



## **FINAL MINUTES**

9 September 2009

## Table of Contents

<u>Folio</u>	<u>Date</u>	<u>Particulars</u>
7923	09.09.09	Ordinary Meeting
8053	10.08.09	Sustainable Futures Committee Report

## Declaration of Material Personal Interest

CR C MENG (ITEM 7.2 – ORDINARY MEETING)

CR D CAMILLERI (ITEM 7.2 – ORDINARY MEETING)

CR P STEINDL (ITEM 7.2 – ORDINARY MEETING)

CR D PERKINS (ITEM 7.2 – ORDINARY MEETING)

CR D HATFIELD (ITEM 7.2 – ORDINARY MEETING)

CR G THOMSEN (ITEM 7.2 – ORDINARY MEETING)

CR K CASEY (ITEM 7.2 – ORDINARY MEETING)

CR W CAMERON (ITEM 7.2 – ORDINARY MEETING)

---

## ORDINARY MEETING MINUTES

### 1. ATTENDANCE:

His Worship the Mayor, Cr C Meng (Chairperson), Crs G R Christensen, D T Comerford, P F Steindl, D J Perkins, D R Hatfield, D E Camilleri, W A Cameron, G R Thomsen, K J Casey and K L May were in attendance at the commencement of the meeting. Also present was Mr P Franks (Chief Executive Officer) and Mrs K Di Filippo (Minute Secretary).

The meeting commenced at 10:02 am.

### 2. APOLOGIES:

Nil.

### 3. CONDOLENCES:

Nil.

### 4. CONFIRMATION OF MINUTES:

#### 4.1 ORDINARY MEETING MINUTES - 2 SEPTEMBER 2009

THAT the Minutes of the Ordinary Meeting held on 2 September 2009 be confirmed.

Moved Cr Comerford

Seconded Cr Christensen.

CARRIED

### 5. BUSINESS ARISING OUT OF MINUTES OF PREVIOUS MEETING:

Nil.

### 6. MAYORAL MINUTES:

Nil.

**7. CORRESPONDENCE AND OFFICERS' REPORTS:****7.1 UDIA QUEENSLAND STATE CONFERENCE**

**File No** Conferences  
**Author** Chief Executive Officer

**Purpose**

This report is to request that Council nominate Cr Di Hatfield as the Portfolio Councillor for Planning and Development to attend the UDIA Queensland State Conference to be held in Surfers Paradise from 1-2 October 2009. Council's Director Development Services will also be attending this conference.

**Resource Implications**

Costs of attendance are catered for in the current budget.

**Conclusion**

It is proposed that Cr Hatfield be nominated to attend the UDIA Queensland State Conference to be held in Surfers Paradise from 1-2 October 2009 with Council's Director Development Services.

**Chief Executive Officer's Recommendation**

THAT Cr Hatfield be appointed as Mackay Regional Council's delegate to attend the UDIA Queensland State Conference to be held in Surfers Paradise in October 2009.

**Council Resolution**

THAT the Chief Executive Officer's recommendation be adopted.

**Moved Cr Thomsen**

**Seconded Cr Christensen**

**CARRIED**

**Crs Meng, Camilleri, Steindl, Perkins, Hatfield, Thomsen, Casey and Cameron declared a perceived potential conflict of interest in respect to Item No. 7.2 as a shareholder of the applicant (a partnership) is also a shareholder in a Pty Ltd that gave the Councillors an electoral gift. The Councillors will act impartially in the community interests.**

**7.2      REQUEST FOR NEGOTIATED DECISION NOTICE - MATERIAL CHANGE OF USE (41 MULTIPLE DWELLING UNITS AND CATERING SHOP) - JD & MA DODDS & JR SMITH - 8 RIVER STREET, MACKAY (000912-204-DA-2008-315)**

<b>Application Number:</b>	DA-2008-315
<b>Date Received:</b>	13 <sup>th</sup> February 2009
<b>Action Officer:</b>	Shane Kleve
<b>Applicant's Details:</b>	Justin Robert Smith Pty Ltd & Jeffery David Dodds and Michele Adrienne Dodds ATF The Dodds Superannuation Fund C/-Humphreys Reynolds Perkins PO Box 244 MACKAY QLD 4740
<b>Proposal:</b>	Request for Negotiated Decision Notice – Material Change of Use – 41 Multiple Dwelling Units and Catering Shop
<b>Site Address:</b>	8 River Street, Mackay
<b>Property Description:</b>	Lot 204 on M912 and Lot 3 on RP735475
<b>Owner's Details:</b>	Justin Robert Smith Pty Ltd & Jeffery David Dodds and Michele Adrienne Dodds ATF The Dodds Superannuation Fund
<b>Area:</b>	2,065m <sup>2</sup>
<b>IPA Compliant Planning Scheme</b>	
Locality:	City Centre
Precinct:	Wharf
Zone:	Waterfront
<b>Referral Agencies:</b>	Environmental Protection Agency Department of Primary Industries & Fisheries
<b>Attachments:</b>	Attachment A: Applicants Representations Attachment B: Locality Plan Attachment C: Aerial Photographs Attachment D: Proposal Plan

**ASSESSMENT OF APPLICATION**

## **Purpose of the Report**

The Applicant is seeking a Negotiated Decision Notice to be issued in relation to a Development Permit for a Material Change of Use for 41 Multiple Dwelling Units and Catering Shop, on a site located at 8 River Street, Mackay, more fully described as Lot 3 on RP735475 and Lot 204 on M912. The Decision Notice was issued by Council on 23<sup>rd</sup> December 2008.

The subject properties are located in the Wharf Precinct of the City Centre Locality. Both properties are included in the Waterfront zone. The subject properties currently contain a single storey commercial building that houses a Catering Shop (Pacinos) and Commercial Premises (JD Dodds Property Valuers). All structures on the properties would be removed in the event Council approves the application.

The applicant has requested that Council agree to delete or vary three conditions contained within the Decision Notice, a copy of that request is at Attachment "A". The conditions relate to car parking and the submission of landscaping plans.

It is recommended that the Council agree to vary the condition in relation to the landscaping plan. The conditions relating to car parking require careful consideration as the final outcome will form a precedent for the future. It appears that in recent years Council has not carried forward credits for existing floor space that had not provided on-site car parking and it is this practice (or lack of) which is central to the applicant's request.

## **Subject Properties**

The subject properties are located on the northern side of River Street, east of the Forgan Bridge. The area of both properties is predominately located over the Pioneer River, with the majority of 'dry land' located in the south western portion of the site. Refer to the Locality Plan and Aerial Photograph included as Attachment 'B' and 'C'.

To the west of the site is the 'Paxtons' Building. This building was recently included in the Queensland Heritage Register. To the east of the site is Lot 901 on SP104472 where it is proposed that a 'finger wharf' will be constructed. Beyond this lot is the 'Seafresh' building. This site has current development approval for the development of a 9 and a 6 storey building containing 56 Multiple Dwelling Units, Catering Shop/s and Shop/s (600m<sup>2</sup> of commercial space), also known as 'The Pier'.

To the north of the subject site is the Pioneer River and to the south is two commercial buildings and two highset dwelling houses.

The site contains very little vegetation, mainly palm trees and some mangroves adjacent to the tidal area.

## **Discussion of Representations**

The applicant has provided written representations in relation to the following matters:

*Condition No. 2 a) – Amended Plans Required*

*Original Condition*

*Prior to the lodgement of the application for Operational Works approval, the approved plans of development must be amended to comply with the following matters:*

- a) *The proposed development generates the requirement for 61.5 spaces for the residential component and 16.5 spaces for the Catering Shop, however only 5 spaces have been provided for the Catering Shop resulting in a shortfall of 11.5 spaces. To ensure compliance with Schedule 2 of the Mackay City Planning Scheme the plan of development is either to be amended to provide additional car parking or the area of the catering shop is to be amended to reduce the car parking demand and make up the shortfall of 11 spaces.*

*Alternatively, prior to issuing an Operational Work approval, the developer must enter an Infrastructure Agreement with Council to provide the developments' 11 car parking space shortfall for the Catering Shop. The Infrastructure Agreement will determine the payment and timing of the works and/or contributions by the developer in accordance with Council's Standard Infrastructure Agreement documentation. The contribution must be paid prior to the issuing of an Operational Works approval.*

Proposed Amended Condition (by applicant)

- ~~a) The proposed development generates the requirement for 61.5 spaces for the residential component and 16.5 spaces for the Catering Shop, however only 5 spaces have been provided for the Catering Shop resulting in a shortfall of 11.5 spaces. To ensure compliance with Schedule 2 of the Mackay City Planning Scheme the plan of development is either to be amended to provide additional car parking or the area of the catering shop is to be amended to reduce the car parking demand and make up the shortfall of 11 spaces.~~

~~Alternatively, prior to issuing an Operational Work approval, the developer must enter an Infrastructure Agreement with Council to provide the developments' 11 car parking space shortfall for the Catering Shop. The Infrastructure Agreement will determine the payment and timing of the works and/or contributions by the developer in accordance with Council's Standard Infrastructure Agreement documentation. The contribution must be paid prior to the issuing of an Operational Works approval.~~

Applicants Justification

*Delete Condition. Despite the shortfall for the Catering Shop component of the project, the overall site provides 14.5 car parking spaces in excess of what is required.*

*It is considered that Council is not viewing the project on its overall merits in this instance.*

*Firstly, to confirm the catering shop component an enlarged plan with Gross Floor Areas (GFAs) is included as Attachment A – Ground Floor GFAs to confirm the exact car parking requirement. That is:*

*Table 1. Ground Floor Catering Shop Areas:*

Location	Area (m <sup>2</sup> )
Net Café	100
Bar	29
Kitchen	120
Restaurant	350
Al Fresco Dining	175
<b>Total</b>	<b>774m<sup>2</sup></b>

*This is consistent with the Information Request response and therefore generates a requirement for 15.5 car parking spaces (774/50) and not 16.5 as noted in the Decision Notice.*

*Car parking credits shall apply to the car parking approved however not previously provided on site. Table 2 below sets out the existing use, proposed use and associated car parking calculations. The required provision for the catering shop can be re-confirmed as follows:*

Table 2: Car Parking Provision for Ground Floor

Use	GFA	Rate	Req. Parks	Existing / Proposed Parks
<b>Existing</b> Catering Shop and Commercial Premises	580m <sup>2</sup> (comprising 480m <sup>2</sup> under roof and 100 m <sup>2</sup> outdoor dining)	1 space per 50m <sup>2</sup> GFA, plus 1 space per 50m <sup>2</sup> GFA outdoor dining	12	6 On-site
<b>Proposed</b> Catering Shop	774m <sup>2</sup> (Comprising 599m <sup>2</sup> under roof and 175m <sup>2</sup> outdoor dining)	1 space per 50m <sup>2</sup> GFA, plus 1 space per 50m <sup>2</sup> GFA outdoor dining	15.5	5 On-site
<b>Credit for Previous Car Parking</b>				<b>6</b>
<b>Proposed Provision</b>				<b>5</b>
<b>Total</b>				<b>11</b>
<b>Shortfall</b>				<b>4.5</b>

*It is unclear how Council arrives at a shortfall of 11 car parking spaces. It appears that the applicable credits may not have been applied.*

*In addition to the 6 on-site car parking spaces, the existing use utilises approximately 12 informal car parking spaces, designated by wheel stops within the road reserve. The proposal intends to replace this informal on street car parking with 19 sealed and line-marked spaces with is 7 in excess of the current situation.*

*This car parking will be built entirely at the cost of the developer for public benefit. It is requested that the developer be given some consideration for the construction of public car parking infrastructure, which in this instance is in excess of the existing situation and is not offset through Developer Contributions.*

*These additional car parking spaces more than cater for the shortfall in car parking for the proposed Catering Shop.*

*In addition to the construction of supplementary public car parking on River Street it is noteworthy that the proposal offers to exceed the required car parking provisions for the residential component of the building with only 61.5 required, but 87 provided.*

*The theme and nature of the location must also be considered with regard to the provision of car parking in that:*

- *With an allocation of three car parking spaces per penthouse unit and two dedicated car parking bays for each unit, overflow parking for residents and visitors to the units will be negligible;*
- *With 41 units above the dining area a proportion of the patrons will be in house residents and not require car parking; and*
- *With the completion of the finger wharf, the town square project and Blue Water Activation Strategy, the location is themed on pedestrian movement. A large number of patrons may park in other locations in the city and walk to riverfront dining options.*

*Table 3 below outlines the total parking provided by the project which results in 14.5 car parking spaces in excess of the required amount.*

Table 3: Car Parking Provisions over whole Site

Use	Required	Provided	Difference
Residential	61.5	87	12
Catering Shop	15.5	5 + 6 credits	-4.5
<b>Additional Public Car Parking Provided</b>			7
<b>Total car parking in excess of requirements provided</b>			14.5

*In summary, the project should be examined in its overall context rather than a piecemeal perspective.*

*However, before a decision is made on this issue, we would request a meeting with Council to discuss the matter in detail.*

**Meetings have been held with the applicant and subsequent to these further representations were made by the applicant as detailed in the following extracts, received on 30<sup>th</sup> July 2009 and 26<sup>th</sup> August 2009:**

30<sup>th</sup> July 2008

*I refer to our correspondence of 13 February 2009 and subsequent discussions with yourself and the Director Development Services seeking amendment and deletion of certain conditions contained in Council's Decision Notice issued for this site. In particular, Condition 2 of the Decision Notice is sought to be deleted, which does not appear to recognise inherent carparking credits attaching to the existing premises and additional overall car parking proposed to be provided as part of the current mixed use multi-level development proposal.*

*For your information, outlined below is a further summary of this carparking provision.*

Table 1: Ground Floor Catering Shop Areas

Location	Area (m <sup>2</sup> )
Net Café	100
Bar	29
Kitchen	120
Restaurant	350
Al Fresco Dining	175
Office & Amenities	44
<b>Total</b>	<b>818m<sup>2</sup></b>

Table 2: Car Parking Provision for Ground Floor

Use	GFA	Rate	Req. Parks	Existing / Proposed Parks
Existing Catering Shop and Commercial Premises	580m <sup>2</sup> (comprising 480m <sup>2</sup> under roof and 100 m <sup>2</sup> outdoor dining)	1 space per 50m <sup>2</sup> GFA, plus 1 space per 50m <sup>2</sup> GFA outdoor dining	12	6 On-site
Proposed Catering Shop	774m <sup>2</sup> (Comprising 599m <sup>2</sup> under roof and 175m <sup>2</sup> outdoor dining)	1 space per 50m <sup>2</sup> GFA, plus 1 space per 50m <sup>2</sup> GFA outdoor dining	16.5	7 On-site, inclusive of 2 service bays
<b>Credit for Previous Car Parking</b>				<b>6</b>
<b>Proposed Provision</b>				<b>7</b>
<b>Total</b>				<b>13</b>
<b>Shortfall</b>				<b>3.5</b>

*The proposal intends to replace informal on street car parking with 19 sealed and line-marked spaces, which is 7 in excess of the current situation.*

*In addition, the proposal offers well in excess of the required car parking provision for the residential component of the development.*

Table 3: Car Parking Provision for whole Development

Use	Required	Provided	Difference
Residential (41 Units @ 1.5 spaces per Unit)	61.5	87	25.5
Catering Shop	16.5	7 + 6 credits	-3.5
<b>Additional Public Car Parking Provided</b>			<b>7</b>
<b>Total car parking in excess of requirements provided</b>			<b>29</b>

*We look forward to Council's favourable consideration of requested variations to Decision Notice conditions.*

26<sup>th</sup> August 2009

*I refer to my previous facsimile (attached) summarising the proposed carparking provision and previous credits applicable to the redevelopment of this site. As discussed subsequently, outlined below for your information are examples of where the carparking relaxation previously attributable to an existing use or approval have been logically, and for sound planning reasons, carried forward as credits for later redevelopment proposals. This principle of carrying forward credits for carparking has been consistently applied and implemented by Council over many years, although it is recognised you may not have been personally involved in the assessment of these or other similar development proposals.*

*MCU – Multi Level Mixed Use Development – Cnr River & Brisbane Streets, Mackay (Your ref: 708720-001, DA-2003-156)*

*Attached for your information is a copy of the Planning and Environmental Committee Meeting report on this development proposal. Carparking was a key consideration for this project and you will note that on page 44 of the report the following statement is made by Council's Action Officer:*

*“The credit referred to in this table is based on an assessment of existing uses on the site ... It is considered that the existing hotel (about 360m<sup>2</sup>) and 5 room accommodation area would, on current parking rates, generate at least 16 carparking spaces.”*

*In summary, this inferred existing use carparking credit was accepted and applied as part of the approval assessment of the development, which concluded that taking into account the applicable credit, sufficient carparking was provided for the proposal.*

*MCU – 6 Storey Office Building Development – 74 Wood Street, Mackay (Your ref: DA-2007-253)*

*More recently, an historical ground floor carparking relaxation granted for Batros Place was carried forward as a credit in the overall assessment of carparking for this proposed 6 storey office redevelopment approved by Council.*

*In this instance, a previous relaxation down to 3 carparks had been granted by Council (MCU Development Permit – 28 August 2001 700803-002-7) for the ground floor area. The approved redevelopment plans for Batros Place showed approximately 755m<sup>2</sup> of existing GFA and 505m<sup>2</sup> of new GFA on the ground floor. This would normally have required carparking provision at the rate of at least 11 spaces, just for the new GFA proposed. However, in the carparking assessment approved by Council on this project the inferred 8 carparking space credit on the ground floor was accepted.*

*Obviously, there will be other examples of carparking credits being applied to various redevelopment projects in the CBD, some of which we have not been directly involved with. However, it is considered that these examples indicate the consistent application of this carparking credit principle over an extended period.*

## Comments

The applicant is requesting that Council delete the condition to provide additional car parking for the commercial component of the approved development or alternatively, provide a monetary contribution in lieu.

This issue was identified to the applicant in the Information Request issued after the application was originally lodged. In response to this request, the applicant claimed that credits for car parking generated by the existing development on the site but not provided should be carried over to the proposed development. The applicant claims that the existing development has a credit for six (6) spaces. Further, the applicant claims that, as the development will be formalising the on-street car parking, and in effect providing more than currently exists, this additional parking should also be counted towards the required off-street parking for the development.

This issue was detailed in the report to Council presented to the Ordinary Council meeting held on 17<sup>th</sup> December 2008. An extract from that report relating to the car parking issue is reproduced below:

### Car Parking

The Code requires that vehicle parking spaces be provided in accordance with the rates specified in Schedule 2 of the Planning Scheme. The schedule sets out the following requirements for the various components of the proposal:

*Multiple Dwelling Units*      *1.5 spaces per dwelling unit or 2 spaces per dwelling unit, if accessed from a road less than 7.5m width or a cul-de-sac, of which 1 space per dwelling unit shall be covered.*

*Catering Shop*                      *1 space per 15m<sup>2</sup> GFA or where located in the City Centre Locality Plan, 1 space per 50m<sup>2</sup> GFA, plus 1 space per 50m<sup>2</sup> GFA for any outdoor dining area associated with the premises.*

Based on these rates the development (41 units and 774m<sup>2</sup> catering shop) requires a minimum of 78 spaces (61.5 for the units and 16.5 for the commercial component). The applicant has demonstrated on the proposal plans that 92 car spaces are able to be provided on-site. The parking is arranged on the following basis:

Ground Floor: 5 spaces  
1<sup>st</sup> Floor: 38 spaces  
2<sup>nd</sup> Floor: 49 spaces

The total number of car parking spaces proposed on the site exceeds the total number required for the development; however, the first and second floor parking is reserved exclusively for the residential component of the development with no public access provided to these levels. The development is providing a minimum of two spaces per unit and three spaces for each penthouse unit. This leaves only five spaces for the catering shop or for use by visitors to the residential units on the site.

Of the residential parking, 74 of the parking spaces are in a 'tandem' arrangement (i.e. one behind the other) and therefore are not readily accessible at all times. Council has generally

accepted this parking arrangement; however, the second or 'blocked' parking spaces have only been counted as 0.5 of a space due to these spaces not being available at all times. Therefore, Council has accepted that two spaces arranged in a tandem arrangement satisfy the 1.5 spaces per unit as required by the Scheme for Multiple Dwelling Units. By using the reduced rate for tandem spaces, the calculated parking provision for the residential component is 68.5 spaces. The reduced calculation rate still exceeds the parking requirements for the Multiple Dwelling Units.

The applicant was advised in the Information Request that the catering shop parking shortfall was not acceptable. The applicant was advised that the development plans needed to be revised to provide additional car parking for the catering shop, alternatively, if additional spaces could not be provided, Council may at its discretion allow the developer to provide a cash contribution toward the provision of off-street car parking elsewhere in the City Centre.

In response to the Information Request, the applicant did not make amendments to the proposal plans. The applicant has maintained that the existing building does not currently provide car parking in accordance with the Planning Scheme requirements and therefore the shortfall should be credited to the proposed development. This position is not considered acceptable. The applicant is also claiming that an offset should be allowed, as the development will be formalising on-street car parking. This is also not considered acceptable.

A condition has been included in the proposed conditions that require the applicant to amend the plans to either provide the required number of car parks on site or reduce the car parking demand generated by the development. Alternatively, the applicant may enter into an Infrastructure Agreement with Council to agree on a monetary contribution in lieu of providing the car spaces.

As can be seen in the extract above, Council did consider but did not agree with the 'credits' argument at the time of approving the application. The request for a Negotiation Decision Notice has requested Council to reconsider its position.

In order to consider the applicants request, it must firstly be determined if the existing use on the site should indeed be allowed a credit. The existing building was converted into a catering shop/restaurant and offices in 1993/94. At the time, the site was zoned 'Commercial' under the Mackay City Planning Scheme of 1988. The Planning Scheme allowed offices and catering shop in the Commercial zone as an 'as of right' use. A review of Councils' records of the time show that Councils' only involvement in the conversion of the building was as part of a request for a liquor licence. The report to Council in consideration of the Liquor Licence states in part:

*The site is zone Commercial and is occupied by an existing building that is in the process of being refurbished for restaurant and office purposes.*

*A Building Application has been lodged for approval for these refurbishment works which is consistent and complies with Council's Planning, Building and Plumbing requirements.*

*The use of the site for a 'waterfront café' is an as-of-right use in the zoning of the site and the licensing of the premises is considered to be appropriate in this instance.*

From the above extract, it is noted that the change of use in the existing building was as of right, therefore no Planning Application was required. Under the Planning Scheme in force at the time, the use of the existing building for an office and restaurant was acceptable, and Council did not undertake an assessment of the proposals consistency or otherwise with the Planning Scheme requirements. As such, it is difficult to accept that the Council of the time made a determination that the uses could be established on the site and that, as they were unable to provide the necessary car parking; a credit for the shortfall was allowed that could be carried forward for the redevelopment of the site. It is considered that the Council of the day would have considered that the site, being uniquely located over the river, simply could not fit the necessary spaces and therefore it would be impractical to insist on compliance with the parking requirements. It is debatable whether this amounts to an acknowledgement of "credit".

In the report to Council, last year, it was considered that with the proposed redevelopment of the site, the developer has the opportunity to be fully compliant with these requirements. The redevelopment of the site includes a couple of levels of parking and therefore the development is not constrained by the 'land' component of the existing site.

Council officers met with the applicant and his representatives to discuss the issue of car parking on this site. At the meeting, a possible solution was suggested that was considered to solve the applicant's parking shortfall for the commercial component. Council officers suggested that as there was a small oversupply of parking on the two above ground parking levels, the applicant should designate the spare spaces on these levels for use by the staff of the commercial component.

The suggestion for allocation of excess parking for staff use only was made on the basis that the ramp to the upper level parking areas is a one way ramp and will operate with a 'tidal flow' control. Therefore, it was considered that patrons of the restaurant could be confused by the operation of the system. As such, it made more sense to restrict the use of the upper level parking to residents and staff who are at the site regularly and therefore are used to the operation of the ramp.

The applicant advised that this suggested solution was not acceptable to them as they intended marketing the residential units as having two or three parking spaces. Council's proposed solution would not allow this and therefore the units would be less attractive to purchasers.

The applicant again reiterated that Council previously and continues to allow credits for existing uses for the redevelopment of a property. Officers advised that while there had been examples of this in the past, under different Councils and a different Planning Scheme, credits for car parking as being claimed by the applicant had not been given in the recent years. In this regard, the applicant was requested to identify recent examples of this practice.

The applicant provided a response to Council request for examples on 26<sup>th</sup> August 2009, citing the approvals for Batros Place (74 Wood Street) and Leichhardt Hotel (29 River Street) as examples where parking credits have been applied or carried forward.

The application files for these developments have been reviewed and the following comments are made in relation to each of them.

*Leichhardt Hotel*

This property has had a number of applications lodged over it since 2002. The application that the applicant is referring to in their representations (DA-2003-156) was lodged and approved in 2003. Within this approval, Council did recognise and credit the parking generation for the Hotel use on the site.

It must be noted that subsequent applications and approvals for this site (including a Change to the above approval and DA-2008-699) did not seek to claim this credit. These subsequent approvals provided the full car parking numbers as required by the Planning Scheme in force at the time of lodgement. Further, the approval that included parking credits lapsed in 2008.

*Batros Place*

This property has also obtained a number of approvals over the years. This site was originally occupied by Batros, until this building was destroyed by fire (along with the adjoining Oriental Hotel) on 18 February 2001

When the landowner proposed the redevelopment of the site, advice was provided that, as the building had been destroyed, Council would allow the redevelopment to be undertaken with the applicant only required to provide parking to match what was provided for the original building area. In that instance, the original building had only provided three spaces for the destroyed building.

Therefore, the redevelopment of the Batros site provide 3 spaces for the floor area to match the original building. Floor area greater than the original site was to be provided with parking to match the Planning Scheme requirements. It is believed that a similar approach was allowed for the redevelopment of the adjacent Oriental Hotel site (now Mackay Grande Suites).

Council Officers have not disputed the applicants' claim that Council have in the past given credits for car parking technically generated but not supplied on site. However, this practice or 'policy' has not been followed in recent years.

The recent example of the development approval at Batros Place included the credit as this had been reflected in the original approval. Council was bound to honour these agreements/conditions on these approvals. It is suggested that in the absence of the agreements, Council would have insisted upon the developer providing the full car parking spaces generated by the development.

It is considered that Councils' decision in relation to this application was consistent with current practices and standards. The applicant is fully redeveloping the property and there is an ability to ensure the design demonstrates compliance with the requirements of the Planning Scheme.

In the event that the design cannot be amended to provide sufficient parking for the commercial component of the development, Council has suggested what is considered a workable solution to provide additional car parking for the commercial component in the upper floor parking areas. The developer has rejected this option.

Therefore, the parking situation can be summarised as follows:

- The Multiple Dwelling component has been provided with excess parking spaces. The applicant has provided 87 spaces (counted as 68.5 spaces due to tandem spaces) where only 61.5 spaces are required.
- The commercial component is provided with five spaces, where 15.5 spaces are required.
- As the customers and staff of the commercial component cannot access the 'excess' parking provided for the residential units, there is a shortfall of 10.5 spaces.
- This is a reduction from the condition in the Decision Notice as a minor error in calculations resulted in 1 additional space being calculated for the commercial component.
- Council in approving the development late last year, did not give credits for car parking not provided for the existing development.
- Council did not give credit for the provision of car parking located on the road reserve.

### Director's Comments

In light of the fact that the issue of credit was canvassed in the report to Council late last year and that the development proposal has not changed, no recommendation is made in this report to change Condition 6. However, the following is worth noting:

1. Council should accept that the external works provide a significant public benefit.
2. Council does recognise credit for existing use when calculating headworks.
3. The recognition of credit for car parking for existing uses where parking was not provided on-site is well accepted in other cities in precincts where redevelopment is encouraged.
4. If Council does not recognise car parking credit in the Mackay CBD, then will not be seen to be encouraging redevelopment of the older and less appropriate built environment.
5. If Council does acknowledge credit then the current pressure on on-street and publicly provided car parking will continue.
6. The proposed development would provide a welcome contribution to the revitalisation of the CBD and a focus on the waterfront.
7. The development provides more than the required number of on-site car parks.

