Fees and Charges Schedule is appropriate and therefore it is recommended that the request is refused.

4. Policy and Legal Implications

It is considered that there are no legal implications arising from the recommendation provided in this report.

5. Financial and Resource Implications

The financial implications are that, should Council agree to reduce the application fee, Council will not be able to fully cover its expenses relating to the assessment of the application. This would be a shortfall that ultimately is borne by the wider community.

6. Delegations/Authorisations

There are no implications for delegations or authorisations arising from the recommendation provided in this report.

7. Communication and Engagement

The decision of Council will be formally communicated to the applicant.

8. Conclusion

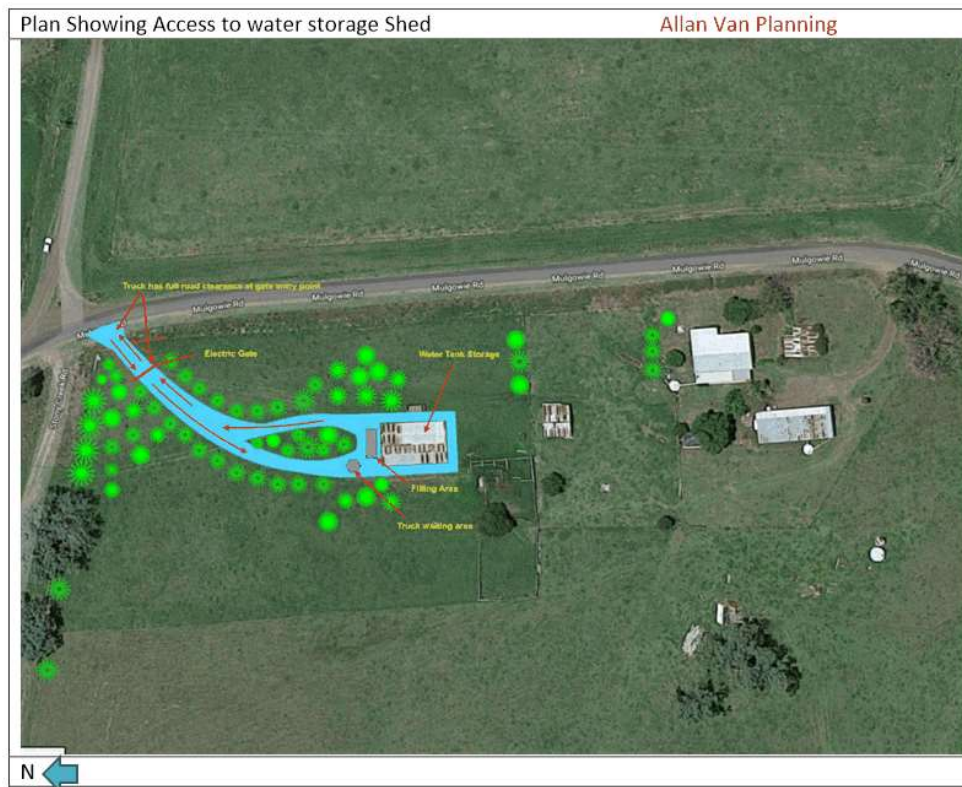
It is recommended that the request for a fee reduction for the application for Extractive Industry (Water Harvesting) at 284 Mulgowie Road (MC2019/0041), Townson is refused.