### **Condition No. 9 – Landscaping**

#### Original Condition

A detailed site and footpath Landscaping Plan (incorporating landscaping and street furniture for the site including the finger wharf, promenade and River Street) must be prepared by a qualified Landscape Designer and must be submitted to Council for approval at the time of lodgment of the Operational Works application. The Plan must show for all areas identified on the approved plan of development the following:

- Landscape specification of sufficient detail so that landscape works are to be carried out;
- Plant schedule detailing number of plants, species, pot size and height at planting;
- Details of soil and mulch types, including depths, areas of turf, garden edges and paving finishes;
- The details of the irrigation system.

Any proposed landscaping works within Councils' Road Reserve must comply with Planning Scheme Policy No. 11 – Landscaping.

The design shall be prepared in consultation with and subject to the guidance of Council and the Council's Consultants

#### Proposed Amended Condition (by applicant)

A detailed site and footpath Landscaping Plan (incorporating landscaping and street furniture for the site ~~including the finger wharf~~, promenade and River Street) must be prepared by a qualified Landscape Designer and must be submitted to Council for approval at the time of lodgment of the Operational Works application. The Plan must show for all areas identified on the approved plan of development the following:

- Landscape specification of sufficient detail so that landscape works are to be carried out;
- Plant schedule detailing number of plants, species, pot size and height at planting;
- Details of soil and mulch types, including depths, areas of turf, garden edges and paving finishes;
- The details of the irrigation system.

Any proposed landscaping works within Councils' Road Reserve must comply with Planning Scheme Policy No. 11 – Landscaping.

The design shall be prepared in consultation with and subject to the guidance of Council and the Council's Consultants

#### Applicant Justification

The design and construction of the finger wharf is a separate element of the project, subject to an infrastructure agreement and should not be included in any works on the subject site undertaken by the owners of Lot 3 on RP735475 and Lot 204 on M912. Condition 13 adequately spells out the requirements for the finger wharf and detailed designs will be provided as noted in that condition.

#### Comments

This is a minor change to the condition. The condition was originally formulated in this manner to require the submission of only one Landscaping Plan for the project, rather than specifying that one plan was to be submitted for the finger wharf and one for the residential components.

The conditions relating to the Finger Wharf are sufficient to allow the amendment of the condition as proposed and still receive a landscaping plan for the Finger Wharf.

### Recommendation

The condition is to be amended as per the applicants' suggestion.

### **Director's Recommendation**

- A. THAT Council provide direction in regard to the practice of giving credit for theoretical car parking demand.
- B. THAT Council agree to issue a Negotiated Decision Notice for a Material Change of Use for 41 Multiple Dwelling Units and Catering Shop on land at 8 River Street, Mackay, described as Lot 204 on M912 and Lot 3 on RP735475, subject to the amendment to Condition 9 as detailed in the following conditions:
  1. The approved 41 Multiple Dwelling Units and Catering Shop development must be completed and maintained generally in accordance with the Plans of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

<b>Job No.</b>	<b>Drawing No.</b>	<b>Issue</b>	<b>Drawing</b>	<b>Prepared by</b>	<b>Date</b>
MAK-732	732-TP01.01	A	Site Plan	TM Design Group	14/03/08
MAK-732	732-TP01.02	A	Streetscape/Context Plan	TM Design Group	14/03/08
MAK-732	732-TP02.00	A	Ground Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.01	A	Level 1 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.02	A	Level 2 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.03	A	Level 3 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.04	A	Level 4 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.05	A	Level 5 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.06	A	Level 6 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.07	A	Level 7 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.08	A	Level 8 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.09	A	Level 9 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP03.01	A	South Elevation (Elevation to River Street)	TM Design Group	14/03/08
MAK-732	732-TP03.02	A	East Elevation	TM Design Group	14/03/08

			(Elevation to Finger Wharf)	Group	
MAK-732	732-TP03.03	A	North Elevation (Elevation to Pioneer River)	TM Design Group	14/03/08
MAK-732	732-TP03.04	A	West Elevation to (Elevation to Paxtons)	TM Design Group	14/03/08
MAK-732	732-TP04.01	A	Section A-A	TM Design Group	14/03/08

For the sake of clarification, the boardwalk adjacent to River Street is referred to as the “Promenade”.

## 2. Amended Plans Required

Prior to the lodgement of the application for Operational Works approval, the approved plans of development must be amended to comply with the following matters:

- (a) The proposed development generates the requirement for 61.5 spaces for the residential component and 16.5 spaces for the Catering Shop, however only 5 spaces have been provided for the Catering Shop resulting in a shortfall of 10.5 spaces. To ensure compliance with Schedule 2 of the Mackay City Planning Scheme the plan of development is either to be amended to provide additional car parking or the area of the catering shop is to be amended to reduce the car parking demand and make up the shortfall of 11 spaces.

Alternatively, prior to issuing an Operational Work approval, the developer must enter an Infrastructure Agreement with Council to provide the developments’ 11 car parking space shortfall for the Catering Shop. The Infrastructure Agreement will determine the payment and timing of the works and/or contributions by the developer in accordance with Council’s Standard Infrastructure Agreement documentation. The contribution must be paid prior to the issuing of an Operational Works approval.

- (b) The finish of the north facing wall of the basement car park shall be treated to provide visual interest when viewed from the Forgan Bridge and the northern side of the Pioneer River. The treatments should include ‘timber & tin’ to reflect the Wharf Precinct and the use of landscaping (i.e. planter boxes), articulation and lighting.
- (c) The landscaping on either side of the car park entrance is to be reduced to coincide with the extent of the car parking bays to permit movement of pedestrians / cycleway movements and visibility.

The amended Plans are to be submitted to Council for review and approval prior to the lodgement of the application for Operational Works.

*General*

3. The boardwalk on the river frontage shown on the approved plans shall be open to the public at all times, unless otherwise approved by Council. No outdoor dining is to be located in this area.
4. Prior to making an application for a Development Permit for Building Work the design shall be reviewed for compliance with the principles of Crime Prevention through Environmental Design. The review shall be submitted to Council and acknowledgement of receipt shall be issued prior to the issue of the Development Permit for Building Works.

(Note: Assistance with this review can be obtained from Ron Waters-Marsh of Queensland Police (Crime Prevention Policy Unit) phone 4968 3572)

5. The design and construction of all infrastructure external to the property required by this approval shall be designed and constructed in accordance with a Wharf Precinct Infrastructure Plan provided by Council.

*Carparking & Access*

6. A car parking area shall be constructed, sealed, linemarked and drained for a minimum of 92 car parking spaces in accordance with the approved plan and maintained thereafter. Any car parking spaces located in a 'tandem' arrangement are to be allocated to a single unit. The required number of car parks will depend on how the developer intends to address condition 2(a).

The car parking classification is Class 1 for internal parking and is to be designed in accordance with AS/NZS2890.1 – 2004. At least 1 space per dwelling unit is to be accessible by B99 design vehicles. The applicant is to submit plans that demonstrate this requirement at the time of lodgment of an application for Operational Works.

7. All car parking areas and the access driveway is to be in accordance with AS/NZS 2890.1: 2004, with particular reference to:

- Gradients of the access driveway and car parking modules
- Queuing lengths
- Sight distance requirements to roadway and promenade

8. The developer must prepare a detailed Parking Management Plan to demonstrate how car parking and vehicle movement will be managed on site, with particular reference to the following matters:

- Operation of the traffic flow controls to control vehicle movements on the access ramps,
- Demonstrate the areas available for queuing on the ground floor for vehicles waiting to enter the access ramps, can be used without restricting / obstructing car parking or vehicle movement located on the ground floor.

The Management Plan is to be submitted to for review and approval Council with the application for Operational Works approval.

*Landscaping / Footpaths*

9. **A detailed site and footpath Landscaping Plan (incorporating landscaping and street furniture for the site, promenade and River Street) must be prepared by a qualified Landscape Designer and must be submitted to Council for approval at the time of lodgment of the Operational Works application. The Plan must show for all areas identified on the approved plan of development the following:**

- a. **Landscape specification of sufficient detail so that landscape works are to be carried out;**
- b. **Plant schedule detailing number of plants, species, pot size and height at planting;**
- c. **Details of soil and mulch types, including depths, areas of turf, garden edges and paving finishes;**
- d. **The details of the irrigation system.**

**Any proposed landscaping works within Councils' Road Reserve must comply with Planning Scheme Policy No. 11 – Landscaping.**

**The design shall be prepared in consultation with and subject to the guidance of Council and the Council's Consultants**

10. The landscaped areas adjoining the car parking area and internal driveways shall be protected from vehicles by a 150mm high vertical concrete kerb or similar obstruction.

Where practical, stormwater shall be collected for reuse to irrigate the landscaped areas.

11. The developer shall be responsible for the installation of all approved landscaping works.
12. The landscaping shown on the approved plan shall be completed before the development is occupied and shall be maintained thereafter to the satisfaction of Council. The developer will be responsible for the maintenance of landscape works located on public lands only for a standard 'maintenance period'.

*Finger Wharf*

13. The developer must prepare a detailed design for the construction of a finger wharf connecting to the eastern end of the development. The design shall be prepared in consultation with and subject to the guidance of Council and the Council's consultants. The plan shall include details of levels, transitions and provision for equitable access between the finger wharf and the development. The design of the finger wharf shall be based

generally on the 'Ground Floor/Site Plan', No. MAK-732 Rev. D prepared by TM Design Group, dated Jan 08.

In general terms the finger wharf shall be one level and designed for pedestrian and service vehicle use only. The developer is responsible for the full construction of the Finger Wharf, however, is only required to fund 50% of the construction cost. The balance 50% shall be provided by the development of the adjoining Lots 201-204 on M912. Any change to the design and resultant construction costs brought about by the development on the adjoining sites shall be the responsibility of the developer of the adjoining lots. An Infrastructure Agreement formalising this arrangement shall be entered into with Council prior to commencement of construction.

#### *Site Development Levels and Flood Protection*

14. Levels to be in accordance with approved plans. It is acknowledged that some minor variation/changes may occur during preparation of construction drawings to comply with relevant standards and policies.

#### *Promenade & Levee*

15. The developer must prepare a detailed design for the construction of the Promenade along the full length of the River Street frontage of the site and connecting to the Finger Wharf. The design shall be prepared in consultation with and subject to the guidance of Council and the Council's Consultants.
16. The promenade is to be designed to function as a river levee system with no gaps as a result of the development of the promenade, finger wharf or reconstruction of River Street.

#### *Existing River Edge*

17. The developer must assess the long term adequacy of the existing rock revetment and down stream bank during the design phase of the project.

Any upgrading works required shall be undertaken by the developer with the approval of the Pioneer River Improvement Trust and be in accordance with Pioneer River Improvement Trust (PRIT) Policy No. 006.

Further, the developer shall submit final building plans to PRIT for final approval prior to the lodgement of an application for a Development Permit for Building Works.

#### *Roadworks*

18. The developer must provide external works in the River Street road reserve extending from the Tennyson Street intersection (in front of the proposed finger wharf) to the west for the full frontage of the subject site, including providing suitable transitions and termination points for the existing service road east and west of the development site.

The external works shall be in general accordance with the Site Plan Dwg No 732-TP01.01 Rev. A prepared by TM Design Group except as provided otherwise in these conditions (eg stowage of garbage, location of SRV loading bay. These works shall include but not be limited to:

- Existing kerb line on the southern side of River Street to remain.
- Parallel parking lane adjacent to the southern kerb line
- One travel lane in each direction
- 2.5 metre wide clearway adjacent to the northern travel lane
- 90 degree angle parking adjacent to the new levee alignment
- Relocation of the existing levee and provision for continuous levee protection to the east and west of the site.
- Transitions to the existing roadway at the eastern and western end of the reconstruction roadwork's. Provision is to be made for continued access to properties currently accessed from the River Street service road, both east and west of the development site.
- Provision for pedestrian movements across River Street at the intersections with Tennyson Street.
- The raised traffic calming device must be relocated to a position immediately west of Tennyson Street due to potential conflicts with vehicle movements at the access point to the development.

A concept plan is to be submitted to Council for review and comment prior to the lodgement of any application for Operational Works approval.

19. The River Street reconstruction shall have an asphalt service with a crossfall in accordance with recognised engineering standards (maximum 4.5 per cent crossfall) extending up from the existing southern kerbline (but note out-builds are to be provided in the vicinity of pedestrian crossing at the Tennyson Street intersection).
20. Pedestrian and street lighting shall be provided in accordance with Australian Standards.
21. All pedestrian areas are to cater for disabled access in accordance with Australian Standards.

#### *Sewerage & Water Supply*

22. The developer is to construct a new 200mm dia water main on the northern side of River Street from the existing 450mm dia trunk main located at the intersection of River and Carlyle Streets to the eastern boundary of the subject site.

The developer is to install a 150mm dia take off point for the fire fighting supply and a 100mm dia take off for the potable water supply as the connection points for the approved development.

The developer must install a bulk water meter and sub-metering in accordance with the relevant State legislation and Mackay Regional

Council Commercial Services requirements. Metering of the domestic and fire lines is required.

Pumping direct from Council water mains for domestic or fire fighting supply is not permitted and break tanks must be installed in accordance with Mackay Water requirements (also refer requirements of AS2419.4 with respect to provision of tanks and submission of designs).

23. The developer is to construct a new 225mm dia sewer main along the western side of Tennyson Street from the existing trunk sewer at the corner of Tennyson Street and Victoria Street to the intersection of River and Tennyson Streets. From this point a 150mm dia sewer main is to be constructed on the northern side of River Street, within the road pavement, extending to the western boundary of the subject site.
24. Sewer Disconnection  

The existing house drain must be disconnected. A Sewer Disconnection form is to be submitted to Mackay Water with the appropriate fees for approval.
25. Live Connections  

Mackay Water is to carry out all water connection and live sewer work at the developer's expense.
26. The new building works shall be constructed in accordance with Council's Policy No. MW02 "Building over and Adjacent to Sewers".

#### *Stormwater*

27. Stormwater runoff from the River Street carriageway, car parking area and properties along the southern side of River Street is to be collected and discharged into a new underground drainage system to be provided adjacent to the River Street southern kerb line. This drainage system is to connect into the existing Council drainage systems until such time the trunk stormwater drainage system is upgraded within Tennyson and Lawson Streets in accordance with Council's Drainage Plan for this area.

Existing drainage systems are to be modified if required.

The developer shall be responsible for the construction of the longitudinal drainage within River Street between Tennyson and Carlyle Streets.

28. Stormwater runoff from the promenade, finger wharf and building shall be collected on site and discharged to the Pioneer River via a treatment process incorporating:-
  - Separation of clean roof water runoff with direct discharge to the river;

- Collection of all car park, roadway and pavement runoff with treatment through gross pollutant traps with trash racks and oil separators;
- Collection of runoff from breezeways, boardwalks and pedestrian areas with treatment through GPTs with trash racks;
- Bio-retention trenches in landside parking areas for car park and landscaped area run-off treatment before release to the river.

Where appropriate, treated water is to be used for irrigation of landscaped areas

29. Council's Stormwater Quality Management Plan of June 2006 shall be adopted for this project.

*Electricity and Telephone*

30. The approved development must be provided with electricity and telecommunications infrastructure.

*Water Supply & Sewerage Headworks Contributions*

31. Headworks contributions for Water Supply and Sewerage Services must be paid in accordance with Council's Policy on Developer Contributions for Water Supply and Sewerage Services. Headworks will be applied based on an additional 39.9 ET's.

*Trunk Road Infrastructure Contributions*

32. A transport network contribution must be paid in accordance with Councils Policy on Transport Network Contributions. The transport network contribution will be applied based on an additional 301 vehicle movements per day (vpd).

*Parkland Contributions*

33. A parkland contribution must be paid in accordance with Councils' Policy on Developer Contributions for Parkland. The parkland contribution will be applied based on an additional 105.3 EP's.

*Contributions Payment Timing*

34. All contributions and charges must be paid prior to the date of issue of the Development Permit for Building Works at the rate applicable at the time of payment

*Secure Storage Facilities*

35. The developer shall make provision for a secure storage area for each multiple dwelling unit. Each unit shall be provided with a minimum of 6m<sup>3</sup> of space that is set aside exclusively for storage. This space may form part of a garage or carport.

*Private Open Space*

36. Balconies with a minimum 'useable area' of 8m<sup>2</sup> must be provided adjacent to the living/dining room of all dwelling units above ground level. For the purposes of this condition, 'useable area' means a minimum dimension of 2.4m x 2.4m. These balconies must not be enclosed as to form habitable rooms.

*Building Height*

37. The maximum building height (measured to the ceiling of the uppermost level) must not exceed RL35.9m AHD. Structures above this height are permitted where in accordance with the requirements of the 'Roof-Top Envelope – City Centre Locality' definition of the Planning Scheme.

*Servicing/Refuse Collection*

38. The development shall be designed to accommodate a service vehicle loading bay. The design shall cater for the turning movements of a heavy rigid truck and waste collection. The developer must demonstrate that the movements can be accommodated via turning templates, to be provided at the time of lodgement of application for Operational Works Development Permit.
39. The waste storage area shall be located and designed so as not to cause a nuisance to neighbouring properties. It is the developer's responsibility to make appropriate arrangements for the collection of waste from the development with the Council's approved waste collection service. Garbage bin storage areas are to be suitably screened.

Collection of waste from the development is permitted from the River Street road reserve, however refuse containers cannot be stored on the street and must be positioned on the street on the day of collection and returned to within the development site immediately after collection.

*Amalgamation of Lots*

40. The site shall be amalgamated into one allotment and the Plan of Amalgamation shall be lodged for registration in the Department of Natural Resources prior to the issue of a Development Permit for Building Works.

*Environmental Management Plan*

41. The developer shall prepare an Environmental Management Plan (EMP) for the construction, operation and maintenance phases of the development. The EMP is to ensure that impacts are minimised, particularly during the construction phase and must contain:

- A practicable and achievable plan of environmental management for the Contractor to implement;
- Clear commitments, framed in a way which enables later assessment to the extent to which the commitment has been met;
- Strategies to ensure that the environmental impact of the works is minimised and that all work under the contract is based on best practice;
- Performance criteria and objectives in relation to environmental impacts;
- The implementation responsibilities for environmental management; and
- Reporting requirements and auditing and management responsibilities for meeting environmental performance objectives.

The EMP (operation and maintenance) is to be prepared by the facilities' operators and is to provide details of ongoing environmental management that will be required throughout the life of the facility including (but not limited to) public open space management, maintenance of water quality installations and waste management.

The EMP shall be submitted for Council's approval as part of the application for an Operational Works permit.

#### *Erosion and Sediment Control*

42. The detailed design is to include a comprehensive erosion and sediment control plan in accordance with Council Policy 15.07 – Engineering Design Guidelines – Soil and Water Quality Management (D7). For excavation works, key construction stage features proposed will include:
- Shaker grid for all vehicles access with collection sumps for subsequent disposal off site;
  - Silt fences along the riverbank edge for the entire length of the site;
  - Wash down areas as required with sumps for subsequent off site disposal.

#### *Miscellaneous*

43. The designs shall identify and make due allowance for any areas of acid sulfate soils. Earthworks and locations of services and drains shall be such to minimise the disturbance of such soils. Where disturbance of acid sulfate soils cannot be avoided any material excavated or left in situ shall be treated and/or left in an inert state.
44. All buildings or other structures currently situated on the subject site shall be removed and demolished prior to commencement of building work. Please note that the demolition of the existing structures will require Prescribed Tidal Works approval, as will the construction of the approved building.

45. The location and design of the waste storage area shall be located so as not to cause a nuisance to neighbouring properties.
46. All service equipment, lighting and air-conditioning units shall be located so as not to cause a nuisance to neighbouring properties.
47. The outdoor storage of any equipment or material and any service area shall be aesthetically screened so as not to be visible from any road to which the site has frontage.

*General / Compliance*

48. All conditions shall be complied with prior to the occupancy of the building site for the approved use.
49. All design and construction for the development must be in accordance with Council's Policies, Engineering Design Guidelines, Standard drawings and standard specifications.
50. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

C. THAT the applicant is provided with the following Assessment Managers Advice:

1. Hours of work

It is the applicant/owner's responsibility to ensure compliance with Section 6W of the Environmental Protection Regulation 1998, which prohibits any construction, building and earthworks activities likely to cause nuisance noise (including the entry and departure of heavy vehicles) between the hours of 6:30pm and 6:30am from Monday to Saturday and at all times on Sundays or Public Holidays.

2. Dust Control

It is the applicant/owner's responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998, which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

3. Sedimentation Control

It is the applicant/owner's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

4. Noise during Construction and Noise in General

It is the applicant/owner's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

5. General Safety of Public during Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 30(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

6. Contaminated Land

It is strictly the applicant/owner's responsibility to source information regarding contaminated land from the Environmental Protection Agency, Contaminated Land section as Council has not conducted detailed studies and does not hold detailed information pertaining to contaminated land.

7. Summary of Developer Contributions due as at the date of approval.

Note: Contributions paid at the time nominated in the relevant condition will be re-calculated at the current applicable rate, at that time.

Infrastructure	Catchment	Number of Units/ET's/ EP's/VPD's	Total Calculated Amount	Economic Incentive	Total Amount Due
Water Supply (\$4,978/ET)	Mackay City	43.5 ET's less 3.6 ET credit = 39.9 ET	\$198,622.20	NA	\$198,622.20
Sewerage Supply (\$3,176/ET)	Mackay City	43.5 ET's less 3.6 ET credit = 39.9 ET ET	\$126,722.40	NA	\$126,722.40
Parkland (\$1,235/EP)	Catchment 4 – City, South, West & East Mackay	106.5 EP's less 1.2 EP credit Total = 105.3 EP	\$130,045.50	NA	\$130,045.50
Transport Network (\$341/vpd)	Whole of City	41 Multiple Dwellings @ 5vpd/unit = 205vpd  600m <sup>2</sup> Catering Shop @ 40vpd/100m <sup>2</sup> GFA = 240 less 144vpd credit = 96vpd	Multiple Dwelling Units = \$69,905  Catering Shop = \$32,736	75% for Catering Shop  \$24,552	\$69,905 plus \$8,184 = \$78,089

Note: The credit has been calculated for the existing building based on a Catering Shop component of 240m<sup>2</sup> and a Commercial Premises component of 240m<sup>2</sup>.

## Council Resolution

A. THAT Council agree to issue a Negotiated Decision Notice for a Material Change of Use for 41 Multiple Dwelling Units and Catering Shop on land at 8 River Street, Mackay, described as Lot 204 on M912 and Lot 3 on RP735475, subject to the amendment to Condition 9 as detailed in the following conditions:

1. The approved 41 Multiple Dwelling Units and Catering Shop development must be completed and maintained generally in accordance with the Plans of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

Job No.	Drawing No.	Issue	Drawing	Prepared by	Date
MAK-732	732-TP01.01	A	Site Plan	TM Design Group	14/03/08
MAK-732	732-TP01.02	A	Streetscape/Context Plan	TM Design Group	14/03/08
MAK-732	732-TP02.00	A	Ground Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.01	A	Level 1 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.02	A	Level 2 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.03	A	Level 3 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.04	A	Level 4 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.05	A	Level 5 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.06	A	Level 6 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.07	A	Level 7 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.08	A	Level 8 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP02.09	A	Level 9 Floor Plan	TM Design Group	14/03/08
MAK-732	732-TP03.01	A	South Elevation (Elevation to River Street)	TM Design Group	14/03/08
MAK-732	732-TP03.02	A	East Elevation (Elevation to Finger Wharf)	TM Design Group	14/03/08
MAK-732	732-TP03.03	A	North Elevation (Elevation to Pioneer River)	TM Design Group	14/03/08
MAK-732	732-TP03.04	A	West Elevation to Paxtons)	TM Design Group	14/03/08
MAK-732	732-TP04.01	A	Section A-A	TM Design Group	14/03/08

For the sake of clarification, the boardwalk adjacent to River Street is referred to as the “Promenade”.

2. Amended Plans Required

Prior to the lodgement of the application for Operational Works approval, the approved plans of development must be amended to comply with the following matters:

- (a) The proposed development generates the requirement for 61.5 spaces for the residential component and 16.5 spaces for the Catering Shop, however only 5 spaces have been provided for the Catering Shop resulting in a shortfall of 10.5 spaces. To ensure compliance with Schedule 2 of the Mackay City Planning Scheme the plan of development is either to be amended to provide additional 11 car parking spaces OR alternatively amend the plan of development to reduce the area of the catering shop/s including any outdoor dining area to a maximum of 580m<sup>2</sup>.

Alternatively, prior to issuing an Operational Work approval, the developer must enter an Infrastructure Agreement with Council to provide the developments' 11 car parking space shortfall for the Catering Shop. The Infrastructure Agreement will determine the payment and timing of the works and/or contributions by the developer in accordance with Council's Standard Infrastructure Agreement documentation. The contribution must be paid prior to the issuing of an Operational Works approval.

- (b) The finish of the north facing wall of the basement car park shall be treated to provide visual interest when viewed from the Forgan Bridge and the northern side of the Pioneer River. The treatments should include 'timber & tin' to reflect the Wharf Precinct and the use of landscaping (i.e. planter boxes), articulation and lighting.
- (c) The landscaping on either side of the car park entrance is to be reduced to coincide with the extent of the car parking bays to permit movement of pedestrians / cycleway movements and visibility.

The amended Plans are to be submitted to Council for review and approval prior to the lodgement of the application for Operational Works.

*General*

8. The boardwalk on the river frontage shown on the approved plans shall be open to the public at all times, unless otherwise approved by Council. No outdoor dining is to be located in this area.
9. Prior to making an application for a Development Permit for Building Work the design shall be reviewed for compliance with the principles of Crime Prevention through Environmental Design. The review shall be submitted to Council and

acknowledgement of receipt shall be issued prior to the issue of the Development Permit for Building Works.

(Note: Assistance with this review can be obtained from Ron Waters-Marsh of Queensland Police (Crime Prevention Policy Unit) phone 4968 3572)

10. The design and construction of all infrastructure external to the property required by this approval shall be designed and constructed in accordance with a Wharf Precinct Infrastructure Plan provided by Council.

#### *Carparking & Access*

11. A car parking area shall be constructed, sealed, linemarked and drained for a minimum of 92 car parking spaces in accordance with the approved plan and maintained thereafter. Any car parking spaces located in a 'tandem' arrangement are to be allocated to a single unit. The required number of car parks will depend on how the developer intends to address condition 2(a).

The car parking classification is Class 1 for internal parking and is to be designed in accordance with AS/NZS2890.1 – 2004. At least 1 space per dwelling unit is to be accessible by B99 design vehicles. The applicant is to submit plans that demonstrate this requirement at the time of lodgment of an application for Operational Works.

12. All car parking areas and the access driveway is to be in accordance with AS/NZS 2890.1: 2004, with particular reference to:

- Gradients of the access driveway and car parking modules
- Queuing lengths
- Sight distance requirements to roadway and promenade

13. The developer must prepare a detailed Parking Management Plan to demonstrate how car parking and vehicle movement will be managed on site, with particular reference to the following matters:

- Operation of the traffic flow controls to control vehicle movements on the access ramps,
- Demonstrate the areas available for queuing on the ground floor for vehicles waiting to enter the access ramps, can be used without restricting / obstructing car parking or vehicle movement located on the ground floor.

The Management Plan is to be submitted to for review and approval Council with the application for Operational Works approval.

#### *Landscaping / Footpaths*

14. **A detailed site and footpath Landscaping Plan (incorporating landscaping and street furniture for the site, promenade and River Street) must be prepared by a qualified Landscape Designer and must be submitted to Council for approval at the time of lodgment of the Operational Works**

**application. The Plan must show for all areas identified on the approved plan of development the following:**

- a. **Landscape specification of sufficient detail so that landscape works are to be carried out;**
- b. **Plant schedule detailing number of plants, species, pot size and height at planting;**
- c. **Details of soil and mulch types, including depths, areas of turf, garden edges and paving finishes;**
- d. **The details of the irrigation system.**

**Any proposed landscaping works within Councils' Road Reserve must comply with Planning Scheme Policy No. 11 – Landscaping.**

**The design shall be prepared in consultation with and subject to the guidance of Council and the Council's Consultants**

15. The landscaped areas adjoining the car parking area and internal driveways shall be protected from vehicles by a 150mm high vertical concrete kerb or similar obstruction.

Where practical, stormwater shall be collected for reuse to irrigate the landscaped areas.

16. The developer shall be responsible for the installation of all approved landscaping works.
17. The landscaping shown on the approved plan shall be completed before the development is occupied and shall be maintained thereafter to the satisfaction of Council. The developer will be responsible for the maintenance of landscape works located on public lands only for a standard 'maintenance period'.

*Finger Wharf*

18. The developer must prepare a detailed design for the construction of a finger wharf connecting to the eastern end of the development. The design shall be prepared in consultation with and subject to the guidance of Council and the Council's consultants. The plan shall include details of levels, transitions and provision for equitable access between the finger wharf and the development. The design of the finger wharf shall be based generally on the 'Ground Floor/Site Plan', No. MAK-732 Rev. D prepared by TM Design Group, dated Jan 08.

In general terms the finger wharf shall be one level and designed for pedestrian and service vehicle use only. The developer is responsible for the full construction of the Finger Wharf, however, is only required to fund 50% of the construction cost. The balance 50% shall be provided by the development of the adjoining Lots 201-204 on M912. Any change to the design and resultant construction costs brought about by the development on the adjoining sites shall be the responsibility of the developer of the adjoining lots. An Infrastructure Agreement formalising this arrangement shall be entered into with Council prior to commencement of construction.

*Site Development Levels and Flood Protection*

19. Levels to be in accordance with approved plans. It is acknowledged that some minor variation/changes may occur during preparation of construction drawings to comply with relevant standards and policies.

*Promenade & Levee*

20. The developer must prepare a detailed design for the construction of the Promenade along the full length of the River Street frontage of the site and connecting to the Finger Wharf. The design shall be prepared in consultation with and subject to the guidance of Council and the Council's Consultants.
21. The promenade is to be designed to function as a river levee system with no gaps as a result of the development of the promenade, finger wharf or reconstruction of River Street.

*Existing River Edge*

22. The developer must assess the long term adequacy of the existing rock revetment and down stream bank during the design phase of the project.

Any upgrading works required shall be undertaken by the developer with the approval of the Pioneer River Improvement Trust and be in accordance with Pioneer River Improvement Trust (PRIT) Policy No. 006.

Further, the developer shall submit final building plans to PRIT for final approval prior to the lodgement of an application for a Development Permit for Building Works.

*Roadworks*

23. The developer must provide external works in the River Street road reserve extending from the Tennyson Street intersection (in front of the proposed finger wharf) to the west for the full frontage of the subject site, including providing suitable transitions and termination points for the existing service road east and west of the development site.

The external works shall be in general accordance with the Site Plan Dwg No 732-TP01.01 Rev. A prepared by TM Design Group except as provided otherwise in these conditions (eg stowage of garbage, location of SRV loading bay. These works shall include but not be limited to:

- Existing kerb line on the southern side of River Street to remain.
- Parallel parking lane adjacent to the southern kerb line
- One travel lane in each direction
- 2.5 metre wide clearway adjacent to the northern travel lane
- 90 degree angle parking adjacent to the new levee alignment
- Relocation of the existing levee and provision for continuous levee protection to the east and west of the site.

- Transitions to the existing roadway at the eastern and western end of the reconstruction roadwork's. Provision is to be made for continued access to properties currently accessed from the River Street service road, both east and west of the development site.
- Provision for pedestrian movements across River Street at the intersections with Tennyson Street.
- The raised traffic calming device must be relocated to a position immediately west of Tennyson Street due to potential conflicts with vehicle movements at the access point to the development.

A concept plan is to be submitted to Council for review and comment prior to the lodgement of any application for Operational Works approval.

24. The River Street reconstruction shall have an asphalt service with a crossfall in accordance with recognised engineering standards (maximum 4.5 per cent crossfall) extending up from the existing southern kerbline (but note out-builds are to be provided in the vicinity of pedestrian crossing at the Tennyson Street intersection).
25. Pedestrian and street lighting shall be provided in accordance with Australian Standards.
26. All pedestrian areas are to cater for disabled access in accordance with Australian Standards.

#### *Sewerage & Water Supply*

27. The developer is to construct a new 200mm dia water main on the northern side of River Street from the existing 450mm dia trunk main located at the intersection of River and Carlyle Streets to the eastern boundary of the subject site.

The developer is to install a 150mm dia take off point for the fire fighting supply and a 100mm dia take off for the potable water supply as the connection points for the approved development.

The developer must install a bulk water meter and sub-metering in accordance with the relevant State legislation and Mackay Regional Council Commercial Services requirements. Metering of the domestic and fire lines is required.

Pumping direct from Council water mains for domestic or fire fighting supply is not permitted and break tanks must be installed in accordance with Mackay Water requirements (also refer requirements of AS2419.4 with respect to provision of tanks and submission of designs).

28. The developer is to construct a new 225mm dia sewer main along the western side of Tennyson Street from the existing trunk sewer at the corner of Tennyson Street and Victoria Street to the intersection of River and Tennyson Streets. From this point a 150mm dia sewer main is to be constructed on the northern side of River Street, within the road pavement, extending to the western boundary of the subject site.

## 29. Sewer Disconnection

The existing house drain must be disconnected. A Sewer Disconnection form is to be submitted to Mackay Water with the appropriate fees for approval.

## 30. Live Connections

Mackay Water is to carry out all water connection and live sewer work at the developer's expense.

## 31. The new building works shall be constructed in accordance with Council's Policy No. MW02 "Building over and Adjacent to Sewers".

### *Stormwater*

## 32. Stormwater runoff from the River Street carriageway, car parking area and properties along the southern side of River Street is to be collected and discharged into a new underground drainage system to be provided adjacent to the River Street southern kerb line. This drainage system is to connect into the existing Council drainage systems until such time the trunk stormwater drainage system is upgraded within Tennyson and Lawson Streets in accordance with Council's Drainage Plan for this area.

Existing drainage systems are to be modified if required.

The developer shall be responsible for the construction of the longitudinal drainage within River Street between Tennyson and Carlyle Streets.

## 33. Stormwater runoff from the promenade, finger wharf and building shall be collected on site and discharged to the Pioneer River via a treatment process incorporating:-

- Separation of clean roof water runoff with direct discharge to the river;
- Collection of all car park, roadway and pavement runoff with treatment through gross pollutant traps with trash racks and oil separators;
- Collection of runoff from breezeways, boardwalks and pedestrian areas with treatment through GPTs with trash racks;
- Bio-retention trenches in landside parking areas for car park and landscaped area run-off treatment before release to the river.

Where appropriate, treated water is to be used for irrigation of landscaped areas

## 34. Council's Stormwater Quality Management Plan of June 2006 shall be adopted for this project.

### *Electricity and Telephone*

## 35. The approved development must be provided with electricity and telecommunications infrastructure.

*Water Supply & Sewerage Headworks Contributions*

36. Headworks contributions for Water Supply and Sewerage Services must be paid in accordance with Council's Policy on Developer Contributions for Water Supply and Sewerage Services. Headworks will be applied based on an additional 39.9 ET's.

*Trunk Road Infrastructure Contributions*

37. A transport network contribution must be paid in accordance with Councils Policy on Transport Network Contributions. The transport network contribution will be applied based on an additional 301 vehicle movements per day (vpd).

*Parkland Contributions*

38. A parkland contribution must be paid in accordance with Councils' Policy on Developer Contributions for Parkland. The parkland contribution will be applied based on an additional 105.3 EP's.

*Contributions Payment Timing*

39. All contributions and charges must be paid prior to the date of issue of the Development Permit for Building Works at the rate applicable at the time of payment

*Secure Storage Facilities*

40. The developer shall make provision for a secure storage area for each multiple dwelling unit. Each unit shall be provided with a minimum of 6m<sup>3</sup> of space that is set aside exclusively for storage. This space may form part of a garage or carport.

*Private Open Space*

41. Balconies with a minimum 'useable area' of 8m<sup>2</sup> must be provided adjacent to the living/dining room of all dwelling units above ground level. For the purposes of this condition, 'useable area' means a minimum dimension of 2.4m x 2.4m. These balconies must not be enclosed as to form habitable rooms.

*Building Height*

42. The maximum building height (measured to the ceiling of the uppermost level) must not exceed RL35.9m AHD. Structures above this height are permitted where in accordance with the requirements of the 'Roof-Top Envelope – City Centre Locality' definition of the Planning Scheme.

*Servicing/Refuse Collection*

43. The development shall be designed to accommodate a service vehicle loading bay. The design shall cater for the turning movements of a heavy rigid truck and waste collection. The developer must demonstrate that the movements can be

accommodated via turning templates, to be provided at the time of lodgement of application for Operational Works Development Permit.

44. The waste storage area shall be located and designed so as not to cause a nuisance to neighbouring properties. It is the developer's responsibility to make appropriate arrangements for the collection of waste from the development with the Council's approved waste collection service. Garbage bin storage areas are to be suitably screened.

Collection of waste from the development is permitted from the River Street road reserve, however refuse containers cannot be stored on the street and must be positioned on the street on the day of collection and returned to within the development site immediately after collection.

#### *Amalgamation of Lots*

45. The site shall be amalgamated into one allotment and the Plan of Amalgamation shall be lodged for registration in the Department of Natural Resources prior to the issue of a Development Permit for Building Works.

#### *Environmental Management Plan*

46. The developer shall prepare an Environmental Management Plan (EMP) for the construction, operation and maintenance phases of the development. The EMP is to ensure that impacts are minimised, particularly during the construction phase and must contain:

- A practicable and achievable plan of environmental management for the Contractor to implement;
- Clear commitments, framed in a way which enables later assessment to the extent to which the commitment has been met;
- Strategies to ensure that the environmental impact of the works is minimised and that all work under the contract is based on best practice;
- Performance criteria and objectives in relation to environmental impacts;
- The implementation responsibilities for environmental management; and
- Reporting requirements and auditing and management responsibilities for meeting environmental performance objectives.

The EMP (operation and maintenance) is to be prepared by the facilities' operators and is to provide details of ongoing environmental management that will be required throughout the life of the facility including (but not limited to) public open space management, maintenance of water quality installations and waste management.

The EMP shall be submitted for Council's approval as part of the application for an Operational Works permit.

#### *Erosion and Sediment Control*

47. The detailed design is to include a comprehensive erosion and sediment control plan in accordance with Council Policy 15.07 – Engineering Design Guidelines –

Soil and Water Quality Management (D7). For excavation works, key construction stage features proposed will include:

- Shaker grid for all vehicles access with collection sumps for subsequent disposal off site;
- Silt fences along the riverbank edge for the entire length of the site;
- Wash down areas as required with sumps for subsequent off site disposal.

*Miscellaneous*

48. The designs shall identify and make due allowance for any areas of acid sulfate soils. Earthworks and locations of services and drains shall be such to minimise the disturbance of such soils. Where disturbance of acid sulfate soils cannot be avoided any material excavated or left in situ shall be treated and/or left in an inert state.
49. All buildings or other structures currently situated on the subject site shall be removed and demolished prior to commencement of building work. Please note that the demolition of the existing structures will require Prescribed Tidal Works approval, as will the construction of the approved building.
50. The location and design of the waste storage area shall be located so as not to cause a nuisance to neighbouring properties.
51. All service equipment, lighting and air-conditioning units shall be located so as not to cause a nuisance to neighbouring properties.
52. The outdoor storage of any equipment or material and any service area shall be aesthetically screened so as not to be visible from any road to which the site has frontage.

*General / Compliance*

53. All conditions shall be complied with prior to the occupancy of the building site for the approved use.
  54. All design and construction for the development must be in accordance with Council's Policies, Engineering Design Guidelines, Standard drawings and standard specifications.
  55. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.
- B. THAT the applicant is provided with the following Assessment Managers Advice:
2. Hours of work

It is the applicant/owner's responsibility to ensure compliance with Section 6W of the Environmental Protection Regulation 1998, which prohibits any construction, building and earthworks activities likely to cause nuisance noise (including the entry and departure of heavy vehicles)

between the hours of 6:30pm and 6:30am from Monday to Saturday and at all times on Sundays or Public Holidays.

3. Dust Control

It is the applicant/owner's responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998, which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

4. Sedimentation Control

It is the applicant/owner's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

5. Noise during Construction and Noise in General

It is the applicant/owner's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

6. General Safety of Public during Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 30(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

7. Contaminated Land

It is strictly the applicant/owner's responsibility to source information regarding contaminated land from the Environmental Protection Agency, Contaminated Land section as Council has not conducted detailed studies and does not hold detailed information pertaining to contaminated land.

8. Summary of Developer Contributions due as at the date of approval.

Note: Contributions paid at the time nominated in the relevant condition will be re-calculated at the current applicable rate, at that time.

<b>Infrastructure</b>	<b>Catchment</b>	<b>Number of Units/ET's/ EP's/VPD's</b>	<b>Total Calculated Amount</b>	<b>Economic Incentive</b>	<b>Total Amount Due</b>
Water Supply (\$4,978/ET)	Mackay City	43.5 ET's less 3.6 ET credit = 39.9 ET	\$198,622.20	NA	\$198,622.20
Sewerage Supply (\$3,176/ET)	Mackay City	43.5 ET's less 3.6 ET credit = 39.9 ET ET	\$126,722.40	NA	\$126,722.40
Parkland (\$1,235/EP)	Catchment 4 – City, South, West & East Mackay	106.5 EP's less 1.2 EP credit Total = 105.3 EP	\$130,045.50	NA	\$130,045.50
Transport Network (\$341/vpd)	Whole of City	41 Multiple Dwellings @ 5vpd/unit = 205vpd  600m <sup>2</sup> Catering Shop @ 40vpd/100m <sup>2</sup> GFA = 240 less 144vpd credit = 96vpd	Multiple Dwelling Units = \$69,905  Catering Shop = \$32,736	75% for Catering Shop  \$24,552	\$69,905 plus \$8,184 = \$78,089

Note: The credit has been calculated for the existing building based on a Catering Shop component of 240m<sup>2</sup> and a Commercial Premises component of 240m<sup>2</sup>.

**Moved Cr Hatfield**

**Seconded Cr Camilleri**

**CARRIED**

**Crs Meng, Camilleri, Steindl, Perkins, Hatfield, Thomsen, Casey and Cameron voted to adopt the Director's Recommendation with an amendment to condition 2(a), which resulted in A being deleted.**

**7.3 MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR 20 MULTIPLE DWELLINGS AT LOT 10 WEST STREET, SARINA - CLEAR RIDGE DEVELOPMENTS PTY LTD (894717-010-DA-2008-704)**

**Application Number:** DA-2008-704

**Date Received:** 14 November 2008

**Action Officer:** Dennis O'Riely (Planning Officer)  
Shaun Woods (Engineering Officer)

**Applicant's Details:** Clear Ridge Developments Pty Ltd  
C/- Brazier and Motti  
PO Box 420  
MACKAY QLD 4740

**Proposal:** 20 Multiple Dwellings

---

<b>Site Address:</b>	Lot 10 West Street, SARIAN
<b>Property Description:</b>	Lot 10 on RP894717
<b>Owner's Details:</b>	Clear Ridge Developments Pty Ltd
<b>Area:</b>	1.723 Ha
<b>Sarina Planning Scheme Designations</b>	
Zone:	Town Zone
Precinct:	Residential
<b>Referral Agencies:</b>	Department of Main Roads – Concurrence
<b>Attachments:</b>	Attachment A: Locality Plan Attachment B: Site Plan Attachment C: Elevations
<b>Recommendation</b>	Approved subject to conditions

## **ASSESSMENT OF APPLICATION**

### **Executive Summary**

The Material Change of Use application is for 20 Multiple Dwellings at Lot 10 West Street, Sarina (refer to Attachment A – Locality Plan). The application is impact assessable and received 2 properly made submissions objecting the proposal. The submissions have not raised any grounds that cannot be appropriately conditioned.

The application is recommended for approval.

### **Proposal**

It is proposed to construct 20 Multiple Dwellings in 2 stages. Stage 1 will consist of 8 Dwellings with the remainder developed in Stage 2. The Multiple Dwellings are all detached houses and have 3 bedrooms and a double garage (Refer to Attachment B – Site Plan and Attachment C - Elevations).

A future third stage is proposed on the eastern portion of the allotment but is not the subject of this development application.

### **Subject Site**

Access to the subject property is gained from West Street. On the eastern and southern boundaries the site is adjoined by single residential lots and on the southern and western boundary by a caravan park. The northern boundary is adjoined by single residential properties. The far western corner of the site is bordered by a Multiple Dwelling development. All the surrounding properties are in the Town Zone (Residential Precinct).

An open stormwater drain separates the caravan park use from the development site. The drain is located within an easement on the caravan park site.

## **Background**

A Reconfiguration of a Lot Development Permit for the freehold subdivision of the subject site into 12 Residential Lots was approved in November 2007. The application was code assessable and did not require public notification. The property owners have not acted on this approval.

## **CORE PLANNING CONSIDERATIONS**

### **Sarina Shire Planning Scheme**

The application has been assessed against the Sarina Shire Planning Scheme, particularly the following Codes:-

- Town Zone Code (Residential Precinct)
- Multiple Dwelling and Motel Code
- Major Transport and Energy Corridors Overlay Code

### **Town Zone Code**

The subject site is located in the Town Zone, Residential Precinct. The proposal for Multiple Dwellings will provide an alternative housing type at a higher density within Sarina Town, which complies with the intent of the Code.

### **Multiple Dwelling and Motel Code**

#### *Building Design*

Council Officers sought clarification from the developer during the information request period to confirm that diversity in architectural styles would be provided. The developer advised that the dwellings would be constructed from the following materials:-

- cement rendered sheeting
- custom orb sheeting (on walls and roof)
- timber treatments, including decks, and
- aluminium treatments, including awnings.

The developer has proposed a variety of building materials and layouts to ensure architectural diversity is achieved when the dwellings are viewed from the internal road. It is considered that the development will not have a significant impact on the existing streetscape because the subject site is surrounded by existing structures.

#### *Private Open Space*

The area of private open space for each proposed dwelling complies with the Code.

The applicant was requested to demonstrate that the privacy of residents using the open space areas in units 6 & 7, 9 & 10 and 14 & 15 is protected. This is a concern because the private open space areas for these units adjoin and overlook the neighbouring dwelling's private open space area. The proposed location of the private open space areas for these

dwellings will allow overlooking of the adjoining units private open space areas, particularly when residents are using the elevated decks.

The applicant has proposed that 1.8 metre high colourbond screen fencing be constructed and that landscaping of a variety of heights be provided to protect the privacy of users of this open space.

Another concern with the provision of private open space for Dwellings 6, 9, 13 and 15 is that it is orientated to the west. Council's Code states that open space should have a north or north-eastern exposure. Therefore, it is considered reasonable to condition that the developer redesign the layout so that Dwellings 6, 9, and 15 are redesigned/orientated so that the privacy of the open space areas for each Dwelling is protected and it is orientated to the north/north-east. This outcome will result in Dwelling 13 with private open space areas orientated to the west, which in this particular case is considered acceptable because of the location of the Dwelling on the site and the alternative area available to Dwelling 13 for private open space.

### Garbage Collection

The applicant has proposed kerbside collection of individual wheelie bins from the West Street frontage of the site. This will result in 20 wheelie bins being left for collection and up to 40 bins on recycling days on the West Street frontage of the site. Council Officers requested that the proposal for kerb side collection be amended because it is considered that the number of wheelie bins on the West Street frontage will have a detrimental impact on the amenity of the area. The internal roadway will be private and therefore if Council contractors are able to collect individual wheelie bins internally, the developer must sign an indemnity for any damage to the private roadway.

Another option available to the developer is to provide garbage collection by way of an industrial bin collection by a private contractor within the boundary of the property in a location that will permit the vehicle to enter and exit the site in forward gear. It is also recommended that the industrial bin storage area be appropriately screened from view.

The development will be conditioned to provide for garbage collection by way of either internal wheelie bins or an industrial bin. The method of garbage collection must be approved by Council prior to the submission of the Operational Works application.

### **Sarina Planning Scheme Policies**

#### Sarina Planning Scheme 3 – Provision of Parks

Material Change of Use applications do not attract a Parkland Contribution under this Policy.

#### Sarina Planning Scheme Policy 10 – Water Supply and Sewerage Headwork's

Multiple Dwellings with 3 bedrooms attract a contribution of 1 ET per Dwelling. The proposal is for 20 Dwellings, with a credit applicable for the existing allotment. The contribution for Water Supply and Sewerage equates to:-

*Water Supply*

20 Dwellings x 1 ET per Dwelling = 20 ET

20 ET - 1 ET credit for the existing Lot = 19 ET  
19 ET x \$4,291.00 = \$81,529.00

*Sewerage*

20 Dwellings x 1 ET per Dwelling = 20 ET  
20 ET - 1 ET credit for the existing Lot = 19 ET  
19 ET x \$5,605.00 = \$106,495.00

*Sarina Planning Scheme 12 – External Roadwork’s Contribution*

Each Multiple Dwelling attracts a contribution of \$786.00 for each Dwelling for the external upgrade to West Street. Under the Policy the contribution equates to:-

20 Multiple Dwellings minus 1 for existing Lot = 19 additional units  
19 units x \$786.00 per Dwelling = \$14,934.00

**INFRASTRUCTURE CONSIDERATIONS**

*Access/Roadworks*

The subject site is accessed from West Street, a bitumen sealed kerb and channelled road, which is classified as an Urban Major Collector street. West Street is part of a network of Access and Collector streets that connect into Range Road, an Urban Distributor street. The developer has proposed a 6.0m wide two-lane internal road. Council does not take ownership of the internal road.

*Water and Sewerage Services*

Water is available from an existing 100mm diameter water main in West street, The developer proposes to construct a new 100mm diameter main within the development with a 63mm diameter poly ring main at the end of the proposed internal road. Council will not take ownership of the internal main.

Sewerage reticulation is available via an existing 150mm diameter main traversing the subject site. The developer proposes to build several 150mm diameter mains to service the internal area, as well as several house connections, connecting to Council’s existing main. Council will not take ownership of the proposed internal mains.

*Stormwater*

The existing site currently drains in two directions. The northern portion of the site falls away to the north east where it is collected in an open drain and is captured by existing culverts under the CSR tramline. The southern portion of the site drains to the south and is collected in an open drain on the boundary which then outlets through another set of existing culverts under the CSR tramline. Both existing culverts are then collected separately by further culverts under Range Road. The approved 12 lot residential subdivision has been based on a stormwater drainage report prepared by Cardno Ullman and Nolan dated November 2006.

This report has been included in this application and has recommended the following works:

1. Upgrade the northern drain through the site to a new profile. This will need to be within an easement.

2. Upgrade the southern drain to a new profile to be contained within the existing easement on the adjoining lot.
3. Both trunk drains to be reconstructed as an engineered waterway.
4. No upgrading has been recommended to the downstream drainage system.

It is noted both the northern and southern existing drains, downstream of the site to Range Road, are within private property and no easements exist. The existing approval did not require downstream easements and in discussions with the former Shire Council Engineer for Sarina, the Council did not require easements through downstream property in cases where the existing drainage paths essentially catered for an external catchment. It is proposed to follow a similar approach for this development.

### **REFERRAL AGENCIES**

The subject site is within 100 metres of Range Road, which is a State-controlled road. The application required referral to the Department of Main Roads who are a concurrence agency with respect to the development. The Department of Main Roads have advised Council that the Department have no requirements for the development.

### **SUBMISSIONS**

The application is impact assessable and was required to undergo public notification for a period of 15 business days. Council received 2 submissions objecting to the proposal during the public notification period and the issues raised are discussed below:-

#### **Ground 1: Noise**

##### Submitters Concerns

*"I feel that the proposed Colourbond 1.8 metre fence on the northern side of the tramline, will deflect the noise from the cane trains back onto my property (on the southern side of the tramline) unless there is a noise absorption barrier (shrubs and bushes etc) between this proposed fence and the tramline.*

*We have planted a noise barrier on our side of the tramline to lessen this problem and not bounce it back to annoy others and we feel the developer should do the same".*

##### Developer's Response

The choice of fencing was specifically chosen as it provides an attractive screen and is proposed in good faith of screening the development from adjoining properties as well as those internal to the subject site. It may be possible to place some additional landscaping between the fence and the neighbouring property, however, we understand that this fencing would be placed within the cane tramway corridor. As such, landscaping in this corridor may not be welcomed by operators of the cane tramway. Additionally, as the submitter has indicated they have also placed noise attenuation landscaping within their property to soften the noise and as such, we feel that this may act as sufficient buffering to address acoustic noise.

### Town Planning Response

A condition of the Reconfiguration of a Lot approval over the site for 12 residential allotments (file reference ROL-00096) is that a 2 metre high solid fence be provided to lots adjoining the tramline to mitigate the noise impacts from the cane trams. It is considered reasonable that the same requirement be imposed upon this development. However, it shall be conditioned that the developer provide a 2.0 metre high lapped timber fence, rather than the colourbond construction proposed. The lapped timber construction is more appropriate than the colourbond construction because it is considered that the timber fencing will absorb more noise from the tramline.

A requirement for landscaping on the southern side of the fence is unlikely to mitigate the noise impacts on existing residential dwellings on the southern side of the tramline. It should be noted that the Plane Creek Mill tramline runs past residential properties to Brandon Street and where landscaping is located along the line, it has been done so within private properties.

Council cannot require that the landscaping be provided on the grounds that it will mitigate the noise impact of the tramline. It is considered unreasonable to condition this developer to mitigate noise from a third party source. The landscaping would have a minimal impact on the refraction of noise onto the submitters properties and noise from the tramline would be better mitigated by individual property owners providing acoustic barrier fencing on their property where required. Further, the area the submitter suggests should be landscaped will be fenced and therefore cannot be easily maintained by residents of the Multiple Dwellings.

### **Ground 2: Stormwater**

#### Submitters Concerns

*“The stormwater runoff on the southern side of this proposal that runs through 58 Range Road and attempts to exit under Range Road is already totally unable to do so under any normal or slightly above normal runoff, which occurs several times each year.*

#### Developer’s Response

The post developed stormwater flows from the subject site will be such that there is no net increase on the pre-developed flow from the subject site. Developed flows can be attenuated through the use of a combination of detention systems, including sub-surface infiltration. Additionally, a 1050mm diameter culvert will be installed under the existing cane tramline to lower the upstream headwater by up to 300mm which is likely to improve the flows on the submitters property. As well as this, the existing swale drain in Stage 3 will be re-profiled to ensure that it can contain the Q100 peak flow event. It is noted that all stormwater designs for the site that have been proposed are generally consistent with the Mackay Regional Council Engineering Design Guidelines and that all stormwater from the site can be managed within the context of the Guidelines. The treatment and management of stormwater on site aims to improve the existing scenario and therefore, may improve downstream properties.

### Town Planning Response

As part of the original application for a 12 lot subdivision on the site, a Hydraulic Investigation was undertaken by Cardno Ulman and Nolan. This investigation examined all

drainage in relation to the development. Further to the investigation, the developer will need to calculate if any additional measures will need to be undertaken. Conditions can be imposed to ensure post developed stormwater flows are no greater than the pre-developed stormwater flows, by means of detention, easement and open drain widening or other Council approved measures, in accordance with Mackay Regional Council Engineering Guidelines.

### **Ground 3: Conflict with Planning Scheme**

#### Submitters Concerns

The submitter has raised 3 issues relating to the proposed development. These are;

1. The application conflicts with the statutory planning instruments;
2. The proposed development has insufficient detail on the traffic impacts; and
3. Sarina contains numerous Multiple Dwelling approvals.

#### Developers Response

The application does not conflict with the Sarina Shire Planning Scheme. The submitter has argued that the application is inconsistent with the provisions of the Scheme as well as the Scheme's Desired Environmental Outcomes. The development is located in the Town Zone (Residential Precinct) and generally achieves the intent and the outcomes of this Code. The proposed development provides a range of housing choice that is not currently available within Sarina Town.

With respect to traffic and parking, it is noted that the Department of Main Roads acting as a concurrence agency did not request further information or impose conditions on the proposal. We therefore note that the development and supporting material have adequately addressed the traffic issues for the site and conclude that there will be no worsening effect upon the traffic network in Sarina.

Lastly, the submitter has raised concern over the number of Multiple Dwellings approved by Council in the Sarina area. There is sufficient need for this particular style of development in Sarina as there are few, if any, of this product available in Sarina. Also, a needs analysis is not considered necessary in this instance.

#### Town Planning Response

This is a standard submission that has been made by the submitter on a number of development applications in the Sarina Planning Scheme area. The subject site is within the Town Zone (Residential Precinct) and therefore the proposal for Multiple Dwellings is consistent with the intent for the site.

With respect to traffic, sufficient information has been provided in the development application to enable conditions to be imposed. The subject site is within the Town Zone (Residential Precinct) and therefore the development of Multiple Dwellings on this site does not warrant the submission of a needs analysis.