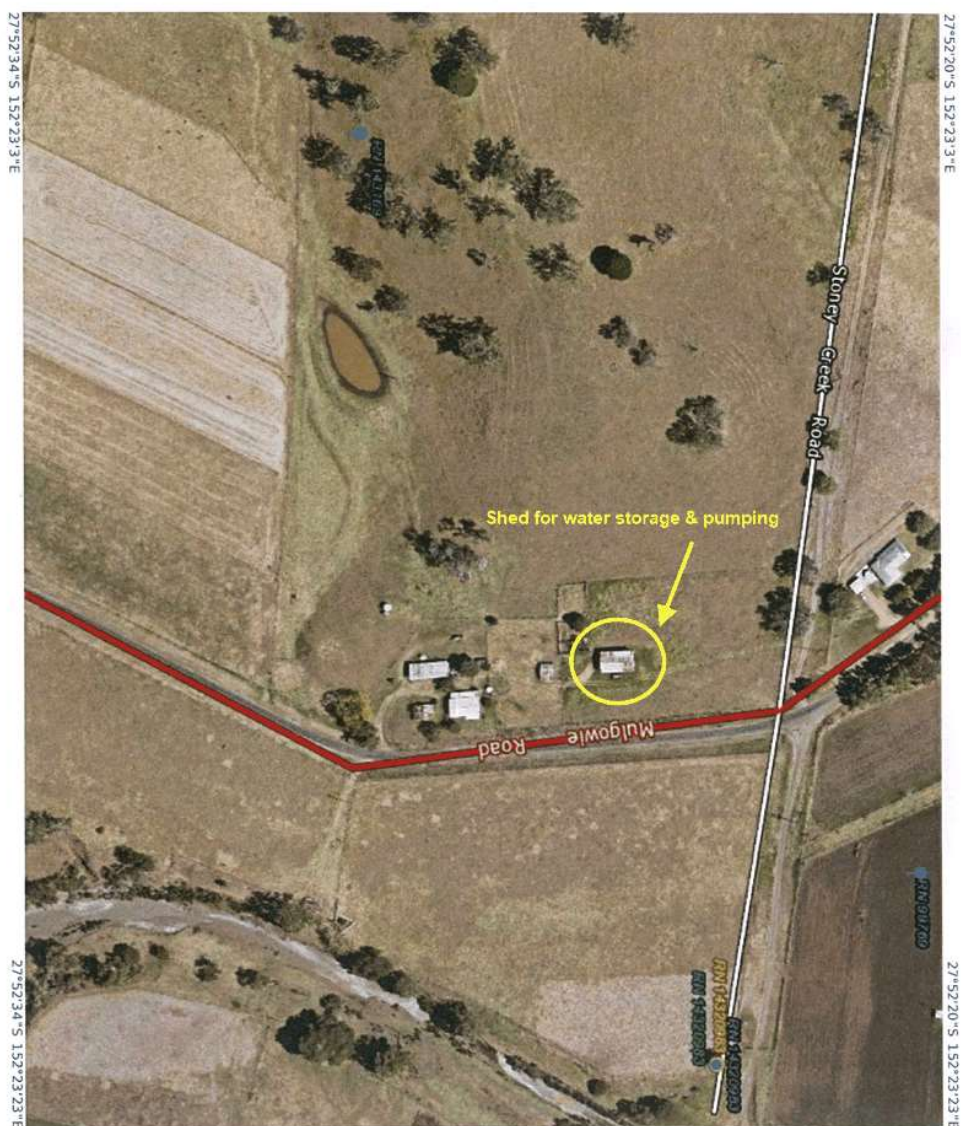
9. Action/s

Advise the applicant of Council's decision.

Attachments

- | | | |
|-------------------|--------------------------------------|---------|
| 1 | MC20190041 Proposal Plans Part 1 | 1 Page |
| 2 | MC20190041 Proposal Plans Part 2 | 1 Page |
| 3 | MC20190041 Request for Fee Reduction | 2 Pages |