## Conclusion

The Applicant is seeking a Development Permit for a Material Change of Use (Impact Assessment) in order to develop 20 Multiple Dwellings on a site located at Lot 10 West Street, Sarina.

The proposal has been assessed against the Council's Sarina Shire Planning Scheme and Council's Engineering Standards and is considered to be generally consistent with all relevant provisions. As such, it is recommended that Council approve the proposed development subject to the imposition of reasonable and relevant conditions.

## Director's Recommendation

- A. THAT Council approve the application by Clear Ridge Developments for a Material Change of Use – Development Permit for 20 Multiple Dwellings at Lot 10 West Street, Sarina on land described as Lot 10 on RP894717, subject to the following conditions:

1. Plan of Development

The approved (20 Multiple Dwellings) development must be completed and maintained generally in accordance with the Plan of Development (identified in the table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

Job Number	Sheet Numbers	Revision	Prepared By	Dated
08-1345-DA-01	1-19 47-55 65-68	E	King Designs	July 2008
08-1345-DA-01	20-46 56-64	C	King Designs	July 2008

2. Amended Plans Required

Prior to the lodgement of Operational Works approval the approved plans of development must be amended to comply with the following matters:

- a) Dwellings 6, 9 and 15 must be redesigned / orientated so that the private open space areas are orientated to the north, north-west to maximise the usability of the area and prevent overlooking of Dwellings 7, 10 and 14 private open space areas.

The amended plans must be submitted to Council for approval.

3. The developer must make satisfactory arrangements with Council's Waste Services regarding the provision of refuse collection services for the development.

- a) The developer is required to enter into an agreement with a Council certified waste collection contractor for the collection of an industrial bin of an adequate size. This agreement must include the method for collecting both waste and recycling bins and be able to manoeuvre the vehicle on site.

The waste storage area must be located near the West Street frontage of the site opposite Dwelling 1 and must be constructed to incorporate screening on four (4) sides to a height of 0.2 metres above the refuse receptacles. This area shall also incorporate a water connection to facilitate wash-down of this area and must be maintained to the satisfaction of Council.

The location and design of the waste storage area must be located so as not to cause a nuisance to neighbouring properties in accordance with the relevant provisions of the Environmental Protection Act and Regulations.

Or Alternatively,

- b) The developer is required to obtain the agreement of Council's Waste Collection contractor for the collection of individual wheeling bins from the internal roadway.

4. Water and Sewerage Headworks

Headworks contributions for Water Supply and Sewerage Services must be paid in accordance with Sarina Shire Planning Scheme Policy 10 'Water Supply and Sewerage Headwork's - Works External and Works Internal. Headworks will be applied based on an additional 19 ET's.

5. External Roadworks Contributions

An External Roadworks Contribution must be paid in accordance with Sarina Shire Planning Scheme Policy 12 'External Roadworks Contributions'. The External Roadwork Contribution will be applied based on an additional 19 Units.

6. Electricity and Telecommunications Services

The approved development must be provided with electricity and telecommunications infrastructure.

7. Access – Private Road

The new road shall be constructed as a private road for access to the Multiple Dwellings. This access shall be the responsibility of the Multiple Dwelling owners as Council does not require this road to form part of Council's standard road system and the maintenance and public liability of this roadway shall be at the Multiple Dwelling owners expense. A notation to this effect will be placed on Council's rates data base.

8. Road Licence

The new road approved by this development is a 6.0 metre wide private road and the extent of this roadway shall be covered by a road licence to ensure that the road is not a public road but is private road where maintenance and public liability obligations are the responsibility of the Multiple Dwelling owners serviced by this roadway.

9. Stormwater Drainage

Stormwater from the site (including roofwater) shall be collected within the property boundaries and discharged via an underground system to Council's stormwater system.

10. Ponding and Diversion of Stormwater

Ponding of stormwater resulting from the development must not occur on adjacent sites and stormwater formerly flowing onto the site must not be diverted onto other sites. The site shall be graded so that it is free draining.

11. Stormwater Quality

Stormwater quality is to be treated using Best Management Practices as outlined in Mackay Regional Council Engineering Guidelines.

12. Hydraulic Analysis

The Operational Works application is to include revised Hydraulic calculations for the north and south drain based on the proposed new engineered waterway profiles, accounting for landscaping within the waterway.

The design must implement measures to ensure the new development does not detrimentally impact adjoining properties, eg. does not cause ponding, increase in stormwater levels or diversion of stormwater onto adjoining properties.

To achieve the above criteria, the design may need to provide the following:-

- a) Increase in easement width for the southern drain.
- b) On site detention

- c) Provision for diversion drain upstream of the trunk drainage for the northern and southern catchments.
- d) Improvements to downstream drainage.

13. Connection to Sewer Services

The sanitary drainage system must discharge to the discharge point shown on Plan No. 0940-DA-002 (Rev B), manhole shown as Ex/1.

14. Connect to water services

The development must connect to the water service shown on Plan No. (0940-DA-002) (Rev B), being the 100mm diameter water main in West Street. The size of the internal system is to be determined by a network analysis and must provide for fire fighting.

15. Direct Pumping from Mackay Water's Reticulation System

Pumping direct from Council water mains for portable or fire fighting supply is not permitted and break tanks shall be installed in accordance with Mackay Water and Fire Authority requirements.

16. Sewers Policy

All building work is to comply with Council's Policy MW02 – "Building Over and Adjacent to Sewers".

17. Live Connections

Mackay Water is to carry out all water connection and live sewer work at the developer's expense.

18. Landscape Plan Required

A landscaping plan detailing proposals for the treatment of the development must be submitted and approved by Council as part of the Operational Works application. The plan must show for all areas identified on the approved plan of development (including re-profiled open drains) the following:

- Landscape specification of sufficient detail so that landscape works are to be carried out;
- Plant schedule detailing number of plants, species, pot size and height at planting;
- Details of soil and mulch types, including depths, areas or turf, garden edges and paving finishes;
- the details of the irrigation system.

Any proposed landscaped works must comply with Sarina Shire Planning Scheme Policy No. 2 – Landscaping and Schedule 2 – Native Vegetation Species List.

19. Completion of Landscaping

All of the landscaping works shown on the approved plan must be completed before the development is occupied.

20. Floor Level

Development levels are to be based on Q100 flood level plus 300mm.

21. External Catchment

The developer must make provision for runoff from the external catchments. Inter-allotment drainage (within an easement) must be provided in accordance with Council Standard Drawing PA3-870 (B), for the existing Lots to be west of units 1 – 3.

22. The developer is to reconstruct the north and south trunk drainage systems to a landscaped engineered waterway generally in accordance with Cardno Ullman and Nolan report of November 2006 included with this application. A drainage easement is to be provided over the northern drain and along the overflow between the northern and southern drain as identified in the drainage report.

23. An easement is required over Council's existing sewer reticulation system located within the site.

24. New infrastructure within the site, including but not limited to roads, sewerage, water main and stormwater infrastructure remains the responsibility of the lot owner's serviced by this infrastructure, and the maintenance and public liability of this infrastructure shall be at the lot owners expense.

25. Invert Crossing

An invert crossing must be constructed in accordance with Council's Standard Drawing No. PA3-773 and Council's TS05 Policy for access to the internal road.

26. Fencing

A visual screen fence of 2.0 metre high lapped timber construction must be erected between Dwellings 14 – 20 and the boundary of the site (shown on Sheets 4 & 5 of 68 as colourbond fencing). The total cost of this fencing to be met by the Developer.

27. No Nuisance to adjoining properties

All service equipment, lighting and air-conditioning units shall be located so as not to cause a nuisance to neighbouring properties.

28. Bollard Lighting

Install and maintain a suitable system of bollard lighting to illuminate the Driveway. The driveway lighting system and any other outdoor lighting, must comply with Australian Standard no. AS4282 – Control of the obtrusive Effects of Outdoor lighting.

29. Protection of Landscape areas from Car parking

The landscaped areas adjoining the car parking area must be protected from vehicles by a 150 mm high vertical concrete kerb or similar obstruction

30. Maintenance of Development

Maintain the approved development (including landscaping, carparking, driveways and other external spaces) in accordance with the approved drawing(s) and/or documents, and any relevant Council engineering or other approval required by the conditions.

31. Damage

Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

32. Conflict between plans and written conditions

Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.

33. Notice of Intention to Commence the Use

Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and / or works) fully complies with the decision notice issued in respect of the use (please see attached notice for your completion).

34. Compliance with Council Standards

All design and construction for the development must be in accordance with Council's Policies, Engineering Design Guidelines, Standard drawings and standard specifications.

35. Compliance with conditions

All conditions must be complied with prior to the commencement of the use on the subject site, unless specified in an individual condition.

## **ASSESSMENT MANAGER ADVICE**

### 1. Hours of Work

It is the applicant/owner's responsibility to ensure compliance with Section 6W of the Environmental Protection Regulation 1998, which prohibits any construction, building and earthworks activities likely to cause nuisance noise (including the entry and departure of heavy vehicles) between the hours of 6:30pm and 6:30am from Monday to Saturday and at all times on Sundays or Public Holidays.

### 2. Dust Control

It is the applicant/owner's responsibility to ensure compliance with Part 2A – Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

### 3. Sedimentation Control

It is the applicant/owner's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

### 4. Noise During Construction and Noise in General

It is the applicant/owner's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

### 5. General Safety of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

### 6. Contaminated Land

It is strictly the applicant/owner's responsibility to source information regarding contaminated land from the Environmental Protection Agency, Contaminated Land Section as Council has not conducted detailed studies and does not hold detailed information pertaining to contaminated land.

### 7. Summary of Developer Contributions as at date of approval.

Note: Contributions paid at the time nominated in the relevant condition will be re-calculated at current applicable rate, at that time.

Infrastructure	Catchment	Basis of Calculation	Number of Units/ET's/EP's/VPD
Water Supply	Sarina Town	20 units x 1 ET/unit minus 1 ET credit for existing Lot = 19 ET	19 ET
Sewerage Supply	Sarina Town	20 units x 1 ET/unit minus 1 ET credit for existing Lot = 19 ET	19 ET
External Roadwork's Contributions	West Street	20 units x 1 charge/unit minus 1 charge for existing unit = 19 additional Dwellings	19 additional Dwellings

In order to calculate the quantum of the contribution at the time you wish to pay, please refer to Council's website for the indexed Policy Contribution rates.

### Council Resolution

THAT the Director's Recommendation be adopted.

Moved Cr Hatfield

Seconded Cr Casey

**CARRIED**

### 7.4 **REQUEST FOR A NEGOTIATED DECISION NOTICE - MATERIAL CHANGE OF USE - HOMEMAKER CENTRE - LANDEL PTY LTD - HOLTS ROAD & MACKAY-BUCASIA ROAD, RICHMOND (118647-001-DA-2007-553)**

**Application Number:** DA-2007-553

**Date Received:** 5<sup>th</sup> August 2009

**Action Officer:** Darryl Jones

**Applicant's Details:** Landel Pty Ltd  
C/-PMM (Conics) Mackay  
PO Box 1895  
MACKAY QLD 4740

**Proposal:** Material Change of Use (Homemaker Centre)

**Site Address:** Holts Road and Mackay-Bucasia Road,

	Richmond	
<b>Property Description &amp; Owners details:</b>	Lot 1 on SP141690	Woodman McDonald Hardware Pty Ltd
	Lot 2 on RP897382	R & K Jackson
	Lot 4 on SP118647	R & K Jackson
	Lot 1 on SP118747	D & S Davies Pty Ltd
	Lot 3 on SP111688	D & S Davies Pty Ltd
	Lot 2 on SP138968	Woodman McDonald Hardware Pty Ltd
<b>Area:</b>	10.914 Ha	
<b>Planning Scheme:</b>	Mackay City Planning Scheme	
<b>IPA Compliant Planning Scheme</b>		
Precinct:	McCready's Creek	
Locality:	Mackay Frame	
Zone:	Rural	
<b>Submission:</b>	There were only five (5) properly made submissions.	
<b>Referral Agencies:</b>	<u>Concurrence:</u> Department of Main Roads Queensland Transport	
	<u>Advice:</u> Department of Natural Resources	
<b>Attachments:</b>	Attachment A: Locality Plan Attachment B: Proposal Plans	
<b>Recommendation:</b>	Request is supported.	

## ASSESSMENT OF APPLICATION

### Executive Summary

The applicant has submitted written representations on the Decision Notice issued by Council dated 1<sup>st</sup> July 2009.

The recommendation is that the negotiated Decision Notice be approved with amended conditions.

### Background

### Requested Changes

The requested changes to the conditions are detailed below:

#### Original Condition:

***Condition 1A (d)***

- (d) hardware store being restricted to:
- i) the display for retail sale of domestic hardware; and
  - ii) not include a trade component, large building construction materials, outdoor garden centre, raw materials, solid fuels, stock feed or veterinary supplies.

**Comments by Applicant:**

Council have imposed a specific restriction on the otherwise commonly understood and applied definition of “Hardware Store” that is utilised in Council’s own Planning Scheme.

A Hardware Store throughout the Scheme is required to satisfy the following definition:

***“Hardware Store” means any premises used for:***

- (i) display and sale, by retail, of building supplies, domestic hardware, fence posts and palings, plumbing supplies, sand or gravel in small quantities, sawn timber, solid fuel, stock feed or veterinary supplies; and*
- (ii) ancillary storage of articles for sale or hire.*

The definition within the Scheme covers all types of Hardware Store tenants, from smaller Mitre 10 stores and as has been used elsewhere to a large scale “Bunnings” style development. Therefore to the community at large, a Hardware Store at any size will be expected to contain (in varying degrees), all of the goods indicated within the abovementioned definition.

The specific restrictions worded by Council in Condition 1A(d) are:

*(d) hardware store being restricted to:*

- “(i) The display for retail sale of domestic hardware; and*
- (ii) Not include a trade component, large building construction materials, **outdoor** garden centre, raw materials, solid fuels, stockfeed or veterinary supplies”.*

The Applicant’s concerns in relation to the restriction are two fold.

Firstly, neither the Planning Officer’s Report, nor the Decision Notice has identified why Council believes that the specific sale of certain (presumably large) items that are included within that generic definition should be so excluded for any Hardware Store tenancy on the subject site to create this anomaly restriction to an otherwise well understood definition. The ability for a person to purchase hardware and related materials is integral to the Homemaker concept to which the Applicant is directly focusing the development and has been a core component since lodgement.

The Applicant has taken great care in ensuring that the overall function and focus of the proposed development is one that deals with a predominant sale of “bulky or goods in bulk” retailing, relevant to the home, home use and lifestyle, renovation, furnishing and decoration. The Council’s proposed restriction however seems intent on removing the large scale or bulky components of any normal hardware store inventory and relegating the hardware store to a mere shop selling small general hardware items. This is not supported by the Council officer’s

report or considered reasonable in light of the specific intent and function of the centre. Indeed, the intent of the restriction seems to be wholly in conflict of Council's very clear mandate to ensure the centre maintains a bulky goods/vehicular orientated development, within which, a Hardware Store should be considered a comfortable fit.

Secondly, the restriction itself is uncertain.

The terms in proposed restriction 1A(d), will raise substantial opportunity for future argument, interpretational issues and quite possibly further litigation, either between Council and the Applicant, or indeed by commercial competitor third parties in terms of interpretation of the actual extent of the restrictions proposed. For example:

- *What is meant by a "Trade Component"?*,

A trade sale is commonly one wherein members involved in the building and construction industry are provided with a discount for either bulk or long term customer loyalty purchases. In that regard, it is submitted as entirely unreasonable restriction that Council attempt to prevent the manner in which a proposed tenant may wish to discount particular goods to particular customers as a matter of planning control.

In the alternative, should Council be inferring a "Trade Component" to be one whereby some specific internal area or facility is made for members of the building and construction trade to order or pick up purchases separately to that of a general consumer, again, as a matter of planning control, to discriminate between whether a purchaser is part of the building and construction trade, or a general member of the public is not considered reasonable

- *What would constitute "large building construction materials" compared to "domestic hardware"?*

A significant amount of what is commonly found within any Hardware store, for example, timber panels and pieces can be capable of use for anything from a child's tree house to building framing, trusses and cabinetry. Further, the same nails/bolts and screws, which can be purchased singularly to repair a door, can be purchased in boxes of 1,000's, are necessarily required to screw on a roof. These examples show, in very simple terms that Council's proposed restriction, where it seeks to distinguish between goods able to be sold and goods not able to be sold within any Hardware Store, does not achieve any practical outcome, other than promote uncertainty in relation to the specific use approved.

As such, whether or not the Applicant or a subsequent tenant can be certain they will be in proper compliance with the proposed restrictions or indeed whether or not Council could be in a position to monitor such compliance without the interpretation of these clauses coming into question, (and the availability of a third party to challenge it) will be an ongoing issue for the development. Ultimately it is likely to require a declaration application to the Planning and Environment Court to resolve if the restrictions are not deleted. Council would be forced to be a party to such declarations at the communities cost.

These obvious questions of interpretation lead to the conclusion that the proposed restriction on the type of goods to be sold is legally uncertain in the sense that, in regard to this restriction at least, the approval is not a final self contained document which identifies what the Applicant may or may not do.

Should Council's concern be in relation to the actual look and façade of the building in terms of a "trade component", in that it does not wish to see a separate entry way (similar to that sometimes seen at a Bunnings style Hardware Store where a boom gated drive in/drive out facility marketed as a "trade entry" exists) or loose landscape supply sales, this is a matter of building amenity and design unrelated to the actual customer type or goods.

The Applicant has submitted to Council the proposed style of its overall development in the approved plans, which clearly indicates a tilt up concrete Showroom format regardless of the goods sold within. Further, the Applicant's intended overall Homemaker Centre concept would not benefit from any tenant who caused unsightly dust, dirt or vehicular disturbance by a large scale construction material 'depot' or open landscape supply operation.

Further, the entire Homemaker Centre concept is vehicular in nature, as the bulky goods/goods in bulk format of the predominant showroom use require goods to be predominantly carried away by car or large vehicle/trailer (ie, a BBQ, fridge, bed or other furniture). Dependant on the goods, pick up is undertaken for all tenants by either direct egress through the front door to an awaiting vehicle, or by driving to a designated loading/unloading dock for that showroom. This is a specific effect of this type of bulky goods showroom development and one that both separates Showrooms and Hardware Stores from the tradition pedestrian "walk-through" comparison shopping centre, but connects them in a homemaker centre precinct, with both uses having a fundamental requirement to sell bulky goods/goods in bulk requiring vehicular pick-up.

Suggested amendment by Applicant:

Request that the restriction be deleted.

Or, as an alternative, that the restriction be replaced with the following to ensure the overall amenity of the development is maintained:

*"(d) any hardware store use must:*

- (i) Be located within a building form that is consistent with the overall design of the development,*
- (ii) ensure full screening of any garden centre component to ensure visual consistency with the predominant retail showroom use;*
- (iii) not have any loading facility to the main frontage of the tenancy; and*
- (iv) Not allow bulk, loose raw landscape supplies to be stored on site.*

Comments and recommended condition by Officers:

The current condition 1A referring to a hardware store component of the Homemaker Centre was subject to significant discussions between Councillors. The amended condition proposed by the applicant is similar to a draft condition considered by Council prior to deciding the application. The new component are (iii) and (iv) relating to location of loading facility and restricting bulk loose landscaping material.

It is believed that the proposed condition will maintain the external appearance of a retail showroom envisaged as part of the over all development. It is therefore recommended to amend condition 1A (d).

Original Condition:**4. Compliance with Conditions**

*All conditions must be complied with prior to the occupancy of the building for the approved use for the relevant stage, unless specified in an individual condition.*

Comments by Applicant:

The nature of the development and the requirements of Condition 1 require flexibility in relation to staging. It is also necessary to clarify that the work to be done at each stage is only the infrastructure necessary for that stage, unless specified in a particular condition.

Suggested amendment by Applicant:**4. Compliance with Conditions**

If built in stages, all conditions relevant to each stage must be complied with prior to the occupancy of the buildings for each stage, unless specified in an individual condition.

Comments and recommended condition by Officers:

The amendment to the condition proposed by the applicant is considered acceptable with the addition of the words “as agreed with Council” after the word “stage”.

Original Condition:**9. Staged Development**

*The development is approved to be undertaken in the following Stages:*

**Stage 1:** *Buildings A and B and associated infrastructure necessary to effectively service the development in accordance with this approval and the levels of service nominated within the Mackay City Planning Scheme.*

**Stage 2:** *Building C and Ancillary Retail Building and associated infrastructure necessary to effectively service the development in accordance with this approval and the levels of service nominated within the Mackay City Planning Scheme.*

**Stage 3:** *Buildings D and E and associated infrastructure necessary to effectively service the development in accordance with this approval and the levels of service nominated within the Mackay City Planning Scheme.*

Comments by Applicant:

As a result of revised Condition 1, and to maintain the commercial flexibility required for this type of development, the condition needs to be more general, while still maintaining the intent.

The actual staging of the buildings and their construction will be dependent on tenancy availability requirements in the current marketplace and ease of construction methodology. The

Applicant does not wish to be restricted by a condition that unnecessarily “groups” particular buildings to be constructed in a particular order. However, the Applicant acknowledges that any staging will require reasonable staging of infrastructure and services, the extent of which can be assessed at approval for each building works or operation works application.

Suggested amendment by Applicant:

9. Staged Development

If the development is built in stages, each stage must incorporate the associated infrastructure necessary to effectively service the development in accordance with this approval and the levels of service nominated within the Mackay City Planning Scheme.

Comments and recommended condition by Officers:

The staging as detailed in condition 9 is in accordance with the staging proposed by the applicant. In relation to staging of any development the most critical consideration is to ensure that all conditions are complied with including infrastructure provided relevant to each individual stage. Therefore the amendment to the proposed condition is considered appropriate with the inclusion of the words “as agreed with Council” at the end.

Original Condition:

**10. Relevant Period**

*This approval will lapse at the expiry of the first of the following:*

**Stage 1:** *2 years from the date of approval if construction of buildings has not progressed to the completion of the foundations and ground slab; then 3 years from the date of approval if the Certificate of Classification for the buildings has not been obtained and the Material Change of Use has not commenced.*

**Stage 2:** *4 years from the date of approval if the Certificate of Classification for the buildings has not been obtained and the Material Change of Use has not commenced.*

**Stage 3:** *4 years from the date of approval if the Certificate of Classification for the buildings has not been obtained and the Material Change of Use has not commenced.*

Comments by Applicant:

The Applicant resubmits its comments above in relation to the specific ‘stages’ being imposed and requests such restrictions be removed. Further the Applicant submits that the overall timeframes conditioned, which require completion and tenancy of approximately 40,000sqm in 4 years, are unrealistic and inflexible.

The standard lapsing provisions in section 3.5.21 of IPA, reflect, in legislative terms the ‘use it, or lose it’ policy now applicable throughout Queensland to both ensure developers use permits once granted, but cater for flexibility and the necessarily time delays that occur with

application processing, construction and completion. These sections have been the subject of direct judicial interpretation and are now clearly understood and applied across the State. They are also proposed to be continued relatively unchanged in the new Sustainable Planning Bill.

The Applicant therefore submits that there is no justification for imposing changed conditions, thereby excluding this legislative regime from applying in this instance and particularly in this economic climate in such a manner as to impose a 'drop dead' date for the approval and the condition is considered unreasonable in that regard.

The statutory regime will require the Applicant, post the approval becoming effective after any Appeal period, to apply for a related approval (ie. building works and operational works for the MCU), within 2 years. In the event that is not undertaken, the MCU approval will lapse at the end of its standard 4 year currency period and will be unable to be revived without either Council consent to an extension of its currency before lapsing, or a new MCU application. Any related approval obtained also needs to be complied with by the Applicant within its own 2 year currency period.

This legislative regime, avoids the use of "drop dead dates" which could otherwise prevent a partially completed development from being able to be lawfully completed, as long as the developer is continuing to properly utilise the approvals process. This flexibility is going to be extremely important so as to ensure the proposed development has flexibility over the current economic conditions and future uncertainties in terms of economic recovery and growth.

It is therefore paramount that conditions that conflict with the State wide statutory regime are only imposed in extreme circumstances, or that alternatives that are proposed are formatted in such a manner as to allow for consistency of compliance with the general legislation.

Suggested amendment by Applicant:

That the condition be deleted, or alternatively, that the condition be amended to the following:-

"An initial stage of a minimum of 15,000sqm gross lettable area must be constructed within 3 years of the effective date of this approval or as otherwise agreed with Council.

Comments and recommended condition by Officers:

A major consideration in approving the Homemaker Centre was the identified need for additional GFA by 2011 to which this proposal would meet. Therefore, a condition requiring the centre to be constructed in a timely manner is seen as critical in order to meet the demand given to uncertainty of the staging. The applicant's suggestion amendment can be incorporated into an amended condition requiring 15,000m<sup>2</sup> to be completed in 3 years and the entire development in 4 years or as extended period as agreed with Council.

Original Condition:

**11. Water and Sewerage Headworks**

***Headworks contributions for Water Supply and Sewerage Services must be paid in accordance with Council's Policy on Developer Contributions for Water Supply and Sewerage Services. Headworks will be applied based on the following:***

- i) *Home Maker Centre and Hardware Store, 15 ET per hectare of site not covered by other defined uses;*
- ii) *Shop, Healthcare Centre, 1 ET per 200m<sup>2</sup> GFA;*
- iii) *Catering Shop, 1 ET per 100m<sup>2</sup>GFA.*

Comments by Applicant:

These do not appear to have taken any credit for the existing lots and uses into account, as per Council Policy. In some instances, the policies also allow demonstration of actual demand to be considered as an alternative to the standard rates.

Suggested amendment by Applicant:

That the conditions be amended to include the first sentence.

Comments and recommended condition by Officers:

The 6 lots that are subject to this application are not connected to Council reticulated water or sewerage systems and therefore no credits are applicable. No proposed change to this condition are agreed, however the prescriptive second sentence can be deleted.

Original Condition:

**12. Parkland Contribution**

*A parkland contribution must be paid in accordance with the Council's Policy on Developer Contributions for Parkland. The parkland contribution will be applied based on 25.2 EP per hectare of site area or 275 EP's.*

Comments by Applicant:

These do not appear to have taken any credit for the existing lots and uses into account, as per Council Policy. In some instances, the policies also allow demonstration of actual demand to be considered as an alternative to the standard rates.

Suggested amendment by Applicant:

That the conditions be amended to include the first sentence.

Comments and recommended condition by Officers:

The site is zoned Rural and hence does not generate a demand for Parkland. The proposed Homemaker Centre has a catchment of greater than Mackay and in fact the Mackay Regional Council area. As such persons will from outside Mackay will travel here for the shopping experience. While here they will generate demand for parkland and hence the condition should remain albeit only the first sentence. The second sentence is unnecessary and prescriptive.

Original Condition:**13. Transport Network Contributions**

*A transport network contribution must be paid in accordance with Councils Policy on Transport Network Contributions. The transport network contribution will be applied based on a 40 vehicle movements per day (vpd's) per 100m<sup>2</sup> GFA*

Comments by Applicant:

These do not appear to have taken any credit for the existing lots and uses into account, as per Council Policy. In some instances, the policies also allow demonstration of actual demand to be considered as an alternative to the standard rates.

Suggested amendment by Applicant:

That the conditions be amended to include the first sentence.

Comments and recommended condition by Officers:

Delete second sentence as per above. The proposed change to this condition is considered acceptable.

Original Condition:**24. Floor Level**

*The minimum habitable floor level shall be 5.92m AHD or a higher level if determined by the revised SBSMP.*

Comments by Applicant:

NIL

Suggested amendment by Applicant:

## 24. Floor Level

The minimum habitable floor level shall be 5.92m AHD or a higher level if determined by the revised SBSMP for a 1 in 100 year ARI.

Comments and recommended condition by Officers:

The highest minimum floor level that Council can reasonably require for this development is a 1 in 100 year ARI, therefore the amendment proposed by the applicant is considered acceptable.

Original Condition:**38. Waste Storage Area**

*The waste storage areas must be provided in the location shown on the approved plan, must contain an impervious surface and aesthetically screened so as not to be visible from Mackay – Bucasia Road or Holts Road.*

Comments by Applicant:

As condition 3 requires amended plans, and 3 (viii) in particular requires relocation of the waste facilities from the NW corner, this needs to be amended to be consistent.