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50 metres

Print Date: 30/5/2019

Paper Size: A4

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9 July 2019

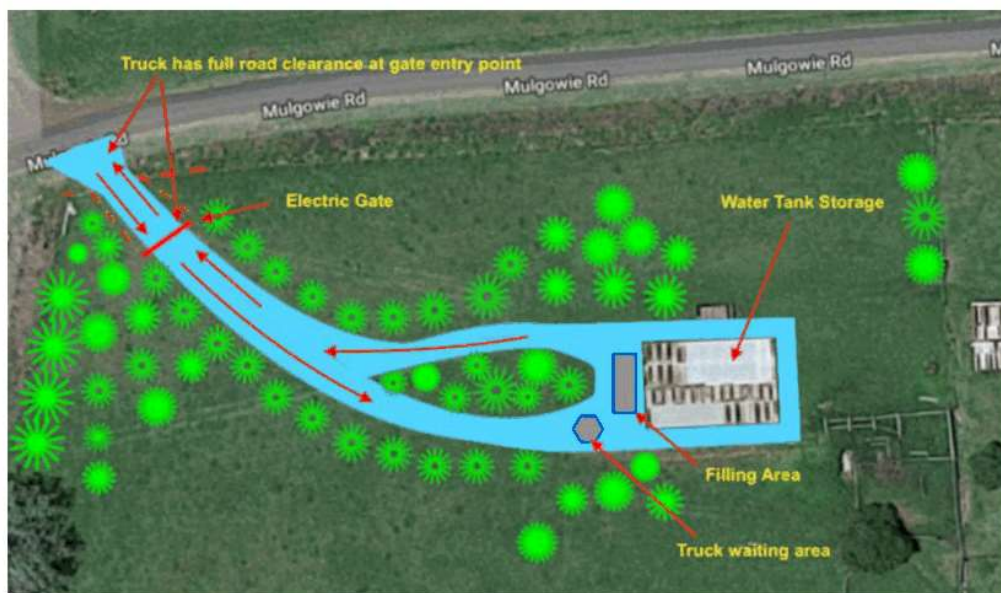
Mr Ian Church
Chief Executive Officer
Lockyer Valley Regional Council
By email: mailbox@lockyervalley.qld.gov.au

RE: DEVELOPMENT ASSESSMENT FEES FOR APPLICATION LOCATED AT: 284 MULGOWIE ROAD, TOWNSON

Dear Ian,

Allan Van Planning were commissioned by the Applicant Rhonda Smith to prepare an application to Lockyer Valley Regional Council to use her site for harvesting ground water from 2 existing water bores on the property located at 284 Mulgowie Road, Townson. The development application was submitted 27 June 2019 and the application seeks a development permit for a Material Change of Use for Extractive Industry (being the defined use for water harvesting).

The water harvesting on the site is for the purpose of commercial distribution in tanker trucks, with 32,000L of water per truck. There is proposed to be up to 12 trucks of water per day removed from the site. The filling is to occur from an existing bore located adjacent to an existing shed on the site. The existing shed (approximately 160sqm in area) will also be used for the storage of tankers.



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Based on the definition of 'extractive industry' the development assessment fee is calculated based on thresholds of tonnes/year of resources being extracted. The table of fees is provided below:

Extractive Industry

Extraction above ground level only (e.g. Bush rock, turf, existing stockpiles)	\$3,825.00
1 to 5,000 tonnes per annum	\$4,370.00
5,001 to 50,000 tonnes per annum	\$19,120.00
50,001 to 100,000 tonnes per annum	\$32,780.00
100,001 tonnes or more per annum	\$43,710.00

Based on the total water harvesting proposed the assessment fee for the application has been determined to be **\$43,710.00**. This seems an excessive assessment fee on the basis that the proposed use does not require the extent of assessment that a mine exceeding 100,000 tonnes production per year would require that would warrant such a high fee.

The fee schedule is calculated based on 'cost-recovery'. The extent of assessment and engagement required as part of the assessment of say a large coal mine in the area would require significant input from specialists regarding many potential negative impacts including; noise, odour, dust, air quality, vibration, ecological statements, environmental statements, traffic, civil design, building design and social impacts. The input from many such specialist would likely represent an assessment fee of over \$40,000.00.

On the other hand, the proposed development has minimal external impacts and would be comparable to that of a small scale 'truck depot', which would primarily only require assessment of traffic and noise specialists. The proposed use will use existing built form and infrastructure on-site and the bores have approval from the Department of Natural Resources, Mines and Energy to be used for commercial purposes. Therefore, it is contended that the assessment required for the application for water harvesting (extractive industry) would not require the extent of specialists input as a large mine and therefore does not warrant an assessment fee of **\$43,710.00**.

As described above, the proposed use would have impacts likened to that of a truck depot type use, which would attract an assessment fee of approximately \$4,100.00 (\$3,280.00 based fee plus \$5.00 per sqm of shed). This is a similar fee to that of a small-scale extractive industry use assessment fee at **\$4,370.00**.

We request your discretion regarding the assessment fee for the proposed water harvesting use of the site and would appreciate your consideration of the representations made above regarding the assessment required for the proposed use.

If you require any additional information or wish to discuss the matter further, please do not hesitate to contact me on 0434 812 386.

Kind Regards,

Daniel Ebert
Director – Town Planner
Allan Van Planning