Suggested amendment by Applicant:**38. Waste Storage Area**

The waste storage areas must be provided in the location shown on the approved plan as amended, must contain an impervious surface and aesthetically screened so as not to be visible from Mackay – Bucasia Road or Holts Road.

Comments and recommended condition by Officers:

The amendment to the condition proposed by the applicant is considered acceptable.

Original Condition:**39. No Nuisance to adjoining properties**

*All service equipment, lighting and air-conditioning units shall be located so as not to cause a nuisance to neighbouring properties.*

Comments by Applicant

This is a repeat of condition 36.

Suggested amendment by Applicant:

That the condition be deleted.

Comments and recommended condition by Officers:

Condition should be deleted.

**Conclusion**

Some of the proposed amendment to the Decision Notice of 1 July 2009 are considered appropriate and hence it is recommended to make amendments and issue a Negotiated Decision Notice.

## Director's Recommendation

- A. THAT Council approve the following proposed amendments by Conics on behalf of Landel Pty Ltd for a Homemaker Centre at L 1 Holts Road, L 2 Mackay-Bucasia Road and L 4 Mackay-Bucasia Road, Richmond at land described as Lot 1 on SP141690, Lot 2 on RP897382 and Lot 4 on SP118647, subject to the following conditions:

Condition 39 be deleted, Condition 1A (d), 4, 9, 10, 12, 13, 24, 36 be amended as detailed below and Condition 11 remain unchanged.

1. Material Change of Use – Permitted Use

This material change of use for a “Homemaker Centre”, defined as follows is approved, subject to the restrictions on each component of the use contained provided for in Condition 1A of this approval:

“Homemaker Centre” means any premises, comprising one or more buildings or tenancies within a building established in a co-ordinated manner, used predominately for a retail showroom or retail showrooms, with a total gross floor area of at least 2500m<sup>2</sup> together with any one or more of the following:

- i) Shop (with a gross floor area greater than 250m<sup>2</sup>, where used for the display and sale of household goods, not predominantly food or groceries).
- ii) Hardware Store (with a gross floor area greater than 250m<sup>2</sup>);
- iii) Healthcare Centre (where limited to a pharmacy or fitness centre with a gross floor area greater than 250m<sup>2</sup>);
- iv) Catering Shop;

The term includes ancillary Shop uses to a maximum of 1800 m<sup>2</sup> GFA to adequately service customers and employees of the predominant use”.

1A. The approved primary use of Homemaker Centre is subject to:

- (a) all retail showroom tenancies must have a GFA greater than 250m<sup>2</sup>.
- (b) a maximum limit of 15% of the overall GFA, being used for Shop tenancies which must:
  - i) be disbursed throughout the development;
  - ii) be between 250m<sup>2</sup> and 600m<sup>2</sup> GFA;
  - iii) be used for the display and sale of household, recreational and motoring goods; and
  - iv) not display or sell food or groceries, except for (f) below:
- (c) catering shop uses being restricted to four (4) tenancies only which must:
  - i) be disbursed throughout the development;
  - ii) be maximum GFA of 250m<sup>2</sup> each;

- iii) have no more than one tenancy that incorporates a drive through facility;
  - iv) not open more than one (1) hour before or remain open more than one (1) hour after the trading hours of the majority of the retail showroom tenants in the centre, unless otherwise varied by Council; and
  - v) not include a Tavern.
- (d) any hardware store use must:
- i) be located within a building form that is consistent with the overall design of the development;
  - ii) ensure full screening of any garden centre component to ensure visual consistency with the predominant retail showroom use;
  - iii) not have any loading facility to the main frontage of the tenancy; and
  - iv) Not allow bulk, loose raw landscaping supplies to be stored on site.
- (e) healthcare centre where limited to a fitness centre with a gross floor area greater than 250m<sup>2</sup>.
- (f) Ancillary Shop uses under 250m<sup>2</sup>, to support the employees and customers of the primary use, are limited to 1,000 m<sup>2</sup> in total GFA and:
- i) may only include one convenience store, selling food/grocery items with a maximum GFA of 300m<sup>2</sup> ;and
  - ii) must be disbursed thought the development; and
  - iii) not open more than one (1) hour before or remain open more than one (1) hour after the trading hours of the majority of the retail showroom tenants in the centre, unless otherwise varied by Council.

## 2. Plan of Development

The approved Homemaker Centre development must be completed and maintained generally in accordance with the Plan of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

<b>Job Number</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Prepared by</b>	<b>Date</b>
707032	SK01	S	The Buchan Group	No date
707032	SK002	E	The Buchan Group	23 Mar 07
707032	SK003	D	The Buchan Group	23 Mar 07
707032	SK004	E	The Buchan Group	23 Mar 07
707032	SK005	A	The Buchan Group	23 Mar 07
707032	SK006	B	The Buchan Group	23 Mar 07

<b>Job Number</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Prepared by</b>	<b>Date</b>
707032	SK010	A	The Buchan Group	23 Mar 07
707032	SK011	A	The Buchan Group	23 Mar 07
707032	SK012	B	The Buchan Group	May 07
707032	SK013	B	The Buchan Group	May 07
707032	SK014	B	The Buchan Group	Oct 07
707032	SK015	B	The Buchan Group	Oct 07
707032	SK016	B	The Buchan Group	Oct 07
707032	SK017	B	The Buchan Group	Oct 07
707032	SK018	B	The Buchan Group	Oct 07
707032	SK022	B	The Buchan Group	Oct 07
72150	SD-L1.01	Rev 6	VIVO	29 May 08
72150	SD-L1.02	Rev 6	VIVO	29 May 08

### 3. Amended Plans Required

Amended plans are to be submitted to Council for approval prior to the lodgment of the first operational works application, which make provision for:

- (i) Creation of a core pedestrian-focused area that provides shade and shelter within an open, high amenity environment. The area is to be created in the vicinity of Buildings D and E or the Ancillary Retail area and shall be effectively protected from the intrusive effects of noise emanating from Mackay-Bucasia Road traffic.
- (ii) Provision of pedestrian footpaths and weather protective awnings to all buildings along their internal frontage to the parking area.
- (iii) Provision of shaded priority pedestrian connectivity walkways linking the building frontage footpaths.
- (iv) Relocation of the taxi rank and bus stop facilities to locations in proximity and integrated with the central pedestrian core. Primary considerations for appropriate locations are safety, opportunities for casual surveillance and shopper convenience.
- (v) Revision of the carparking layout and circulation routes including buses to accommodate access changes conditioned by the Department of Main Roads. The circulation routes shall have a legible hierarchy of priority with minimised parking access directly from higher functioning routes in accordance with the relevant Australian Standards.
- (vi) A swept path analysis of all vehicle service routes and bus circulation routes demonstrating that adequate clearance can be obtained from all building and features.
- (vii) Preserving future options for road access connectivity to the west from the central access corridor between Buildings B and C.
- (viii) Relocation of waste disposal and storage facilities from the north-western corner of Building B to accommodate western connectivity.
- (ix) The development shall maintain a minimum 10m wide landscaped screening buffer along the southern and eastern boundaries of the site.

- (x) The landscaping treatment within the southern and eastern buffer shall comply with the Landscape Character Overlay Code: Image Corridor Specific Outcome P2.
- (xi) The applicant shall prepare a water conservation management plan that specifies how the development will implement best practice water conservation. Options to be assessed and implemented include water consumption minimisation, water sensitive landscaping and stormwater storage and reuse in non-potable services (both internal and external uses).
- (xii) Provision of landscaping and/or architectural treatments to improve the western face of Buildings A, B and C to soften and improve the appearance of the western elevation.
- (xiii) Provision of fencing along the western and northern boundary to restrict vehicle and pedestrian movement between the site and the adjoining property.

4. Compliance with Conditions

If built in stages, all conditions relevant to each stage must be complied with prior to the occupancy of the buildings for each stage as agreed with Council, unless specified in an individual condition.

5. Compliance with Council Standards

All design and construction for the development must be in accordance with Council's Policies, Engineering Design Guidelines, Standard drawings and standard specifications.

6. Maintenance of Development

Maintain the approved development (including landscaping, car parking, driveways and other external spaces) in accordance with the approved drawing(s) and/or documents, and any relevant Council engineering or other approval required by the conditions.

7. Conflict between plans and written conditions

Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.

8. Notice of Intention to Commence the Use

Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and / or works) fully complies with the decision notice issued in respect of the use (please see attached notice for your completion).

9. Staged Development

If the development is built in stages, each stage must incorporate the associated infrastructure necessary to effectively service the development

in accordance with this approval and the levels of service nominated within the Mackay City Planning Scheme, as agreed with Council.

10. Relevant Period

An initial stage of a minimum of 15,000m<sup>2</sup> gross lettable area must be constructed within 3 years and the entire development within 4 years of the effective date of this approval or as otherwise agreed with Council.

11. Water and Sewerage Headworks

Headworks contributions for Water Supply and Sewerage Services must be paid in accordance with Council's Policy on Developer Contributions for Water Supply and Sewerage Services.

12. Parkland Contribution

A parkland contribution must be paid in accordance with the Council's Policy on Developer Contributions for Parkland.

13. Transport Network Contributions

A transport network contribution must be paid in accordance with Council's Policy on Transport Network Contributions.

14. Contributions Payment Timing

All contributions and charges must be paid prior to the date of issue of the Development Permit for Building Works for the relevant stage, at the rate applicable at the time of payment.

15. Damage

Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

16. Street Works

External

- i) Holts Road between the Mackay – Bucasia Road roundabout and the site access must be reconstructed to Traffic Distributor – Sealed Shoulders (Rural) standard in accordance with Council's Standard Drawing A3-3604. In addition street lighting must be provided in accordance with Council's Engineering Design Guidelines.
- ii) The intersection of Holts Road and the internal access must be designed and constructed to accommodate the ultimate development of the site, at Stage 1. Prior to submitting the operational works application, the traffic study must be revised to reflect the approved access arrangements and any changes to the traffic distribution caused by the opening of the new Hospital Bridge.

- iii) If the revised traffic study, as approved by Council, indicates that Council's proposed design for the Holts Road / Pioneer Street intersection needs to be modified, the costs of those additional works must be borne by the developer.

17. Stormwater

All stormwater for the approved development must be controlled, with the provision being made for the following:

- i) External catchments
- ii) Internal drainage
- iii) Downstream drainage to the lawful and practical point of discharge which has been nominated as the downstream side of the Golflinks Road floodway.
- iv) Drainage easements and reserves are to be in accordance with Council's Engineering Design Guidelines to the lawful and practical point of discharge.

18. Ponding and Diversion of Stormwater

The applicant shall ensure that no ponding of stormwater resulting from the development occurs on adjacent sites and that no stormwater formerly flowing onto the site is diverted onto other sites.

19. Site Based Stormwater Management Plan

Council's Stormwater Quality Risk Classification has classified this development as high risk as defined in Section 1.3 of Council's Engineering Design Guidelines – Soil and Water Quality Management – Planning Scheme Policy No. 15.07. The preliminary site based stormwater management plan (SBSMP) must be revised and prepared in accordance with the above policy. It must be submitted to Council for approval prior to the lodgement of the operational works application for stage one. The SBSMP must address flood events greater than the major storm (1 in 100 year), including the February 2008 event, in accordance with Section 7.03.2 of the Queensland Urban Drainage Manual (2007).

20. On-Site Detention

The developer must provide on-site stormwater detention so that when the site is fully developed the peak discharge will not exceed the existing situation. The detention system must comply for a range of flood events between 1 in 1 year and 1 in 100 year ARIs and the design must be undertaken in accordance with Section 5.04.3 of the Queensland Urban Drainage Manual (2007). A detailed design of this system is to be submitted as part of an Operational Works application for stage one.

21. Connection to Sewerage

- i) The development must be serviced by a private sewerage system comprising an internal drainage system, sewage pump station and a rising main connecting to Council's pump station in Holts Road.
- ii) The developer must obtain all necessary approvals to construct the rising main under Mackay – Bucasia Road and any easements adjacent to Holts Road.
- iii) Any upgrading works required at Council's pump station are to be undertaken by Council at the developer's cost.

22. Connection to Water

- i) The proposed development must be connected to the 375mm dia. trunk water main which terminates on the western side of Mackay – Bucasia Road south of Holts Road in accordance with Council's Engineering Design Guidelines.
- ii) Pumping direct from Council water mains for potable or fire fighting supply is not permitted and break tanks must be installed in accordance with Council and Fire Authority requirements.

23. Live Connections

Council is to carry out all water connection and live sewer work at the developer's expense.

24. Floor Level

The minimum habitable floor level shall be 5.92 AHD or a higher level if determined by the revised SBSMP for a 1 in 100 year ARI.

25. Electricity and Telecommunications

The approved development must be provided with electricity and telecommunications infrastructure.

26. Acid Sulphate Soils

The proposed works and development trigger the application and implementation of SSP 2/02 Planning and Managing Development in acid Sulphate Soils. A site Based Acid Sulphate Soil Management Plan must be prepared by a suitably qualified professional and submitted to Council for approval at the time of the Operational Works application.

27. Protection of Landscape areas from Carparking

The landscaping areas adjoining the carparking area must be protected from vehicles by a 150mm high vertical concrete kerb or similar obstruction.

28. Speed Control in Carparking Area

The driveway serving the carparking area located within the site, must feature a physical means of speed control at the exit point near the front alignment.

29. Carparking for Disabled Persons

A minimum of 15 car spaces must be provided for the exclusive use of disabled persons. The car spaces must be provided as close as practicable to a suitable entrance of the building and must be clearly marked with a sign to indicate the at the spaces must be utilised by disabled persons. The minimum dimensions of the car spaces must be 3.2 metres wide by 4.9 metres long.

30. Amenity – Climate Protection

The carparking area must include at least one (1) shade tree per six (6) carparks in order to achieve effective shade for climate protection. The revised carpark layout must be submitted to Council with the Operational Works application. This must not result in a reduction of the minimum carparking required by this development, being 1034 carparking spaces.

31. Minimum Car Parking Spaces

The car parking area must be constructed, sealed, linemarked and drained for a minimum of 1034 car parking spaces in accordance with the approved plan and maintained thereafter. The car parking classification is Class 1 for internal parking and is to be designed in accordance with Australian Standard AS/NZS2890.1 – 2004. All car parking spaces and aisle widths shall be accessible by B99 design vehicles.

32. Lighting of Car Park Areas

Install and maintain a suitable system of lighting to illuminate car parking and other outdoors areas during operating hours. The car park lighting system and any other outdoor lighting, must comply with Australian Standard AS4282 - 1997 – Control of the Obtrusive Effects of Outdoor lighting.

33. Pedestrian and Cycle Access

Prior to the lodgment of the operational works application a ‘Cycle and Pedestrian Analysis’ of the site is required to detail the safe, efficient and convenient movement onto and through the site. As a minimum the central pedestrian spine linking building B to building D/E and the pedestrian link between buildings B and C is to include a covered area for weather and sun protection.

The approved Cycle and Pedestrian Analysis must be constructed at the time of the construction of the associated buildings, access and carpark for the relevant stage.

34. Landscape Plan Required

A detailed site, image corridor and verge landscaping plan must be prepared by a qualified Landscape Designer and must be submitted with Operational Works application. The plan must show for all areas identified on the approved plan of development the following:

- Landscape specification of sufficient detail so that landscape works are to be carried out;
- Plant schedule detailing number of plants, species, pot size and height at planting;
- Details of soil and mulch types, including depths, areas or turf, garden edges and paving finishes;
- The details of the irrigation system.

Any proposed landscaped works within Council's Road Reserve must comply with Planning Scheme Policy No.11 – Landscaping.

35. Completion of Landscaping

All of the landscaping works shown on the approved plan must be completed before the development is occupied.

36. No Nuisance to adjoining properties

All service equipment, lighting and air-conditioning units shall be located so as not to cause a nuisance to neighbouring properties.

37. Waste Collection

The developer is required to enter into an agreement with a Council certified waste collection contractor. This agreement must include the method for collecting both waste and recycling bins.

38. Waste Storage Area

The waste storage areas must be provided in the location shown on the approved plan as amended, must contain an impervious surface and aesthetically screened so as not to be visible from Mackay – Bucasia Road or Holts Road.

39. No Nuisance to adjoining properties

Condition Deleted

40. Outdoor Storage

The storage of any products, equipment or material shall not be permitted in a location that is external to any building.

B. THAT the applicant be given the following Assessment Manager Advice:

1. Hours of Work

It is the applicant/owner's responsibility to ensure compliance with Section 6W of the Environmental Protection Regulation 1998, which prohibits any construction, building and earthworks activities likely to cause nuisance noise (including the entry and departure of heavy vehicles) between the hours of 6:30pm and 6:30am from Monday to Saturday and at all times on Sundays or Public Holidays.

2. Dust Control

It is the applicant/owner's responsibility to ensure compliance with Part 2A – Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

3. Sedimentation Control

It is the applicant/owner's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

4. General Safety of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

5. Noise During Construction and Noise in General

It is the applicant/owner's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

6. Contaminated Land

It is strictly the applicant/owner's responsibility to source information regarding contaminated land from the Environmental Protection Agency, Contaminated Land Section as Council has not conducted detailed studies and does not hold detailed information pertaining to contaminated land.

---

**Council Resolution**

THAT the Director's Recommendation be adopted.

Moved Cr Hatfield

Seconded Cr Camilleri

**CARRIED**

Cr Comerford and Cr May recorded their vote against the Motion.

**7.5      MATERIAL CHANGE OF USE - EXTENSION TO SHOPPING CENTRE  
- LEND LEASE REAL ESTATE INVESTMENT LTD - 2 MANGROVE  
ROAD, MACKAY (214688-010-DA-2008-700)**

<b>Application Number:</b>	DA-2008-700
<b>Date Received:</b>	11 <sup>th</sup> November 2008
<b>Action Officer:</b>	Linda Pearson
<b>Applicant's Details:</b>	Lend Lease Real Estate Investment Ltd C/-Environmental Resources Management Australia PO Box 1400 SPRING HILL QLD 4000
<b>Proposal:</b>	Extension to Shopping Centre
<b>Level of Assessment:</b>	Code
<b>Site Address:</b>	2 Mangrove Road and 34 River Street, Mackay
<b>Property Description:</b>	Lot 10 on CP891650 and Lot 10 on SP124688
<b>Owner's Details:</b>	Lend Lease Real Estate Investment Ltd
<b>Area:</b>	Lot 10 on CP891650: 10.54 Ha Lot 10 on SP214688: 2.936 Ha
<b>IPA Compliant Planning Scheme</b>	
Locality:	City Centre
Precinct:	Riverside
Zone:	Commercial (Major Activities)
<b>Referral Agencies:</b>	<u>Concurrence:</u> Department of Main Roads Queensland Transport EPA Contaminated Land Unit
	<u>Advice:</u> EPA Wetlands Referral

## DNRW Acid Sulphate Soils

**Attachments:**

Attachment A: Locality Plan  
 Attachment B: Proposal Plan  
 Attachment C: Referral Agency  
 Attachment D: Responses  
 Caneland Central  
 Design Statement

**Recommendation:**

Approved Subject to Conditions

**ASSESSMENT OF APPLICATION**

The application is for a code assessable Material Change of Use (development permit) and was received by Council on 11 November 2008. The proposed development is for a two storey extension to the existing 'Canelands' shopping centre. The application was referred to several referral agencies who have issued responses supporting the proposal.

**SITE AND SURROUNDS**

The existing Canelands Shopping Centre abuts Victoria Street to the south and Mangrove to the east and River Street to the north. (refer to attachment A: Locality Plan) There is an existing vacant lot located to the north which forms part of this application. River Street is currently being re-aligned to the north.

The floor area of the existing Canelands is 42,315m<sup>2</sup> and currently has 2,021 vehicle parking spaces located mainly to the east and west of the structure.

**PROPOSAL**

The proposal will result in an additional 25,074m<sup>2</sup> gross floor area (GFA), contained within a two storey structure located to the north of the existing single storey structure. (refer attachment B: Proposal Plans) The design of the structure includes 74 m of new active streetscape. The intent of the development is summarised in the applicants planning report, the following is an extract:

*"The development proposal will create a new contemporary retail addition to Caneland Central incorporating key efficiency initiatives. The proposed development will re-position the existing centre to strengthen relationship with the environment, urban context and the local community.*

*The addition creates a two level centre with a newly defined north south mall axis linking the existing centre and connections with Council's riverfront Bluewater Trail and community infrastructure."*

The new development will include a two-storey department store located within the north-west corner of the proposed new extension. Additionally there will be a mix of shopping experiences including mini majors and smaller individual stores. There is a new food court which will be located on level 1 (upper storey) at the northern end of the proposed new area. This area will include an internal balcony overlooking River Street and the Pioneer River to the north. At ground level it is proposed to have restaurants (catering shops) with an

outdoor dining area. The design and layout of the proposed extension activities the northern façade and the relationship with the surrounding environs to the north.

Additionally the existing two storey car parking structure located to the west of the existing building will be extended to the north with a height of 5 levels of car parking. This will result in an additional 779 car spaces being provided, which is more than the 521 car spaces required pursuant to the Planning Scheme.

## **LEGISLATIVE REQUIREMENTS**

Council issued an Acknowledgement Notice with the following being referral agencies:

- |   |                    |
|---|--------------------|
| • Department of Main Roads (Threshold)            | Concurrence Agency |
| • Queensland Transport (Threshold)                | Concurrence Agency |
| • Environmental Protection Agency (contamination) | Concurrence Agency |
| • Environmental Protection Agency (wetlands)      | Advice Agency      |
| • Department of Natural Resources and Water       | Advice Agency      |

All of the above agencies have issued their conditions and or advice. There have been several meetings with Main Roads, while further investigation was required by the Contamination Unit of EPA. (refer attachment C: Referral Agencies Responses)

Council issued an Information Request clarifying the following summarised issues:

- Building Height clarification
- Visual Impact of proposed Multi-storey car park
- Streetscape activation – articulation of blank walls on the northern façade
- Pedestrian linkages and connections to parkland
- Future development of residential/mixed use on the subject site
- Stormwater Quality Management Plan
- Water and Sewer details
- External Traffic Impact Assessment
- Car Park Traffic management

The applicant responded with a high level of detailed response and satisfied the above issues.

There was no requirement for the application to be publicly notified as the level of assessment pursuant to the Mackay Planning Scheme was code.

## **RESOURCE IMPLICATIONS**

There are no resource implications resulting from this development application.

## **MACKAY CITY PLANNING SCHEME (2006) ASSESSMENT**

The subject site is zoned Commercial (major facility), contained in the Riverside Precinct of the City Centre Locality. The subject site is affected by the following overlays;

- Landscape Character Overlay
- Acid Sulphate Soil Overlay

- Airport Obstacle Limitation Surface Overlay
- Airport Development Distance Overlay
- Flood and Inundation Overlay

In addition to the above overlay codes, the application has been assessed against the following codes of the Planning Scheme:

- Mackay City Centre Locality Code
- Retail and Commercial Code
- Environment and Infrastructure Code

Generally, the proposal complies with the intent of the above Codes, the areas of non-compliance are discussed below;

#### Commercial (Major Facility) Code

P1 Built form and intensity of land use contributes to the role of the zone as having the most intense concentration of major shopping facilities for the City.

#### S1 Acceptable Solutions

- i) Site coverage at ground floor and first floor is limited to 90%
- ii) Site coverage at any level above 12m is limited to 30%
- iii) Maximum Building Height is 22m.

#### Alternative Solution Proposed by Development

The development has a total site coverage of less than 59% in total. The average retail height of 11.5m extending to a maximum height of 14.5m at public space and mall roof forms. On the northern façade of the proposed extension there is a tall structure which is approximately 25m in height. This structure jutting above the two storey extension forms part of the architectural intent for identifying the entrance on the northern side. This issue was identified in the Information Request and the applicant responded with a Design Statement (attachment D: Caneland Central Design Statement). The Design statement outlines the inspiration of the structure by the history of the Sugar Cane Industry and that the structure reflects the stacks contained at sugar cane mills.

The alternative solution proposed is considered appropriate and will not have any detrimental impact on adjoining surrounds.

### **INFRASTRUCTURE CONSIDERATIONS**

#### Water and Sewer

The existing water and sewer network have adequate capacity to service the proposed extension.

#### **Stormwater**

Stormwater will be discharged through existing and new stormwater outlets underneath the new re-aligned River Street and then into the Pioneer River. Gross Pollutant traps will be installed within the site for each outlet.

## **Roadworks**

The following comments have been provided by Development Assessment Engineering in relation to required roadworks.

### Internal Private Access Arrangements

- Access to the existing eastern carparking area, the proposed new eastern carparking area and the new loading dock to service part of the new Caneland extension will be via a new access constructed on the existing River Street alignment.
- Access for commercial vehicles and buses at the western end of the redevelopment will align with the existing rear north/south access and be one-way from the River Street extension to the southern access into the carpark. The loading docks to service this western side of the redevelopment will be provided at the northern end of this one-way access. The remainder of this access to Victoria Street will be two-way for public vehicles and combine with the commercial vehicles and buses traveling south.
- Two way access for public vehicles to the extended western multi story carpark will be provided from the cul-de-sac at the western end of the new River Street extension.
- The existing accesses off Mangrove Road and River Street will remain and there are no proposed changes to the existing Bus and Taxi parking bays.

### External Roadworks

The Victoria Street / Milton Street Roundabout:

- The roundabout will be re-linemarked to be clearly delineated as a two circulating lane roundabout.
- Construction of a dedicated left turn lane will be provided from the northern end of Milton Street into Victoria Street (west) to improve access to Canelands from the south and reduce conflicts with roundabout circulating traffic.

Milton Street / Gordon Street Intersection :

- The Department of Transport & Main Roads (DTMR) has conditioned that the right turn lane from Milton Street (north) into Gordon Street (west) be extended to provide a 140m long turn lane. It is proposed that Council include a condition requesting that this lane is extended a further 30m and taper to the Victoria Street roundabout to improve storage and traffic flow.
- Initial meetings between DTMR, Council and the developer discussed the Main Roads requirement for the developer to provide an additional left turn lane from Gordon Street (west) into Milton Street ( north) however this was not included in the final DTMR conditions of development.
- It is proposed that Council include a condition for linemarking of a short dedicated left turn lane from Milton Street (north) into Gordon Street (east ) to improve through north to south traffic flow along Milton Street (north).

## **PLANNING SCHEME POLICIES**

The following contribution policies are applicable to the proposed development:

- Water and Sewer Contributions Policy

The contributions have been applied on a 1 ET per 200m<sup>2</sup> except for the 10,000m<sup>2</sup> major department store component which is considered to be more white/ bulky goods and therefore a broad hectare rate of 20 ETs per hectare has been used. This is similar approach used for the Homemaker Centre approval.

- Transport Network Contributions Policy

The rate applicable in determining contribution is 40 vpd per 100m<sup>2</sup> GFA.

- Parkland Contribution Policy

The parkland policy is applied at a rate of 25.2 EP per hectare.

To take advantage of the current rates and the economic incentive policy, then payment of the contributions should be made prior to the rates being increased or any review of the Economic Incentive Policy. The timing of the payment of the contributions is prior to the use commencing however the previous comment applies regarding earlier payments taking advantage of current rates.

## **CONSULTATION/COMMUNICATION**

The following internal and external departments and agencies have been consulted during the assessment process of this development application.

### *Internal*

- Commercial Services – Mackay Water
- Development Assessment - Engineering
- Technical Services

### *External*

- Referrals required pursuant to IPA
- In particular there were several joint meetings with Department of Main Roads

## **GENERAL COMMENTS**

The Planning Scheme contains several specific outcomes which has directed some of the design outcomes resulting for this development. For example “new development facilities activation of the River Street and Mangrove Road frontages through appropriate building form and character that provides a defined, attractive and active street environment.” The proposal plans indicate that these types of outcomes have been incorporated into the northern façade of the proposed extension.

Overall the extension will produce a result which allows for greater choice and which complies with the Retail Hierarchy contained within the Commercial and Retail Code. The activation of the northern façade will contribute to better connections with the Blue Water Trail and the Pioneer River. The view to the north and over the river from the new food court will create a pleasant environment.

## CONCLUSION

The proposed extension to Caneland Central is supported by the Mackay Planning Scheme and will result in a new major department store being established in Mackay.

### Director's Recommendation

- A. THAT Council approve the application for a Material Change of Use (Development Permit) for an extension to existing shopping centre located at 2 Mangrove Road, 34 River Street and Victoria Street, Mackay or more fully described as Lot 10 on CP891650 and Lot 10 on SP214688, subject to the following conditions:

1. Plan of Development

The approved Shopping Centre Extension development must be completed and maintained generally in accordance with the Plan of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

Drawing No.	Name	Rev	Prepared by	Date
403640 DA-01	Location Plan	A	Lend Lease	Oct 2008
403640 DA-02	Site Plan	A	Lend Lease	Oct 2008
403640 DA-03	Site Analysis Plan & Survey	A	Lend Lease	Oct 2008
403640 DA-04	Existing Ground Level Floor Plan	A	Lend Lease	Oct 2008
403640 DA-05	Level G Retail Level G Car parking	A	Lend Lease	Oct 2008
403640 DA-06	Level GA Car parking	A	Lend Lease	Oct 2008
403640 DA-07	Level 1 Retail Level 1 Carpark	A	Lend Lease	Oct 2008
403640 DA-08	Level 1A Car parking Floor Plan	A	Lend Lease	Oct 2008
403640 DA-09	Roof Plan Level Carpark	A	Lend Lease	Oct 2008
403640 DA-10	North, East & West Elevations	B	Lend Lease	Oct 2008
403640 DA-11	Sections 01, 02, 03 & 04	A	Lend Lease	Oct 2008
403640 DA-12	Existing Level G Demolition Plan	A	Lend Lease	Oct 2008

2. Compliance with Conditions

All conditions must be complied with prior to the occupancy of the building for the approved use, unless specified in an individual condition.

3. Maintenance of Development

Maintain the approved development within the subject site (including landscaping, carparking, driveways and other external spaces) in accordance with the approved drawing(s) and/or documents, and any relevant Council engineering or other approval required by the conditions.

4. Conflict between plans and written conditions

Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.

5. Notice of Intention to Commence the Use

Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and / or works) fully complies with the decision notice issued in respect of the use (please see attached notice for your completion).

6. Amalgamation of Allotments

Lot 10 on SP214688 and lot 10 on CP891650 must be amalgamated into one allotment prior to the issuing of the certificate of classification by the Private Building Certifier.

7. Water and Sewerage Headworks

Headworks contributions for Water Supply and Sewerage Services must be paid in accordance with Council's Policy on Developer Contributions for Water Supply and Sewerage Services. Headworks will be applied based on an additional 86.75 ET's.

8. Parkland Contribution

A parkland contribution must be paid in accordance with the Council's Policy on Developer Contributions for Parkland. The parkland contribution will be applied based on an additional 73.83 EP's.

9. Transport Network Contributions

A transport network contribution must be paid in accordance with Councils Policy on Transport Network Contributions. The transport network contribution will be applied based on an additional 8030 vehicle movements per day (vpd's).

10. Contributions Payment Timing

All contributions and charges must be paid prior to the date of issue of the Certificate of Classification as part of the Building Approval Process at the rate applicable at the time of payment.

11. External Road Works

With reference to the Cardno Eppell Olsen Traffic Impact Assessment dated November 2008 and subsequent correspondence and meetings, the developer must provide the following works:

a) Victoria Street Roundabout

- i) The developer must design and install linemarking and traffic control devices to improve the existing roundabout operation as a two circulating lane roundabout while maintaining the existing centrepoint and perimeter kerb alignments. The linemarking must include alternative treatment (b) for the circulating carriageways as shown in Figure 6.1 Austroads "Guide to Traffic Engineering Practice Part 6: Roundabouts" and be in accordance with Department of Main Roads Manual of Uniform Traffic Control Devices.
- ii) The developer must design and construct a 50m long left turn lane and 10m taper within the parking lane from Milton Street (north) to Victoria Street (west). The works will include reconstruction of the existing kerb island, relocation of Victoria Street pedestrian crossing to the west, and linemarking, and may require relocation and extension of footpath, and drainage works.

To replace the loss of car parking in Milton Street, the developer must provide four additional car parking bays in Victoria Street (West) to Council's satisfaction.

b) Milton Street/Gordon Street Intersection

- i) The Department of Main Roads condition 1 requires extension of the existing right turn lane from Milton Street (north) to Gordon Street (west) as far as practical (approximately 140m).

Further to this condition the developer must design and construct this right turn lane extension to a length of 170m (approximately) with a 20m (minimum) taper .

- ii) Provide linemarking on Milton Street (north) for a 25m left turn lane and 10m taper adjacent to the kerb from Milton Street (north) to Gordon Street (east). Re-line mark the existing through/left turn lane from Milton Street (north) to Milton Street (south) to provide a through lane only.

c) Timing

The designs for the above works must be included in an Operational Works application for external roadworks. All works must be completed prior to the commencement of the use.

12. Damage

Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

13. Concrete Footpath

A full width concrete footpath must be constructed adjacent to the building frontage on the southern side of the re-aligned River Street. A 2.5m wide concrete footpath must be constructed from the western side of the building frontage to the roundabout and from the eastern side of the building frontage to the intersection of River Street and the proposed entry road to the centre.

If the developer wishes to construct a higher standard of footpath then the details and design are to be submitted with the Operational Works application.

14. Acid Sulfate Soils

The developer must provide to Council documentation to demonstrate compliance with the recommendation of Golder Associates Acid Sulfate Soil Management Plan of May 2008.

15. Compliance with Council Standards

All design and construction for the development must be in accordance with Council's Policies, Engineering Design Guidelines, Standard drawings and standard specifications, otherwise as approved by Operational Works Decision.

16. Stormwater Drainage

All 1 in 15 year ARI run off from stormwater naturally falling on the site (including roof water and car park areas) must be collected within the property boundaries and discharged via an underground drainage system to Council's existing and proposed stormwater system in Council's River Street realignment project.

17. Ponding and Diversion of Stormwater

Ponding of stormwater resulting from the development must not occur on adjacent sites and stormwater formerly flowing onto the site must not be diverted onto other sites. The site shall be graded so that it is free draining.

18. Site Based Stormwater Management Plan - High Risk

The developer must implement the stormwater quality treatments, detailed in the Cardno "Stormwater and Water Quality Management Report" of 9 February 2009, prior to the commencement of the material use of the development.

19. Direct Pumping from Mackay Water's Reticulation System

Pumping direct from Council water mains for portable or fire fighting supply is not permitted and break tanks shall be installed in accordance with Mackay Water and Fire Authority requirements.

20. Connection to Sewer Services

The developer must connect the proposed extension to the existing private internal sewer system.

21. Connection to Water Services

The developer must connect to the proposed main to be installed by Council with the River Street realignment.

22. Live Connections

Mackay Water Services is to carry out all water connection and live connection sewer work at the developer's expense.

23. Landscape Design

A detailed site and footpath landscaping design including the southern side of the realigned River Street, must be prepared by a qualified Landscape Designer and must be submitted with the Operational Works application. The design must show for all areas identified on the approved plan of development, the following:

- Landscape specifications of sufficient detail so that landscape works are to be carried out;
- Plant schedule detailing numbers, species, pot size and height at planting;
- Details of soil and mulch types, including depths, areas of turf, garden edges and paving finishes;
- Details of the irrigation system.

Any proposed landscaped works within Council's Road Reserve must comply (as a minimum) with Planning Scheme Policy No.11 – Landscaping. Council may allowed a higher standard of finish and landscaping which is to be considered as part of the Operational Works application.

24. Completion of Landscaping

All of the landscaping works shown on the approved plan must be completed before the commencement of use.

25. Maintenance for Landscaping and footpath works within Road Reserve

All landscaping and footpath works undertaken by the developer, within Council's Road Reserve must be maintained by the Developer.

26. Existing landscaping

The applicant will re-establish all existing landscaping areas to the standard of the new landscaping.

27. Construction Hours

No construction will occur between the hours of 6.30am and 6.30 pm from Monday to Saturday and at all times on Sundays or Public Holidays. Alteration to these hours is with written agreement by Council.

28. Minimum Car Parking Spaces

The car parking area must be constructed, sealed, linemarked and drained for a minimum of 779 additional car parking spaces in accordance with the approved plan and maintained thereafter. The carparking classification is Class 1 for internal parking and is to be designed in accordance with Australian Standard "AS/NZS 2890.1:2004 Parking facilities – off-street car parking". All car parking spaces and aisle widths shall be accessible by B99 design vehicles.

29. Car parking for Disabled Persons

The required number of disabled persons must be provided, in accordance with the relevant Australian Standard. The car space(s) must be provided as close as practicable to a suitable entrance of the building and must be clearly marked with a sign to indicate that the space(s) must only be utilised by disabled persons. The minimum dimensions of the car space(s) must be 3.2m wide by 4.9m long.

30. Protection of Landscape areas from Car Parking

The landscaped areas adjoining the car parking area must be protected from vehicles by a 125 mm high vertical concrete kerb or similar obstruction

31. Vehicle Manoeuvring

All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the subject site.

32. Loading /Unloading

The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be undertaken entirely within the site and be so conducted as to cause minimum interference with other vehicular traffic.

33. Lighting of Car Park Areas

Install and maintain a suitable system of lighting to illuminate car parking areas. The car park lighting system and any other outdoor lighting, must comply with Australian Standard "AS 4282:1997 Control of the obtrusive effects of outdoor lighting".

34. Floor Level

The redevelopment of existing Canelands floor areas are able to be at the existing floor levels. The connecting transition area between existing floor and proposed new floor area are able to be at a level to allow the transition to be achievable. The minimum finished floor level for the shopping centre extension (new GFA) is nominated as RL8.12 AHD (Q100 + 300mm).

35. Garbage Storage

Provision must be made on the premises for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Council.

36. Advertising Sign Approval

No external advertising sign or external advertising device which are of a size which is reasonably visible from outside the boundary of the subject site, must be erected, without Council approval. A separate application to Council under Local Law 78 will be required to be made to seek approval of the signage/ advertising device.

B. THAT the following advice statements be provided to the applicant:

1. Local laws

The approved development must also comply with Council's Local Laws under the Local Government Act 1993 from time and other controls.

2. Hours of Work

It is the applicant/owner's responsibility to ensure compliance with Section 6W of the Environmental Protection Regulation 1998, which prohibits any construction, building and earthworks activities likely to cause nuisance noise (including the entry and departure of heavy vehicles) between the hours of 6:30pm and 6:30am from Monday to Saturday and at all times on Sundays or Public Holidays.

## 3. Dust Control

It is the applicant/owner's responsibility to ensure compliance with Part 2A – Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

## 4. Sedimentation Control

It is the applicant/owner's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

## 5. Noise During Construction and Noise in General

It is the applicant/owner's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

## 6. General Safety of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

## 7. Summary of Developer Contributions as at date of approval.

Note: Contributions paid at the time nominated in the relevant condition will be re-calculated at current applicable rate, at that time.

<b>Infrastructure</b>	<b>Catchment</b>	<b>Basis of Calculation</b>	<b>Number of Units/ET's/EP's/VPD</b>
Water Supply	2 City Centre	Shopping centre (15074m <sup>2</sup> ) 1 ET per 200m <sup>2</sup>	13351m <sup>2</sup> ÷ 200 = 66.75 ETs
		Major department store (10,000m <sup>2</sup> )	10,000m <sup>2</sup> = 20 ETs

		20 ET per ha	<b>Total 86.75 ETs</b>
Sewerage Supply	2 City Centre	Shopping centre (15074m <sup>2</sup> ) 1 ET per 200m <sup>2</sup>  Major department store (10,000m <sup>2</sup> ) 20 ET per ha	13351m <sup>2</sup> ÷ 200 = 66.75 ETs  10,000m <sup>2</sup> = 20 ETs  <b>Total 86.75 ETs</b>
Parks	4 City Centre	25.2 EP per hectare	2.93 ha x 25.2 = 73.83 EPs
Transport Network	Shopping Centre	Shopping Centre 40 vpd per 100m <sup>2</sup>  Major Department Store 20 vpd per 100m <sup>2</sup>	15074m <sup>2</sup> ÷ 100 x 40 = 6030 vpd  10000 <sup>2</sup> ÷ 100 x 20 = 2000 vpd  <b>Total 8030 vpd</b>

In order to calculate the quantum of the contribution at the time of payment. Please refer to Council's website for the indexed Policy Contribution rates.

### Council Resolution

THAT the Director's Recommendation be adopted.

Moved Cr Hatfield

Seconded Cr Comerford

**CARRIED**

**7.6 MATERIAL CHANGE OF USE - UNDEFINED USE (STORAGE OF AGRICULTURAL EQUIPMENT ASSOCIATED WITH CANE HARVESTING) - GRAHAM TWYFORD MACHINERY SALES PTY LTD - 50 BRUCE HIGHWAY, BAKERS CREEK (131394-009-DA-2008-584)**

**Application Number:** DA-2008-584

**Date Received:** 5<sup>th</sup> September 2008

**Action Officer:** Shane Kleve

**Applicant's Details:** Graham Twyford Machinery Sales Pty Ltd  
PO Box 5870

	MACKAY MAIL CENTRE QLD 4741
<b>Proposal:</b>	Material Change of Use – Undefined use (Storage of Agricultural Equipment Associated with Cane Harvesting)
<b>Level of Assessment:</b>	Impact
<b>Site Address:</b>	50 Bruce Highway, Bakers Creek
<b>Property Description:</b>	Lot 9 on SP131394 and Easement C on SP131394, B on RP742084 and A on RP728274
<b>Owner's Details:</b>	Graham A Twyford
<b>Area:</b>	4,695m <sup>2</sup>
<b>Planning Scheme:</b>	Mackay City Planning Scheme (24 March 2006)
<b>IPA Compliant Planning Scheme</b>	
Locality:	Mackay Hinterland
Precinct:	Pioneer River and Southern Streams
Zone:	Rural
<b>Submissions:</b>	Three (3)
<b>Referral Agencies:</b>	Department of Main Roads (Concurrence)
<b>Attachments:</b>	Attachment A: Locality Plan Attachment B: Aerial Photograph Attachment C: Proposal Plan Attachment D: Referral Agency Response
<b>Recommendation:</b>	Approved Subject to Conditions

## ASSESSMENT OF APPLICATION

### Executive Summary

The applicant has lodged a proposal seeking Council approval of an Undefined Use (Storage of Agricultural Equipment associated with Cane Harvesting), on land located at 50 Bruce Highway, Bakers Creek.

This application proposes the use of a small rural zoned property for the storage of agricultural equipment associated with Cane Harvesting. The site is not intended to be used as an 'outdoor storage premises' where the items are offered for sale to the public. Rather the equipment will be stored on a temporary basis while the machinery is being advertised for sale by the applicant via his internet business.

The application has been lodged in response to a Show Cause Notice issued by Council on 8<sup>th</sup> July 2008 in which it was alleged that the applicant was operating a commercial operation from the property without the necessary approvals. In response to the issue of this notice, the applicant engaged a Planning Consultant who lodged this application on 5<sup>th</sup> September 2008.

The proposed development is generally consistent with the intent of the Planning Scheme for the development of this property. However, it is difficult to categorise the activity as it falls into the realms of a small-scale industrial activity; could be considered to have elements of a commercial activity; and is associated with a business that services the rural sector. Despite the use being difficult to categorise, the use as applied for, would have a very low impact on surrounding areas. Further, it is considered that this proposed use supports the sugar industry in the region by providing a mechanism to buy and sell used machinery.

It is considered that the application could be approved despite any perceived inconsistency with the Planning Scheme only on the basis that the approval be time limited. It is suggested that the approval be conditioned to expire after three years, which will allow the applicant ample time to find an alternative, more suitable site from which to store the Agricultural Equipment.

### **Subject Properties**

The subject property is located on the western side of the Bruce Highway, just to the north of Temples Lane (refer to the Locality Plan and Aerial Photograph included as Attachments 'A' and 'B'). The property does not have direct vehicular access to the Bruce Highway; access is obtained via an access easement that provides consolidated access to five (5) properties in the immediate area. The site is accessed via the following easements: A on RP728274, B on RP742084 and C on SP131394, which provide legal access to the site. The site contains a dwelling house and the site is serviced by all urban infrastructures, including reticulated water and sewerage. The site contains little vegetation of note.

The site is surrounded by small rural properties all of which contain a dwelling house.

The small rural property to the south contains a dwelling and a number of sheds. A development application has been recently lodged over this property to allow the use of the site for an 'Outdoor Sales Premises'. The applicant in that case is requesting a three (3) year approval timeframe.

Adjacent to the western boundary of the property are two rural properties currently utilised for sugar cane production. The owners of both of these properties are seeking approvals for residential development.

To the east of the site, beyond the Bruce Highway, is the northern section of the Bakers Creek Township. This area is zoned Village and consists of a large number of residential lots.

### **Proposal**

The application is seeking Council approval for a Material Change of Use for the 'storage of agricultural equipment associated with cane harvesting. This is not a defined use under the Mackay City Planning Scheme, as such the application has been lodged as an 'undefined

use'. The application proposes to store agricultural equipment (harvesters, tractors, etc) on an area of hardstand located in the western portion of the site. The applicant is proposing to plant a screening hedge along the northern and southern boundaries of the site to reduce the visibility of the stored machinery when viewed from adjacent residential properties. A 2.0m high paling fence already exists around the southern portion of the property. Refer to the proposal plan included as Attachment 'C'.

The application states that the proposed use will have neither negligible impact on adjoining properties nor the adjacent road network. The applicant buys, sources and sells used farm machinery, specifically relating to the harvesting of sugar cane. The applicant has advised that the business 'Graham Twyford Machinery Sales' operates as an on-line business from the dwelling house on the property, with little or no face to face contact with buyers or sellers at the site of the proposed storage premises. The subject site is used as a storage site for some of the machinery being sold by the applicant. A great deal of the machinery that is sold by the applicant is not even seen by the applicant as it is transported from the farm of the seller to that of the purchaser. The applicant runs his on-line business from the existing dwelling house as a 'Home Occupation'. The operation of the existing business is not dependant upon the approval of this application for storage of machinery. The business will continue operating from this site irrespective of whether an approval for the storage of machinery is granted.

Further, the applicant has advised that any mechanical repairs or maintenance required on any of the machinery stored on the premises is undertaken off site, at an approved industrial premises located in Paget. The applicant is also currently storing and selling some of the equipment from these premises in Paget, however only a small area is available for storage/sales.

The applicant has acknowledged that the proposed use of the site will not be able to continue indefinitely. As such, the applicant would be accepting of an approval being issued that limited the timeframe of the approved use.

The proposed use is generally consistent with the intent of the Planning Scheme for Rural zoned properties as the use will facilitate the growth and viability of the sugar industry. However, the proposed use is of a relatively small scale, which attracts very few visitors or traffic movements. It is considered that the application could be approved based on a time limited approval, which would allow the applicant to find an alternative location from which to operate the business.

### **History/Background**

The use of the subject land commenced without the necessary Council approvals being obtained. The use of the premises as a storage area for agricultural machinery was brought to Councils' attention via a complaint on 6<sup>th</sup> February 2008 and another on 7<sup>th</sup> May 2008.

Councils' Compliance Section investigated the complaint and found sufficient evidence to enable a Show Cause Notice to be issued. This occurred on 8<sup>th</sup> July 2008.

In response to the Show Cause Notice, the applicant advised that he had engaged a Town Planning Consultant to prepare and lodge an application for the use of the land. The application was received by Council on 5<sup>th</sup> September 2008.

### **Assessment against Planning Scheme**

The subject site is zoned Rural and is located in the Pioneer River and Southern Streams Precinct of the Mackay Hinterland Locality.

The use proposed in the application, Undefined Use (as lodged by the applicant), is an Impact Assessable use in the Rural zone and requires assessment against the entire Planning Scheme, more specifically the following codes:

- Mackay Hinterland Locality Code (including the applicable zone Code)
- Environment & Infrastructure Code
- Relevant Overlay Codes (Landscape Character Overlay, Good Quality Agricultural Land Overlay and Development in the Vicinity of Mackay Airport Overlay)

The development proposed in the application is generally consistent with the Rural zoning applicable to the property in that the use is a supporting business to the sugar industry. However, it must be noted that the subject site is not a 'rural' property in nature, having an area of 4,695m<sup>2</sup>, containing a dwelling house and generally surrounded by allotments used for residential purposes. The subject site is too small to be utilised for any traditional rural pursuit and the existence of the dwelling house on the property would ensure it would not be viable to be amalgamated into any of the adjoining rural properties to the west.

In assessing the application against the relevant assessment codes, it is important to note that the proposal does not clearly fit within any of the normal categories. That is, the proposed activity is not clearly an industrial, commercial or rural land use.

It is considered that as the proposal is not a defined land use, it is possible to use various clauses within the relevant assessment codes to support or to refuse the application. In this instance, it is considered that, with the imposition of conditions to control the level and types of activities that occur on the site, the proposal is consistent and could be supported and approved with a limited approval timeframe.

#### *Car Parking Provision*

The Planning Scheme (Schedule 2) sets out the amount of car parking that is to be provided by various developments. However, the current application for an undefined use is not a listed use within this Schedule and parking is to be provided at the 'discretion of Council'.

The proposed activity has been reviewed and it is considered that the use would not generate the need for many car parking spaces at all. The operation of the on-line business (Graham Twyford Machinery Sales) is operated as a Home Occupation and therefore the parking provided for the existing dwelling house is sufficient to cover any parking needs for that use.

The proposed storage of machinery would not generate the need for specific car parking spaces, as the site will be accessed by heavy transport vehicles only in the majority of instances. As the machinery is being bought and sold via an on-line business, there is no demand for customers to access the site and any maintenance required is undertaken off-site. It is considered that no formal car parking spaces would be necessary, as on the rare occasion that the site is accessed by a customer, there would be ample space on the storage area for temporary parking to occur.

#### *Developer Contributions*

The proposed use of the site would, in normal circumstances, generate the need for payment of contributions in relation to Transport Network due to the additional vehicle movements associated with the use.

However, in this instance, as the approval will only be for a limited timeframe, it is considered unreasonable to levy contribution due to the short lifespan of the use on the site.

If the applicant were to apply to Council for the use to be permitted permanently on the site, contributions would be applicable at that time.

### **Engineering Assessment**

The proposal has been referred to Development Assessment – Engineering section for assessment of the application. Conditions have been applied where required to ensure compliance with Councils' standards and guidelines.

### **Referral Agencies**

Department of Main Roads were a Concurrence Agency for this application. Their interest in the application was in relation to development adjacent to a state controlled road (i.e. Bruce Highway). DMR have provided a response that approves the application subject to conditions. The response is included as Attachment 'D'.

### **Public Consultation**

The Application was Impact Assessable; therefore, public notification was required to be undertaken.

During the notification period between 18<sup>th</sup> December 2008 and 30<sup>th</sup> January 2009, three (3) properly made submissions were made in relation to the proposal. The submissions received raised the following issues:

#### Ground No. 1 – Definition of Use

*The applicant is operating an on-line "Shop" from the site and the development area is an "Outdoor Sales Premises" and Storage Area used in conjunction with the "on-line" shop operating for the Dwelling House located on the site.*

#### Applicants Comment

The activity of web site sales as a home occupation is a self-assessable activity, and contrary to the content of one submission, does not rely on the use of the application property for storage purposes. As outlined within the application, the in house activity will continue with or without the storage area. The computer and web site are the primary sales facilities. Equipment is often left on the sellers property until sold via the internet and shipped directly to the buyer. Each may be as far south as NSW or as far north as Mossman in north Queensland. In this case, no storage is required, just direct transport.

The on-site storage area is used for just that, storage. The use as operated does not fit within the definition of "Outdoor Sales Premises" as no sales occur directly form the site. No customers access the site, and the site is not set up for direct sales.

### Officers Comment

The applicant has deliberately lodged the application as an 'Undefined Use'. The applicant was of the opinion that the requested approval for 'storage' was not adequately defined by the Planning Scheme and trying to define the activity as a 'Shop', 'Outdoor Sales Premises' or other defined use may be confusing.

The definition of the use was accepted by Council as it clearly identifies the proposed use of the site. There is no ambiguity as to the intended use with the adopted definition. Further, by specifically defining the use, suitable conditions can be applied to ensure that the use is restricted to that specified by the applicant.

It is considered that the definition of the use is appropriate in this instance.

### Ground No. 2 – Separation of Uses

*The use of Storage Areas is an integral part of the on-line business and should not be defined separately.*

### Applicants Comment

Refer to comments in Ground 1.

### Officers Comment

Refer to comments in Ground 1.

### Ground No. 3 – Desired Environmental Outcome

*An On-line Shop (Dwelling House and Storage Yard) is not considered an appropriate use on a small lot within the Rural zone.*

### Applicants Comment

The applicant did not provide a response to this issue.

### Officers Comment

The proposed use (storage of agricultural machinery associated with cane harvesting) is not a retail or commercial use. The submitter has suggested that the sale of harvesting equipment undertaken by the applicant must be considered as part of the application for storage. This is not considered to be correct.

The Home Occupation is consistent with the Rural zone. The storage of Agricultural Machinery on a rural property is also considered to be an appropriate use.

### Ground No. 4 – Mackay Hinterland Locality – Overall Outcomes

*An On-line Shop (Dwelling House and Storage Yard) is considered an urban use and not appropriate within the Rural zone.*

### Applicants Comment

The applicant did not provide a response to this issue.

### Officers Comment

The proposed use is considered inappropriate in an urban area, other than on an industrial property. However, as the application is seeking approval only for the storage (not sales or servicing) of agricultural machinery, the use is appropriately located in a rural area.

### Ground No. 5 - Stormwater

*There is increased stormwater on the development area due to the hard standing of the storage area. The application has not provided a Site based Stormwater Management Plan or Sediment and Erosion Plan to demonstrate how stormwater will be treated prior to leaving the site.*

### Applicants Comment

The applicant did not provide a response to this issue in response to the submission. However, within the application report the applicant provided the following statement:

*'When constructed, the hardstand area was graded slightly to ensure that stormwater flows were maintained towards the road frontage via the southern side of the dwelling, and away from the property to the north of the application site.'*

### Officers Comment

As part of conditions applied to any approval for this application, conditions will be applied that require the applicant to treat the stormwater that falls on his property prior to discharge from the site. Similarly, the applicant will not be allowed to redirect or pond stormwater onto any adjoining properties.

The applicant will be required to demonstrate how this will be achieved prior to commencing the use of the site, via an Operational Works approval. It must be noted that it is intended to approve the application only for a limited time. Therefore, any works required to comply with these proposed conditions should be temporary or low cost in nature.

### Ground No. 6 – Customers

*There is decreased safety for “customers” accessing the site.*

### Applicants Comment

Customers are not encouraged to access the storage area, either by advertising or by the applicant. However, on driving past the property it has been known for perspective clients to be interested and access the site for a closer inspection. To prevent such access, the applicant proposes to erect a sign ensuring potential visitors are aware that the use is storage only and directing any enquiries to be made by phone.

Visitors to the property consist of likeminded persons, who, given the length of time the applicant has been in the agricultural equipment industry, know him well. They visit the site to talk to Mr Twyford on a social basis not unlike visitors to other private dwellings.

Officers Comment

The applicant has stated that customers are not encouraged to access the site as this is to be used purely for storage.

A condition will be included in the approval of this application that prohibits any customer contact on this site.

Ground No. 7 – Dust Nuisance

*Dust from the unformed and unsealed access road will have a detrimental effect on adjoining property.*

Applicants Comment

The applicant has not provided as response to this issue.

Officers Comment

It is considered that, due to the low number of vehicles entering and leaving the site associated with the storage use, dust will not be an issue. Further, the low speed environment will not be conducive to vehicle speeds likely to cause a dust nuisance.

A standard condition will be applied to the approval that prohibits the activities on the site from causing a dust nuisance to any adjacent properties.

Ground No. 8 – Development is located outside of a designated centre

*The establishment of an on-line business and associated storage area serves to denigrate the existing and established retail / commercial centres.*

Applicants Comment

The applicant has not provided as response to this issue.

Officers Comment

While it is correct that this application proposes the approval of a use outside of the designated commercial/retail hierarchy; this use is not an activity that would be expected to be found in one of the designated centres.

At most, the use could be accommodated on an industrial property; however, the small-scale nature of the business, and the limited need for a large storage area would make the enterprise uneconomical.

The applicant has advised that some of the storage of equipment the company is selling is able to be stored in Paget at the premises of the company that undertakes maintenance for the applicant. However, there is limited space available to the applicant on the Paget site.

### Ground No. 9 – Visual Amenity

*The construction of a fully clad palling fence along the frontage to the development has resulted in an unattractive façade within an image corridor.*

#### Applicants Comment

‘The fence along the front boundary has been on site since the mid 1990’s and is not the result of this proposal. The fence is common to the three properties along that section of the road.’

#### Officers Comment

The fencing on the property along the Bruce Highway appears relatively new. However, fencing of this style and height could be constructed along the Highway frontage at any time and without any reference to Council or Main Roads for approval.

While the fence may not present an attractive frontage to passing traffic, this is not different to the frontage of the adjoining property to the north or numerous other properties that have frontage to heavily trafficked roads elsewhere in the Mackay Regional Council area.

### Ground No. 10 - Noise

*Noise levels have increased since the commencement of the use of the site.*

#### Applicants Comment

‘The majority of the noise in this area is generated by traffic utilising the Bruce Highway. On average, less than one truck per week visits the application site to transport equipment. As such any noise will be limited (due to the proximity to the Highway and the very low number of truck movements) and temporary (only during the equipment delivery/pick up period).’

#### Officers Comment

It is not considered that the noise generated from the proposed activity will cause any undue impact upon the surrounding properties. The noise generated by traffic on the adjacent Highway would always be the dominant noise sources for residents on the adjoining properties.

### Ground No. 11 – Maintenance and washing down of machinery on site

*The applicant has been maintaining and washing the farming machinery on the subject property. The washing of the vehicles results in the chemicals being washed onto the ground.*

#### Applicants Comment

‘No washing or repairs of vehicles has been or will be carried out on site. All vehicles purchased for resale are cleaned to BSES quarantine standards and any maintenance and subsequent washing as a result of works is carried out on the Paget property.’

### Officers Comment

The applicant has not applied for an approval to undertake washdown or maintenance of machinery on the subject land. The applicant has stated that any maintenance or washing of the equipment to be stored on the site is undertaken on a site in Paget.

To ensure these types of activities do not occur on the site a condition will be included in the approval to prohibit these activities from being undertaken on the property.

### Ground No. 12 – Decrease in value of house due to proposed use

*The submitters believe that the approval of this application will decrease the value of their land.*

### Applicants Comment

The applicant did not provide a response to this issue.

### Officers Comment

This ground is not considered a planning ground.

### Ground No. 13 – Safety of existing residents

*Residents in the immediate surrounding areas are concerned for their safety due to the use of the common access location by heavy, long and wide loads. The use of the access points by these heavy vehicles is causing damage to the access, which is not being repaired by the applicant. In addition, the use of the access easement by the heavy vehicles could threaten the safety of children living the residences surrounding the access easement.*

### Applicants Comment

Safety will be addressed via the slow speed and low number of the trucks entering and exiting the property.

Due to the current access arrangement for the application and neighbouring properties, the edges of the main road are damaged, but have been damaged for some time prior to the activity being undertaken on site. Upgrade work has been required for some time. It is understood that the Department of Main Roads is planning to upgrade/widen the Bruce Highway in the vicinity of the application site. However, until such works are undertaken, localised upgrading work can be carried out if required by Council.

### Officers Comment

It is considered that the use of the subject property for the proposed use will not impact upon the safety of the surrounding residents. The delivery trucks entering the subject property along the access easement will be travelling at very low speeds due to the size of the vehicle and the nature of the access track. The impact of the delivery vehicles would be no greater than farm machinery utilising the access track to access the cane farm located to the west of the site.

In relation to the access point from the Bruce Highway, Department of Main Roads have imposed a condition requiring some upgrading of the access point. In addition, it is proposed to include a condition that the applicant ensures the access from the bitumen seal of the Highway to the property boundary is maintained in accordance with DMR requirements and the applicable Council standards.

It will also be conditioned that the heavy vehicles accessing the site must undertake all turning manoeuvres on the subject, and no reversing manoeuvres are to occur on the access easement.

#### Ground No. 14 – Employee Numbers

*The applicant has employees working at the property.*

#### Applicants Comment

Only one “part time” employee visits the property, a lady who does the bookkeeping. The bookkeeper does not have a driving licence and does not drive so is picked up and dropped off by the applicant. She carries out a maximum of 8 hours work per month; however, the bookkeeping side of the business does not have to be undertaken on site.

#### Officers Comment

The employment of the bookkeeper on the property is not consistent with the applicable Codes for a Home Occupation. It is considered that the limited hours that he bookkeeper works would not cause any issue for surrounding residents. However, to ensure that the Home Occupation being operated from the site is consistent with the applicable codes, a condition will be added to the approval to advise that no employees are permitted on site in relation to the operation of Graham Twyford Machinery Sales.

#### Ground No. 15 – Too Much equipment stored on site

*Up to 13 harvesters have been stored on the site, which are delivered and dispatched by the use of huge semi trailers.*

#### Applicants Comment

One submission mentions the storage of 13 harvesters on site. This would equate to the maximum stored and moved off the site following sale via internet over the previous year. This gives an average of one harvester sold per month, which indicates of the low level of on-site activity.

#### Officers Comment

Based on the information provided to Council as part of the application, it is considered that the number of heavy vehicle movements to and from the site will be fairly low, with an estimated average of four (4) drop deck transport vehicles per month.

#### Ground No. 16 – Delivery / pick up of equipment causes access to properties to be blocked

*Machinery is unloaded on the access road behind an adjacent property which has blocked access for a resident of the property.*

### Applicants Comment

One truck visit did result in on-site access restriction for on neighbour as the truck was incorrectly placed on site. That has not happened since, and as the truck driver is now aware of the access configuration, this situation will not happen again.

### Officers Comment

This situation is not acceptable. It is proposed to include a condition in the approval of this application that requires the applicant to ensure the loading/unloading activities are undertaken within the subject property. Further, the applicant will be required to demonstrate that the vehicle movements of delivery vehicles can be accommodated within the existing access track to the property and within the confines of the property. No parking or standing of delivery vehicles will be permitted outside the subject land.

### Summary of Submissions

It is considered that the issues raised in the submissions are not sufficient to warrant refusal of the application. Most of the issues raised are 'operational' issues for which conditions can be imposed to ensure compliance or reduce any perceived impact.

### **Resource Implications**

There are no resource implications with regard to this recommendation.

### **Consultation/Communication**

The following internal and external departments and agencies have been consulted during the assessment process of this development application:

#### *Internal*

- Development Assessment – Engineering were consulted in relation to:
  - Requirements for access internally and from the Bruce Highway
  - Requirements for Stormwater Management Controls

### **Conclusion**

The development proposed by the applicant is generally consistent with the Planning Scheme requirements in regards to the use of a rural property for the storage of agricultural machinery associated with cane harvesting. Despite any inconsistencies, it is considered that the application can be approved, as there are sufficient grounds to agree to the proposal subject to the approval having a limited timeframe of three (3) years. It is considered that the development can be approved subject to reasonable and relevant conditions.

### **Director's Recommendation**

- A. THAT Council approve the Material Change of Use for Undefined Use (Storage of Agricultural Equipment Associated with Cane Harvesting) by Graham

Twyford Machinery Sales Pty Ltd on land at 50 Bruce Highway, Bakers Creek, described as Lot 9 on SP131394, for a maximum period of three (3) years, subject to the conditions as shown below:

1. Plan of Development

The approved Undefined Use (Storage of Agricultural Equipment Associated with Cane Harvesting) development must be completed and maintained generally in accordance with the Plan of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

Drawing No.	Sheet No.	Revision	Prepared By	Date
10870 - Landscape	1 of 1	A	Conics (Mackay) Pty Ltd	02/12/2008

This approval will expire at the expiration of three (3) years from the date of this approval taking effect. All use of the site for the storage of machinery associated with the approved use must be removed within one (1) month of the expiration of this approval.

2. Storage of Agricultural Machinery Associated with Cane Harvesting must be wholly contained within the approved 'Cane Harvesting Equipment Storage Area' as shown on the approved plan of development. Machinery cannot be stored within 45m of the Bruce Highway frontage of the site.
3. Deliveries to and pick ups from site must only occur between the hours of 7.00am – 6.00pm Monday to Saturday.
4. No repairs, maintenance or washing/cleaning of equipment is permitted to occur on the subject site. All of these activities must be undertaken off-site at premises with the necessary approvals.
5. This approval is for the storage of Machinery Associated with Cane Harvesting only. No customer contact is permitted on the subject property in relation to the selling or purchase of any machinery stored on the site or marketed for sale by the applicant.
6. No employees are permitted on site in relation to the operation of 'Graham Twyford Machinery Sales' as a Home Occupation unless they are occupants of the dwelling house.
7. Loading/unloading operations must be undertaken wholly within the subject property at all times. The delivery vehicles must not stand within the access easement at any time. The applicant shall nominate a 'standing or waiting area' for the delivery vehicles when accessing the site. No reversing manoeuvring are to be undertaken within the access easement.

8. Compliance with Conditions

All conditions must be complied with prior to the commencement of the approved use, unless specified in an individual condition.

9. Maintenance of Development

Maintain the approved development (including landscaping, access, hardstand areas and other external spaces) in accordance with the approved drawing(s) and/or documents, and any relevant Council engineering or other approval required by the conditions.

10. Conflict between plans and written conditions

Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.

11. Notice of Intention to Commence the Use

Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and / or works) fully complies with the decision notice issued in respect of the use (please see attached notice for your completion).

12. Invert Crossing

Access into the subject property must be designed and constructed in accordance with the requirements of Department of Main Roads, as specified in their Concurrence Agency Response (copy attached).

13. Damage

Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

14. Compliance with Council Standards

All design and construction for the development must be in accordance with Council's Policies, Engineering Design Guidelines, Standard drawings and standard specifications.

15. Stormwater Drainage

Stormwater from the site (including roofwater) shall be collected within the property boundaries and discharged to Council's stormwater system. The stormwater discharge point is the table drain within the Bruce Highway road reserve, adjacent the south eastern corner of the property. The applicant must demonstrate compliance with this condition in the application for Operational Works approval.

16. Ponding and Diversion of Stormwater

Ponding of stormwater resulting from the development must not occur on adjacent sites and stormwater formerly flowing onto the site must not be diverted onto other sites. The site shall be graded so that it is free draining.

17. Stormwater Management Plan

Stormwater Quality Best Management Practices must be developed and implemented in accordance with Mackay City Council's Engineering Design Guidelines – Soil and Water Quality Management – Planning Scheme Policy No. 15.07. Stormwater drainage runoff from the storage area must be directed into the Stormwater Quality Improvement Devices (SQID's) to ensure treatment prior to the stormwater leaving the site.

The Stormwater Management Plan and proposed SQID's must be submitted for approval as part of the Operational Works application.

18. Completion of Landscaping

All of the landscaping works shown on the approved plan must be completed before the commencement of the approved use.

19. Vehicle Manoeuvring

Prior to the commencement of the use of the property for the approved use, the applicant must demonstrate that the movements of an articulated vehicle can be accommodated within the subject property such that the design vehicle can enter and exit the site in a forward gear. No reversing movements must be undertaken within the access easement.

20. Loading /unloading

The loading and unloading of vehicles and the delivery of machinery to and from the premises must at all times be undertaken entirely within the site and be so conducted as to cause minimum interference with other vehicular traffic or access to neighbouring properties.

21. General Amenity Provision

The use and or development must be managed so that the amenity of the area is not detrimentally affected, through the:

- a. Transport of materials, goods or commodities to or from the subject site.
- b. Appearance of any building, works or materials
- c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
- d. Presence of vermin

22. Advertising Sign Approval

No advertising sign nor advertising device must be erected without Council approval. A separate application to Council will be required to be made to seek approval of the signage/ advertising device.

23. Waste Storage Area

The location and design of the waste storage area must be located so as not to cause a nuisance to neighbouring properties in accordance with the relevant provisions of the Environmental Protection Act and Regulations.

24. Aesthetic Screening

The outdoor storage of any equipment or material and any service area must be aesthetically screened so as not to be visible from any road to which the site has frontage.

B. THAT the applicant be provided with the following Assessment Manager Advice:

1. Dust Control

It is the applicant/owner's responsibility to ensure compliance with Part 2A – Environmental Nuisance of the Environmental Protection Regulation 1998, which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

2. Sedimentation Control

It is the applicant/owner's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

3. Noise during Construction and Noise in General

It is the applicant/owner's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

4. General Safety of Public during Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

5. Contaminated Land

It is strictly the applicant/owner's responsibility to source information regarding contaminated land from the Environmental Protection Agency, Contaminated Land Section as Council has not conducted detailed studies and does not hold detailed information pertaining to contaminated land.

6. Developer Contributions

Developer Contributions in relation to Planning Scheme Policies 16.01 to 16.04 have not been applied to this approval on the basis that the approval will cease to have force and effect within three (3) years of the approval taking effect. If the application for the use had been approved as a permanent activity, developer contributions would have been levied on the applicant.

**Council Resolution**

THAT the Director's Recommendation be adopted.

Moved Cr Hatfield

Seconded Cr Cameron

**CARRIED**

**7.7 ADOPTION OF MACKAY CITY PLANNING SCHEME PARKS CONTRIBUTION POLICY**

**Author: MANAGER STRATEGIC PLANNING**

**Purpose**

To consider submissions on proposed amendments received during the public consultation period from 29 June 2009 to 28 July 2009 for the following Planning Scheme Policy:

Mackay City Planning Scheme

Planning Scheme Policy No. 16.02: Parks Contributions Policy - Public Parks and Community Land (PPCL) – Developer Contributions.

**Background/Discussion**

Developer Contribution Policies define principles, concepts and methodology for levying contributions for trunk infrastructure ("Headworks") on developers. The levies enable

Council to provide necessary trunk infrastructure to service new development in the three Planning Scheme areas administered by Mackay Regional Council.

Mackay City Planning Scheme Policies for Developer Contributions for Transport, Water Supply, Sewerage and Stormwater amendments were adopted Council on 24 June 2009. Proposed amendments for the Mackay City Planning Scheme Policy for Developer Contributions for Parks have been prepared following the public consultation period and consideration of submissions made from the development industry.

The Parks Policy achieves a reasonable and equitable apportionment of costs to deliver necessary trunk infrastructure to support anticipated increases in population. The developer contributions apply to all new developments or extensions to existing developments that generate additional demand (from increased population) for more trunk infrastructure, within the designated catchment areas of the Parks infrastructure network.

Priority Infrastructure Plans (PIPs) and Infrastructure Charges Schedules (ICSs) will replace the existing Planning Scheme Policies for Developer Contributions as the mechanism for levying and collecting contributions from developers for new trunk infrastructure in the future.

Consequently, amendments to the existing Developer Contribution Policy for Parks are proposed to ensure that appropriate and equitable developer contributions are levied and collected by Council. Proposed amendments to the Parks Policy are summarised below:

#### Mackay City Planning Scheme – Parks Contribution Policy

The Parks Contribution Policy was adopted on 15 March 2006 as part of the Mackay City Planning Scheme. This proposed amendment is to be the first and final update of this Policy.

Proposed amendments relate to updating the contribution rate because of changes to population demand and costs of providing trunk infrastructure, capital works priorities, deemed densities, demand generation rates and desired standards of service. The proposed amendments include:

- Updates to base charge rates calculated in accordance with current information on costs and demand;
- Changes in capital works priorities since 2006;
- Updates to costs associated with proposed trunk infrastructure, including land and embellishments, from 2004 values to 2008 values;
- Changes in deemed densities and associated demand generation rates;
- Decreases in deemed generation rates for commercial and industrial uses;
- Changes to Desired Standards of Service (DSS), consistent with latest PIP standard;
- Reference to Planning Scheme Policy 12 – Open Space is now included; and
- Simplified standard administration cost of 2%, consistent with latest PIP standard.

Two submissions were received after the consultation period had expired on 28 July 2009. Details of the submissions received with proposed responses are attached as Attachment A. Submissions relate to the following general categories:

CATEGORIES
Scope of trunk infrastructure included in Policy is too prescriptive and inflexible: - Replace with guidelines and outcomes.
Credits for embellishments provided in accordance with Policy: - Provide certainty with credits applied automatically.
Co-location of parks with other open space areas: - Include incentives within the Policy.
Increase scope of land available for parks: - Broaden scope of land acceptable for designation as parkland.
Reduce parkland ratio of 4.8 Ha / 1000 people: - Considered too onerous and excludes consideration of other suitable outcomes.
Reduce industrial demand for parkland in Policy: - Demand for industrial parkland is overstated.
Adoption of the Policy after 30 June 2009 may not be possible: - Subject to a Ministerial directive.
Open space areas in East Point should be excluded from the Policy: - This area will be subject to an Infrastructure Agreement.
Scope of work for “upgrading” Mulherin Park is not disclosed in the Policy: - Additional disclosure and transparency is requested for an Infrastructure Agreement..
All areas of East Point should be excluded from the Policy: - This area will be subject to an Infrastructure Agreement.
Lot 900 on southern boundary of the East Point development is not mentioned in Policy: - To be considered in regional open space planning and should be in this Policy as well.

Proposed amendments to the Parks Policy provide a reasonable and equitable apportionment of costs to deliver necessary trunk infrastructure to support anticipated increases in population and associated demand on the Parks infrastructure network arising from development.

The Parks Policy will have a short to medium term implementation, as Council is to prepare a Priority Infrastructure Plan (PIP) for the Planning Scheme Area of Mackay City. The PIP and associated Infrastructure Charges Schedule (ICS) will replace the existing Planning Scheme Policies for Developer Contributions as the mechanism for levying and collecting contributions from developers for new trunk infrastructure in the future.

It was proposed that the amended Parks Policy be adopted immediately, with an effective date from 1 November 2009 and the applicable charge rate indexed to 30 September 2009 (by applying the CPI – All Groups – Brisbane index to the June 2008 base rate).

Following a Ministerial direction issued in June 2009, Council is now unable to increase infrastructure contributions under Planning Scheme Policies.

## **Consultation**

The proposed amendments to the Mackay City Planning Scheme Policy 16.02 – Parks Contribution policy, were placed on public exhibition from 29 June 2009 to 28 July 2009 inclusive. An advertisement was placed in the Daily Mercury to notify the public of the proposed amendments and a copy of the proposed amended Parks Policy was placed in the Reception Room of Council's Sir Albert Abbott Administration Building, Mackay City Library, Gordon White Library and Council's Website.

One public information session was convened during the notification period on 17 July 2009 in Mackay and an additional meeting with the Urban Development Institute of Australia (Mackay/Whitsunday Branch) was held on 27 July 2009.

Two submissions were received from the public consultation process.

The Proposed amendments have been discussed internally with Council Officers from Strategic Planning, Development Assessment, and Parks and Environment.

Following adoption of the proposed amended Parks Policy, the amended Policy will not be advertised until advice from the Queensland Government is received confirming Council's authority to amend the Policy after 30 June 2009. A notice advising of the adoption of the Policy will be advertised and copies of the adopted policies be forwarded to the Chief Executive (DIP) in accordance with the Provisions of the *Integrated Planning Act*, when appropriate advice is received from the Queensland Government.

The amended Parks Policy provides an equitable and transparent mechanism for Council to apportion funding for the costs associated with providing trunk infrastructure to the rapidly growing Mackay City area.

## **Resource Implications**

The attached amended Parks Contribution Policy contains amendments as proposed during the public display period, with additional changes made due to submissions received and for clarity. No additional resources are required to propose and implement the amendments, however the updated contribution charge rates will result in a more equitable apportionment of new trunk infrastructure costs between developers and Council.

## **Conclusion**

It is recommended that Council consider the attached submissions and recommended responses, and that the proposed amended Parks Contribution Policy, including modifications, be adopted immediately. The effective date will be the next indexation date after the date of appropriate advice from the Queensland Government and related public notice.

## **Director's Recommendation**

- A. THAT Council considers the submissions received on the Mackay City Parks Contribution Policy, attached as Annexure A.

- B. AND THAT Council adopts proposed amendments to the Mackay City Planning Scheme Policy No. 16.02: Parks Contributions Policy – Public Parks and Community Land (PPCL) – Developer Contributions, attached as Annexure B. This adoption is subject to appropriate advice from the Queensland Government to proceed with the implementation of the Policy amendment.
- C. AND FURTHER THAT the CEO be authorised to finalise administrative requirements in accordance with the provisions of the Integrated Planning Act.

### **Council Resolution**

THAT the Director's Recommendation be adopted.

**Moved Cr Hatfield**

**Seconded Cr May**

### **Procedural Motion**

THAT the matter be deferred to the meeting to be held 16 September 2009.

**Moved Cr Christensen**

**Seconded Cr Camilleri**

**CARRIED**

## **7.8 HOUSING AFFORDABLE FUNDS - PLANTATION PALMS PROPERTY PTY LTD APPLICATION**

### **Purpose**

The purpose of this report is to provide background on the Federal Government's Housing Affordable Fund (HAF) and an overview of the proposed application for funding for the Plantation Palms Development. Plantation Palms Property Pty Ltd is seeking Council's support in the form of a partnership.

### **Background/Discussion**

The Housing Affordability Fund is a five year, \$512 million investment by the Australian government to help reduce the cost of new homes for home buyers. Two significant barriers are being targeted to increase the supply of affordable housing:

- The 'holding' cost incurred by developers as a result of long planning and approval times, such as interest paid to banks while waiting on development decision by councils; and
- Infrastructure cost, such as the laying of water pipes, sewerage, transport and the creation of parks.

Development Services have been involved with the HaF program (QLD through LGAQ) in relation to delivering electronic improvement to assessment of applications. This includes

the Smart eDA initiative which allows for electronic lodgement and referrals to state government agencies.

Mackay Regional Council has been identified as a high growth area which has experiencing high dwelling demand and therefore meets one of the main criteria in applying for the available funding.

Eligible Organisations are primarily different levels of government and where a private company is wanting to be involved then they are encouraged to participate in the Fund by entering into partnership arrangements with State, Territory or local government applicants. Where a partnership has been entered into funding approved will be payable to a single partner.

### **Details**

Plantation Palms Property Pty Ltd has approached Council to be a partner in applying for HaF funding. Stages 9 and 10 of the development will require substantial infrastructure and so if securing funding was possible then it would help ensure the timely delivery of stages 9 and 10. In particular the construction of the entry access road (Rosewood Drive) and the provision of water and sewerage services are being targeted. It is anticipated that a figure of \$10-12 million will be sought. The final details of the application for the funding are yet to be determined. Initially if Council agrees to a partnership arrangement with Plantation Palms Properties Pty Ltd then an expression of Interest would be submitted to FaHCSIA for consideration.

Applying for funding is basically a two stage process:

1. Completion of a focussed questionnaire by applicants, with shortlisted applications being ranked against a Multi Criteria Decision Analysis assessment tool.
2. Shortlisted applicants will be then asked to prepare a business case detailing their proposal.

If successful then there will be responsibility placed on Council in order to ensure that the funding meets the funding agreement. This will include being responsible for measuring the performance of their projects against agreed performance indicators and performance information will need to be submitted to FaHCSIA.

### **Resource Implications**

There are no monetary resource implications as a result of supporting Plantation Palms application for funding. Council is being asked to support the application as a partner however all of the preparation and documentation required for the application will be met by Plantation Palms Properties Pty Ltd. If the application is successful then Council will need to administer the funds as the payment of monies will be to Council.

### **Conclusion**

Housing affordability has a high profile within the region and Mackay Regional Council has previously demonstrated a commitment to addressing this issue. After reviewing the selection criteria for the funding it appears that this proposal warrants submission and if Council supports the application for funding to deliver the road, water and sewer

infrastructure for Stage 9 and 10 it would be proactively helping alleviate and support housing affordability in the region.

### **Director's Recommendation**

THAT council supports the preparation of a funding application under the Housing Affordability Fund in a partnership with Plantation Palms Properties Pty Ltd for the application.

### **Council Resolution**

THAT the Director's Recommendation be adopted.

**Moved Cr Hatfield**

**Seconded Cr Camilleri**

**CARRIED**

## **7.9 INCEPTION REPORT FOR MEDIUM DENSITY RESIDENTIAL STUDY**

**Author** STRATEGIC PLANNER

### **Purpose**

To seek Council endorsement to commence the preparation of a strategy to increase residential densities in certain precincts, corridors and sites throughout the Mackay Region Local Government Area and formulate design guidelines where necessary.

### **Background/Discussion**

Generally, urban areas in the Mackay Region have developed at low densities. However, it is considered prudent to explore alternate growth management and urban structure options including options to accommodate more intense residential development within the current urban footprint.

Increased residential densities and yield in the city centre (from what is currently provided for under the *Mackay City Planning Scheme 2006*) and appropriately located new medium density residential development may result in the following benefits:

1. Urban areas in the Mackay Region are almost entirely surrounded by either:
  - productive or potentially productive agricultural land;
  - environmentally sensitive areas;
  - low lying land subject to inundation; or
  - scenic hilltops and ridgelines.

Therefore, encouraging increased residential densities may lessen the need for new development in greenfield areas and, subsequently, *lessen the use of productive, sensitive or constrained land for urban development*.

2. It is anticipated that high and medium density residential development will be encouraged in areas that have close proximity to:
  - existing or new activity centres (including commercial services and employment);
  - public transport routes; and
  - high quality public open space.

As such, increasing residential densities may *contribute towards achieving a more sustainable urban form* given the:

- increased viability of existing or new activity centres;
- decreased reliance on private motor vehicle for transport:
  - potential to walk / cycle to activity centres and public open space; and
  - increased viability for improved public transport system.

Economic benefits may also exist where high and medium density development utilises existing infrastructure networks where capacity is available rather than constructing significant extensions or completely new networks.

Given the above, it is proposed to prepare a strategy that:

- evaluates options for increasing residential densities by investigating opportunities for:
  - increased densities and yield in the city centre (from what is currently provided for under the *Mackay City Planning Scheme 2006*); and
  - opportunities for new medium density development throughout the region;
- formulates design guidelines for high and medium density residential development.

#### Strategy Process and Outcomes

The strategy will involve the following two phases:

- Phase 1: Evaluation of potential options and locations for high and medium density development; and
- Phase 2: Formulation of design guidelines for high and medium density development in the Mackay Region.

The overall purpose of Phase 1 is to investigate options for increasing densities and yield in the city centre and identify and evaluate potential locations for new medium density residential development throughout the region. Phase 1 will involve the following stages:

1. Investigate the overall need, benefits and suitability for more high and medium density residential development in the Mackay Region (including literature and case studies of high and medium density residential development in similarly sized regional cities).

2. Investigate options and opportunities to increase residential densities and yields in the city centre (from what is currently provided for under the *Mackay City Planning Scheme 2006*).
3. Carry out a preliminary desktop analysis to identify a list of sites, corridors and precincts potentially suitable for medium density residential development.
4. Facilitate an internal workshop/s with Councillors and key Council staff to present, discuss and gain feedback on:
  - initial findings regarding investigations into increasing the densities and yield in the city centre
  - initial list of sites, corridors and precincts potentially suitable for medium density residential development and proposed evaluation criterion to assess suitability.
5. Carry out a detailed evaluation and prepare a report and mapping. Findings and recommendations will be presented to Councillors.

The overall purpose of Phase 2 is to produce generic design guidelines for high and medium density guidelines and specific design guidelines for particular sites, corridors and precincts. Phase 2 will involve the following stages:

1. Carry out a literature review and case studies (including best practice principles for respecting adjoining low-density development and responsiveness to sub-tropical/tropical climates).
2. Identify:
  - strengths and weaknesses in relevant literature, policies and case studies; and
  - opportunities and constraints for the application of design guidelines in the Mackay Region.
3. Formulate a draft background report and design guidelines.
4. Present, discuss and gain feedback on the draft background report and design guidelines at internal workshops with Councillors and key Council staff.
5. Finalise the background report and design guidelines.

#### Proposed Timing

The timing for the strategy is expected to be as follows:

- Call for submissions – September 2009
- Appoint consultant – October 2009
- Commence study – October 2009
- Completion of Phase 1 – 1<sup>st</sup> February 2010
- Completion of Phase 2 – 1<sup>st</sup> March 2010

#### Preferred Consultants

It is considered advantageous to engage a locally based consultant and/or a consultant with planning and urban design skills and resources relevant to high and medium density residential development. Therefore, it is proposed to invite the following consultants to submit a Consultancy Proposal for the strategy:

- Brazier Motti (Mackay)
- Conics (Mackay)
- Deicke Richards
- EDAW | AECOM (Mackay)
- GHD (Mackay)
- Place Design Group
- Tract
- Urbis
- WS Group (Mackay)

### **Consultation**

Preliminary consultation regarding this has been undertaken with representatives of the Mackay/ Whitsunday branch of the Urban Development Institute of Australia (UDIA)(representatives of Humphreys Reynolds Perkins and Pointglen Developments).

Further consultation with the UDIA will occur early in the strategy to gain an understanding of the opportunities, benefits and constraints in developing high and medium density residential development from the development industry's perspective.

During the strategy, 2 workshops will be held with Councillors and key Council staff to contribute to:

- the evaluation of increased densities and yield in the city centre and potential medium density sites, corridors and precincts (Phase 1); and
- the formulation of design guidelines for high and medium density residential development (Phase 2).

It is also anticipated that the study will involve ongoing consultation between various Council programmes and relevant State Agencies.

Although the strategy may recommend substantial increases in development density throughout the urban areas of the region, it is not considered necessary to undertake community consultation as part of the strategy. It is envisaged that the strategy will form a "background report" to be publicly exhibited with a new Strategic Plan for the Mackay Region. Submissions regarding increased densities and yield in the city centre and the identification of preferred medium density sites, corridors and precincts will be invited from the community and addressed at that time.

### **Resource Implications**

The total cost of the strategy is expected to be in the region of \$80,000. Funding for the strategy is provided for in Council's 2009/2010 budget (1.2027.3905).

## Conclusion

The Residential Density Strategy forms an opportunity to explore alternate growth management and urban structure options to the traditional pattern of development in the region. The strategy will investigate the potential for increased densities and yield in the city centre and evaluate the suitability of various sites, corridors and precincts throughout the region for medium density residential development. The strategy will also formulate design guidelines for high and medium density residential development. It is anticipated that the study will be completed by March 2010.

## Director's Recommendation

THAT Council authorises the CEO to commence preparing a Residential Density Strategy.

## Council Resolution

THAT the Director's Recommendation be adopted with the inclusion of Humphrey Reynolds and Perkins which was omitted from the report.

Moved Cr Hatfield

Seconded Cr Perkins

**CARRIED**

## 7.10 COMMUNITY ENGAGEMENT PLAN - MACKAY REGIONAL COUNCIL CIVIC PRECINCT PLANNING

**File No** COMMUNITY ENGAGEMENT PLAN  
**Author** DIRECTOR ENGINEERING SERVICES

### Purpose

To seek Council's determination in relation to a Community Engagement Plan for options that may exist for the development of parking within the Civic Centre Precinct area bounded by Gordon Street, Wellington Street, Alfred Street and Macalister Street.

### Background/Discussion

Issues such as the suitability of Jubilee Park to host events associated with the existing memorials has been raised due predominately to the large numbers of people needed to be catered for on such occasions.

In order to address the potential implication of alternative locations for the existing memorials, initial discussions have been held with the majority of groups with an interest in their future.

Following on from this, the availability of suitable parking at the Mackay Convention and Entertainment Centre was raised.

A number of options have been informally canvassed including in areas such as Jubilee Park and in the open area in front of the Civic Centre.

Essentially any future development of car parking in the Civic Precinct will be dependent on a decision on the memorials future siting. In order to outline the flow of events or processes that need to be considered a flow chart has been developed (refer attachment) which illustrates the decision making process to the point of potential community consultation.

Council at its meeting on the 19 August 2009 resolved:

THAT a Community Engagement Plan be developed to establish appropriate community engagement activities to determine the most suitable location for:-

- a) The development of a new carpark on the Civic Precinct and
- b) The relocation, if required, of the war memorials located in Jubilee Park

AND THAT the Community Engagement Plan be presented to Council on 2 September

A Community Engagement Plan has been prepared in relation to input into the identification of a preferred location for a carpark in the Civic Precinct, should the removal of the war memorials occur.

It is evident from the flow chart that the options that could be canvassed by Community consultation will essentially be determined by Council.

Regardless of the decision to relocate the memorials or not, or whether to construct carparks or not, there is a definite need to review the layout of Jubilee Park to make it more functional in terms of community use. It is also considered important to review the main entry to the Civic Centre from Gordon Street.

In order for the Community Engagement Plan to come into effect the components of the flow chart need to be implemented. These being a determination as to whether the memorial are to be relocated and this is seen purely as a decision making process between Council and the relevant groups with an interest in the memorials (i.e. RSL and related groups).

If there is a positive outcome in terms of the memorials relocation then Council needs to resolve on which areas it wishes to consider for car parking within the precinct (i.e. Jubilee Park, front of the Civic Centre or both alternatives) prior to implementing the Engagement Plan.

### **Consultation and Communication**

The development of the Community Engagement Plan was undertaken in consultation with:-

- Chief Executive Officer
- Director Community Services
- Director Engineering Services
- and the Convenor of the Community Engagement Working Group.

Initial consultation has also been undertaken between RSL and related groups in relation to the future of the memorials in Jubilee Park.

### **Resource Implications**

Estimate of costs for the various options will be developed in conjunction with concept plans for the alternatives once it has been resolved which of the options will be further pursued through the Community Engagement Process.

There are currently no funds within Council's current 2009/10 budget for any works associated with the memorial relocations, car parking development, Jubilee Park upgrade or Civic Precinct entrance upgrade.

### **Conclusion**

The attached Community Engagement Plan and process flow chart provide a way forward should it be determined that the existing memorials in Jubilee Park can be relocated.

It is also important to note that should it be resolved that the memorials are to be retained Council should review the existing function and layout of Jubilee Park in order to foster greater community use of this facility.

### **Director's Recommendation**

THAT Council adopt the Community Engagement Plan and Decision making process flow chart.

### **Council Resolution**

THAT a Council workshop on carparking in the Civic Precinct be conducted and a report be presented to Council by the end of October 2009.

**Moved Cr May**

**Seconded Cr Christensen**

**CARRIED**

## **8. CONSIDERATION OF COMMITTEE REPORTS:**

### **8.1 SUSTAINABLE FUTURES COMMITTEE**

**Author Director Corporate Services**

#### **Purpose**

Attached is a copy of the Sustainable Futures Advisory Committee minutes of the meeting held 10 August 2009.

**Director's Recommendation**

THAT the attached Minutes for the Sustainable Futures Committee be adopted.

**Council Resolution**

THAT the Director's Recommendation be adopted.

Moved Cr May

Seconded Cr Steindl

**CARRIED**

**9. RECEIPT OF PETITIONS:****9.1 PETITION - GRASSTREE BEACH**

**Author** Chief Executive Officer

**Purpose**

A petition was received by Council on 28 August 2009 regarding consideration for a rest area for travellers in the Grass Tree Beach area.

**Background/Discussion**

In terms of Council's Standing Orders (Model Local Law No 2 (Meetings) 2008) Council has three options with regard to Petitions that are tabled and these are:

- The petition be received and consideration stand as an order of the day for the meeting; or for a future meeting; or
- Petition be received and referred to a committee or officer for consideration and a report to the local government; or
- The petition not be received.

The petition seeks consideration for a rest area for travellers in the Grass Tree Beach area.

The petition meets the requirements as per the Standing Orders, in that it is legible and has more than 10 signatures.

**Proposal**

It is proposed that Council consider the action it wishes to take with regard to the Petition, ie:

- The petition be received and consideration stand as an order of the day for the meeting; or for a future meeting; or

- Petition be received and referred to a committee or officer for consideration and a report to the local government; or
- The petition not be received.

**Policy Implications**

Nil.

**Financial Implications**

Nil.

**Delegation Required**

Nil.

**Resource Requirements**

Nil.

**Communication Strategy**

That the petitioners, through their representative, be informed in writing of Council's decision.

**Chief Executive Officer's Recommendation**

THAT Council receive the petition.

AND THAT Grass Tree Beach be considered as part of the review of the possibility of establishing rest stops within the Mackay Regional Council area.

**Council Resolution**

THAT the Director's Recommendation be adopted.

Moved Cr May

Seconded Cr Perkins

**CARRIED**

**10. TENDERS:****10.1 STANDING OFFER ARRANGEMENT - SUPPLY AND DELIVERY OF STEELS, PLATES, PIPE & ZINCANNEAL**

**File No** MRC2009-058  
**Author** Manager Procurement & Plant

**Purpose**

To present to Council for approval tenders received for the Supply and Delivery of Steels, Plates, Pipe & Zincanneal in order to compliment Councils Standing Offer Arrangements.

**Background/Discussion**

The current Standing Offer Arrangement expires on 30 September 2009. The proposed commencement date for this contract is 1 October 2009, for a 2 year term, with a clause for rise and fall after each 6 month period.

Tenders were invited on 20 June 2009 with one submission received by 2.30 pm on Tuesday 14 July 2009, being Steel Central Pty Ltd.

There were 96 items called as part of this Standing Offer Arrangement, with Steel Central Pty Ltd submitting prices for 96 items.

The evaluation panel conducted a reference check of Steel Central Pty Ltd to access if existing supply problems could be avoided with a new supplier. Upon completion, the panel was satisfied with Steel Central's relevant experience and resources due to Steel Central Pty Ltd having a locally based warehouse at Paget.

**Consultation and Communication**

Evaluation of the tenders was undertaken by Leading Hand Boilermaker and Contracts Officer from Procurement and Plant. Consultation and input was invited from Workshop (Mackay) Supervisor and Fleet Coordinator from Procurement and Plant.

**Resource Implications**

The total value of this Contract MRC 2009-058, if awarded as recommended is approximately \$212,424.70 excluding GST for the 2 year period based on the estimated annual usage.

**Conclusion**

It is recommended that this Standing Offer Arrangement MRC 2009-058 Supply and Delivery of Steels, Plates, Pipe and Zincanneal for a 2 year period with provision of rise and fall after 6 months, be awarded to Steel Central Pty Ltd as they are able to supply all items at a competitive price with a suitable product offered.

**Director's Recommendation**

THAT Standing Offer Arrangement MRC 2009-058 Supply and Delivery of Steels, Plates, Pipe and Zinanneal for a 2 year period with provision of rise and fall after 6 months, be awarded to Steel Central Pty Ltd.

**Council Resolution**

THAT the Director's Recommendation be adopted.

Moved Cr Casey

Seconded Cr Thomsen

**CARRIED**

**11. CONSIDERATION OF NOTIFIED MOTIONS**

Nil.

**12. LATE BUSINESS:****12.1 LEAVE OF ABSENCE - CR THOMSEN**

THAT Cr Thomsen be granted leave of absence for the Meetings on 14, 21 and 28 October 2009.

Moved Cr Thomsen

Seconded Cr Perkins.

**CARRIED**

**13. PUBLIC PARTICIPATION:**

Nil.

**14. CONFIDENTIAL REPORTS:****14.1 LOCAL AREA PLAN FOR MIRANI AND MARIAN (CONFIDENTIAL REPORT REGISTER FOLIO 58)****Council Resolution**

THAT Council commence Local Area Planning for Mirani and Marian townships and in particular, the facilitation of an EbD workshop using an external facilitator.

Moved Cr Casey

Seconded Cr Hatfield

**CARRIED**

**14.2      MONTHLY DEVELOPMENT ASSESSMENT APPEALS REPORT  
(CONFIDENTIAL REPORT REGISTER FOLIO 59)**

**Council Resolution**

THAT the report be received.

Moved Cr Steindl

Seconded Cr Casey

**CARRIED**

**14.3      MASTER PLAN FOR OORALEA (CONFIDENTIAL REPORT  
REGISTER FOLIO 60)**

**Council Resolution**

THAT Council commence Master Planning for Ooralea, including engaging with effected landowners.

Moved Cr Hatfield

Seconded Cr Camilleri

**CARRIED**

**14.4      NON-COMPLIANCE OF CONDITIONS - CARLISLE MOTORS PTY LTD (000912-061-DA-2008-492) (CONFIDENTIAL REPORT REGISTER FOLIO 61)**

**Council Resolution**

THAT Council require Carlisle Motors to submit a Form 2 for a variation to the existing approval, in the form of a staged development.

Moved Cr Steindl

Seconded Cr Camilleri

**CARRIED**

**14.5 MRC2009-045 - REVISED ESTIMATE OF COST AND EXPRESSION OF INTEREST SHORTLIST FOR DESIGN CONSTRUCT TENDERS FOR PAGET DEPOT PROJECT (CONFIDENTIAL REPORT REGISTER FOLIO 62)**

**Council Resolution**

THAT:

1. The project costing be noted.
2. The following four respondents be appointed to tender for the Design and Construction of the Paget Depot Project:
  1. Abigroup Contractors Pty Ltd
  2. FK Gardner & Sons
  3. Thomas & Coffey Ltd
  4. TF Woollam & Son P/L t/a Woollam Constructions

**Moved Cr Steindl**

**Seconded Cr Perkins**

**CARRIED**

**15. MEETING CLOSURE:**

The meeting closed at 10:36am.

**16. FOR INFORMATION ONLY**

**16.1 DEVELOPMENT APPLICATION INFORMATION - 23.08.09 TO 29.08.09**

For Council Information Only – No Decision Required.

**Development Applications Received**

<b>App No</b>	<b>Location</b>	<b>Applicant</b>	<b>Description</b>	<b>Officer</b>
DA-2009-333	35-81 Beaconsfield Road East, Andergrove	Churches of Christ In Queensland	Reconfiguration of a Lot - creating 2 lots	Andrew Schembri
DA-2009-337	961 Homebush Rd, Homebush	Harts Transport (QLD) Pty Ltd	Transport Depot	Dennis O’Riely

DA-2009-328	11 Arcturus Street, North Mackay	Barry Pitt Constructions Pty Ltd	Reconfiguration of 1 Lot into 2 Urban Residential Lots	Helle Jorgensen Smith
DA-2009-336	11 Melba Street, Armstrong Beach	Albert F Bartlett	Reconfiguration of 1 Village Lot to create 2 Village Lots.	Jo McCann
DA-2009-329	12 Benjamin Court, Walkerston	Queenslander 2000 Pty Ltd	Dwelling House Situated in Flood and Inundation Overlay	Jo McCann
DA-2009-331	4 Keats Street, Mackay	Outlaws Motorcycle Club (Mackay) Inc	Residential Storage Shed exceeding 10% of Site Area. (Shed of 60m2 on 405m2 site).	Jo McCann
DA-2009-304	18 Rosella Street, Slade Point	Garage World	Material Change of Use - Residential Storage Shed (Total Shed area of all sheds exceeds 10% of site area = 84.38m2).	Jo McCann
DA-2009-335	19-21 Vincent Street, South Mackay	Gemini Homes Pty Ltd	Dwelling House situated in Flood & Inundation Overlay	Kathie Goodman
DA-2009-326	47 Wood Street, Mackay	Penlon Pty Ltd	Caretaker's Residence	Leah Sorohan
DA-2009-330	7 Transport Avenue, Paget	Alan J Keogh	General Industry - Shipping Container Storage & Builders Yard	Simon Halcrow
DA-2009-327	1 Tam Court, Marian	Jade M Sharman	Oversized Shed and boundary relaxation	Sonia Cannell
DA-2009-334	2 Sophia Street, Mackay	Totalspan Mackay	Residential Storage Shed Not Complying with Acceptable Solutions & Boundary Relaxation	Sonia Cannell
DA-2009-332	29 Coyne Avenue, Marian	Vance J Domin	Oversized Shed	Sonia Cannell

**Development Applications Finalised**

<u>App No</u>	<u>Location</u>	<u>Applicant</u>	<u>Description</u>	<u>Officer</u>
<i>Approved Subject to Conditions</i>				
DA-2007-240	L 2 Wallmans Road Rural View	Denar Pty Ltd	Reconfiguration of 3 lots to create 84 Urban Residential lots and Balance lots - Explorer Estate - Stages 3b, 4 & 5	Leah Sorohan
DA-2008-682	665 Mackay-Eungella Road Pleystowe	Dennis J Russell	Combined Application for a Material Change of Use - Dwelling House situated in Flood & Inundation Overlay and a Reconfiguration of 2 lots by Boundary Realignment on land adjacent to an Image Corridor and situated in Good Quality Agricultural Land	Leah Sorohan
DA-2009-167	2 Smith Street Ball Bay	Mark J Gralow	Shed & Front Setback Relaxation within Landscape Character Overlay	Darryl Jones
DA-2009-17	1311 Midge Point Road Midge Point	Optus Pty Ltd	Material Change of Use - Telecommunications Facility (Telecommunications Tower)	Andrew Schembri
DA-2009-183	L 7 Argents Road Finch Hatton	James J Scriha	Boundary Realignment of 3 Lots	Kathie Goodman
DA-2009-248	344 Bedford Road Andergrove	Garage World	Oversized Residential Storage Shed (Cumulative Area of 109m <sup>2</sup> ) not complying with Acceptable Solutions	Dean Appleton
DA-2009-250	29 Marlborough Street Ooralea	Paul McKenzie	Residential Storage Shed	Leah Sorohan

DA-2009-266	162 Holiday Bay Road Holiday Bay	Francis T Ohl	Residential Storage Shed with GFA greater than 10% of the area of the lot	Leah Sorohan
OW-2008-86	31 Boundary Road Paget	Larkin Teys Consulting	Operational Works of 39 industrial lots (High Impact)	Ray Gould
OW-2009-62	2 Sam Bezzina Dr Beaconsfield	Owen Consulting Pty Ltd	Operational Works - 2 Lots - Works including Water Infrastructure & Sewerage Infrastructure	Ray Gould

Negotiated Decision

DA-2007-240	L 2 Wallmans Road Rural View	Denar Pty Ltd	Reconfiguration of 3 lots to create 84 Urban Residential lots and Balance lots - Explorer Estate - Stages 3b, 4 & 5	Leah Sorohan
DA-2008-391	2 David Muir Street Slade Point	TJ & WJ Coad Super Fund	Material Change of Use - General Industry Use	Kathie Goodman

Application Lapsed

OW-2008-16	242 Slade Point Road Slade Point	QMS Property Developments Pty Ltd	Operational Works - Childcare Centre	Richard Madden
------------	----------------------------------	-----------------------------------	--------------------------------------	----------------

Confirmed on Wednesday 16 September 2009.

.....  
MAYOR



## Minutes

## SUSTAINABLE FUTURES ADVISORY COMMITTEE

Monday 10 August 2009

**Attendance:** Chair – Cr. Karen May, Dan McKinlay, Cr Deirdre Comerford, Cr Greg Thomsen, Jason Devitt, Stuart Holley, Peter Cardiff, Tim Evans, Peter Shuttlewood, Jan Kilbourne

**Guests:** Michael Fullelove, Robert Jaggar, Michelle Marchant, Lara Payne

**Apologies:** Peter Franks, Helen Paulsen

**Meeting Opens:** 2.00 p.m.

ITEMS	REQUESTOR	ACTION / COMMENTS
1. Confirmation of the Minutes of the Last Meeting (30 June 2009)	DM	The minutes of the meeting held 30 June 2009 were confirmed as a true and accurate record.
<b>2. Business Arising from the Minutes of the Meeting held 30 June 2009</b>		
2.1 Financial Loss Control Project – Newcastle City Council	DM	<ul style="list-style-type: none"> <li>▪ This Workshop was well received by those who attended. Details have been placed on the MiSite "Green Page" <b>Action: Tim Evans to circulate an email to all staff, drawing attention to this.</b></li> <li>▪ It is proposed that 2-3 officers will travel to Newcastle City Council to attend an in-depth workshop on this topic. <b>Action: Director Corporate Services to follow this up.</b></li> </ul>
2.2 Youth Climate Coalition Event	TE	<ul style="list-style-type: none"> <li>▪ Michelle Marchant and Lara Payne attended the Youth Climate Coalition Event in Sydney to represent Mackay Regional Council. They attended the meeting and gave a very enthusiastic and detailed presentation on the event. <b>Action: A copy of their presentation is attached to these minutes.</b></li> <li>▪ Michelle and Lara both confirmed their passion for protecting the environment and offered their services to the Committee and its Working Groups, whenever required.</li> </ul>
2.3 Eco Expo	KM/SH	Cr Karen May has met with the Mackay Conservation Group to explore the value of MRC having an involvement in this Expo. The Expo takes place all day on Sunday 6 July 2010 and its aim is to promote



ITEMS	REQUESTOR	ACTION / COMMENTS
		<p>green community initiatives.</p> <p>The Committee agreed:-</p> <ul style="list-style-type: none"> <li>▪ To be involved in this initiative;</li> <li>▪ To consider providing free use of Queens Park for the event, and assisting with the provision of toilet facilities, waste bins, etc. via an In-Kind Assistance Application.</li> <li>▪ To provide a speaker to showcase the Committee's achievements to date and to promote MRCs role as Reef Guardian.</li> </ul> <p><b>Action: A Working Group to be set up to arrange MRC's display stand. All Working Groups to include this as an item on the agendas for their next meeting, and bring recommendations to the next meeting of the Sustainable Futures Committee.</b></p>
<p>2.4</p> <p>Application for Funding – Local Adaptation Pathways Program</p>	<p>KM</p>	<p>Barry Omundson had followed up on the reasons why the MRC Funding Submission was unsuccessful. The reasons cited were:-</p> <ul style="list-style-type: none"> <li>▪ Over 100 very strong submissions received, against a very limited funding base;</li> <li>▪ The focus for Round 2 was on rural/remote areas; coastal areas had been given preference in Round 1 funding;</li> <li>▪ Successful Councils were very specific in outlining their vulnerabilities and how to incorporate risk strategies;</li> <li>▪ Success Councils were in NT and WA and those areas effected by recent bushfires and flooding.</li> </ul> <p>It was noted that, at this stage, there is no Round 3 funding planned. MRC will be kept informed if this situation changes.</p>
<p>2.5</p> <p>Report on Climate Change – Clarence City Council, Tasmania</p>	<p>DM</p>	<ul style="list-style-type: none"> <li>▪ Deirdre Comerford was particularly impressed with the Community Consultation Plans and Coastal management initiatives outlined in the report.</li> <li>▪ The Committee noted the way in which flood levels had been incorporated into their Planning Schemes.</li> </ul> <p><b>Action: The Planning Issues Working Group will study this report in detail and come back to this Committee with recommendations.</b></p>
<p>2.6</p> <p>Tourism Queensland</p>	<p>KM</p>	<p><b>Action: Dan McKinlay will follow up the completion of this questionnaire for Tourism</b></p>



ITEMS	REQUESTOR	ACTION / COMMENTS
Questionnaire		Queensland.
<b>3. Working Groups</b>		
3.1 Carbon Pollution Reduction Team Technical Reference Group	JD	<ul style="list-style-type: none"> <li>▪ This Working Group has not met since the last meeting of the Sustainable Futures Committee, so no minutes available for review.</li> <li>▪ The Chair, Cr Karen May sought updates on the Carbon Offset Scheme at Bucasia Water Treatment Plant for the next meeting.</li> </ul> <p><b>Action: The Chairperson of this Working Group gave an undertaking to hold another meeting prior to the next meeting of the Sustainable Futures Committee.</b></p>
3.2 Built Environment Working Group	TE	<ul style="list-style-type: none"> <li>▪ Minutes of Meetings held 24 June and 29 July 2009 tabled for review and discussion.</li> <li>▪ This Working Group has submitted an application for funding (max \$18K) for master switches for the lights in the main Administration Building. The cheapest quote is for the product recommended by Peter Dormand, Newcastle City Council. <b>Action: The Committee agreed that if partial funding only is received, there are funds available in the 2009/10 Budget for this important purchase.</b></li> <li>▪ A school awareness campaign is being considered. <b>Action: Consider offer of assistance from Lara Payne.</b></li> <li>▪ The Working Group is considering a similar scheme to the Brisbane City Council's scheme of awarding a refund of the \$50 charge made by the State for its Climate Smart service.</li> <li>▪ Tim Evans drew attention to the Green Page on the MRC Intranet. All Working Groups should update the site. IT can offer assistance, if required.</li> <li>▪ Only 20 toilets within the main Admin Building are dual flush. The Working Group will replace valves with dual flush valves as and when they become due for replacement. <b>Action: Jason Devitt to check the policy relating to indoor usage restrictions and liaise with Tim Evans.</b></li> <li>▪ Tim Evans advised that the cost of operating the water fountain at the side of the Administration Building is \$28K per year. Investigations into</li> </ul>



ITEMS	REQUESTOR	ACTION / COMMENTS
		<p>reducing this cost are underway.</p> <ul style="list-style-type: none"> <li>▪ A print reduction campaign is about to be launched to see which area can produce the biggest reduction. Printer defaults will be set to double-sided across the Organisation.</li> <li>▪ Tariff analysis – Tim Evans detailed difficulties in identifying meters, etc. and will approach Ergon Energy for assistance.</li> </ul>
3.3 Plant, Fleet and Procurement Working Group	PS	<ul style="list-style-type: none"> <li>▪ The minutes of the meeting held 30 July 2009 were tabled for discussion, together with a detailed Action Plan.</li> <li>▪ Chairperson gave a verbal update.</li> </ul>
3.4 Planning Issues Working Group	PC	<ul style="list-style-type: none"> <li>▪ This Working Group held its first meeting on 24 July 2009. Minutes of the meeting were tabled.</li> </ul>
3.5 Transport Working Group	SH	<ul style="list-style-type: none"> <li>▪ Terms of Reference tabled for review.</li> <li>▪ Minutes of Meeting held 21 July 2009 tabled for review and discussion.</li> <li>▪ Chairperson gave a verbal update.</li> </ul>
3.6 Natural Environment Working Group	HP	<ul style="list-style-type: none"> <li>▪ The minutes of the meeting held 23 July 2009 were table for information. Helen Paulsen was absent from the meeting so no verbal update was given.</li> </ul>
<b>4. New Business</b>		
4.1 (2.15 p.m.) Energy Cost Saving Strategies	DM	<ul style="list-style-type: none"> <li>▪ Presenter - Michael Fullelove, Category Manager – Energy for Local Buy Pty Ltd gave a detailed presentation on Energy Cost Saving Strategies.</li> </ul> <p><b>Action: A copy of Michael's presentation to be circulated with the minutes.</b></p>
4.2 (3.00 p.m.) Update on Paget Depot Project	TE	<ul style="list-style-type: none"> <li>▪ Robert Jagger, Contract Coordinator Engineering Services presented an update on the Paget Depot Project.</li> </ul> <p><b>Action: Robert Jagger to circulate the draft Environmental Sustainability Design document to this Committee once it is finalised.</b></p>
4.3 Local Government Sustainable	DM	<ul style="list-style-type: none"> <li>▪ Dan McKinlay and Cr Greg Thomsen have registered to attend this Conference in Melbourne on 18 &amp; 19 August 2009, and will present</li> </ul>



ITEMS	REQUESTOR	ACTION / COMMENTS
Development Conference		feedback to the next meeting of the Sustainable Futures Advisory Committee.
4.4 Low Carbon Diet	TE	<ul style="list-style-type: none"> <li>The Low Carbon Diet is very home focused and this Working Group is investigating whether funding might be available to assist in educating the Community.</li> </ul>
4.5 The Big Aussie Swap	JK	<ul style="list-style-type: none"> <li>Jan Kilbourne tabled details of this event. All Councils across Australia have been invited to participate. MRC will include this as part of its Story Time session on 12 November 2009, at the Gordon White Library. It will focus on "swapping" children's items, such as books, toys, clothes, etc. using a voucher system. If this event is successful on a small scale, then MRC will look at other themes at a later date.</li> </ul>
4.6 Climate Smart Funding	DC	<b>Action: It was agreed that the Chair would invite Jason Grandcourt to a future meeting to discuss.</b>
4.7 Planet Footprint Scorekeeping Service	DM	<b>Action: Director Corporate Services to investigate further. If comfortable with this, then the Committee gives its approval to subscribe.</b>
4.8 Change of Name of Committee	KM	<ul style="list-style-type: none"> <li>It was agreed that this Committee should be named the Sustainable Futures Advisory Committee.</li> </ul>
4.9 Solar Hot Water Rebate	DC	<p>Cr Deirdre Comerford spoke of issues which complicate the Solar Hot Water Rebate system for existing homes (as opposed to new buildings):-</p> <ul style="list-style-type: none"> <li>Peter Cardiff advised that a Plumbing Application must be submitted to change the plumbing from the outside to the roof.</li> <li>A structural engineer is required to check the safety of the roof and to have a new Solar Hot Water System fitted retrospectively into an old home is a complicated and expensive exercise.</li> </ul>
<b>5. Next Meeting</b>	Standing	14 September 2009 at 2.00 pm in Council Chambers

Meeting closed: 4.35 p.m.  
 Recorded by: Shirley Spinner  
*Executive Assistant, Corporate Services*

**APPENDIX / ATTACHMENTS**