



MINUTES

Ordinary Meeting

**Held at Council Chambers
Sir Albert Abbott Administration Building
73 Gordon Street, Mackay**

On Wednesday 24 May 2023

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His Worship the Mayor, Cr Williamson conducted an acknowledgement of Country acknowledging the traditional custodians of the land on which we meet today.

Mayor Williamson advised that the Council Meeting is being streamed live, recorded and published in accordance with Council's Standing Orders, including publishing on Council's web-site.

Mayor Williamson advised those present in the public gallery that, by attending a public meeting of the Council they are consenting to their image, voice and comments being recorded and published, and comments will form part of the live stream and recording.

Attendees were also advised that they may be subject to legal action if their actions result in inappropriate and/or unacceptable behaviour and/or comments.

1. ATTENDANCE

His Worship the Mayor, Cr G R Williamson (Chairperson), Crs M J Bella, L G Bonaventura, J F Englert, M I Green, B C Hassan, A N Jones, F A Mann, K L May, R J Seymour and P A Townsend were in attendance at the commencement of the meeting.

Also present was Mr S Owen (Chief Executive Officer), Mrs P Jaenke (Minute Secretary), Mr D McKendry (Executive Officer), Mr J Devitt (Director - Engineering & Commercial Infrastructure), Ms A Nugent (Director - Development Services), Mr J Carless (Director - Capital Works), Ms J McKay (Director - Community & Client Services), Ms A Hays (Director - Organisational Services) Ms M Rogers (Manager - Corporate Communications & Marketing) and Mrs K Verroen (Coordinator - Governance).

The meeting commenced at 10:00 am.

2. OPENING PRAYER

Pastor Jai Wright from the Evangelical Church led those present in Prayer.

3. ABSENT ON COUNCIL BUSINESS

Nil

4. APOLOGIES

Nil

4.1 LEAVE OF ABSENCE - CR LAURENCE BONAVENTURA

THAT Cr Bonaventura be granted leave of absence for the Council Meeting on 26 July 2023.

Moved Cr Mann

Seconded Cr Jones

CARRIED UNANIMOUSLY

5. CONDOLENCES

Cr Williamson expressed condolences, on behalf of Council to the family and friends of John Pearce, who passed away recently. John had worked for Council for 52 years and 10 months, starting with Pioneer Shire Council in July 1970 and finishing up with Mackay Regional Council on May 3, 2023. John did his cadetship with Main Roads and then went on to become a Technical Officer in Construction and Maintenance. John developed and maintained Council's first quality management system and received many accolades over the years for this system with it being recognised as one of the top 5 in Queensland. John was a pioneer and instigator of quality management for our Council. John was a very private and humble man and did his job to the best of his ability every day of his working life. He was married to Josephine for 42 years and sadly Josephine passed away just a few weeks prior to John. Mayor Williamson expressed sympathy on behalf of the Councillors and the entire Council, to John's family and friends.

6. CONFLICT OF INTEREST

CONFLICT OF INTEREST - ITEM 11.1.7

Cr Martin Bella

In accordance with Chapter 5B of the *Local Government Act 2009*, Cr Martin Bella has a Declared conflict of interest in Agenda Item 11.1.7, Referral from Office of Independent Assessor.

The nature of Cr Bella's interest is as follows:

Subject of Report

Mayor Williamson

In accordance with Chapter 5B of the *Local Government Act 2009*, I, Mayor Greg Williamson, inform the meeting that I have a Declared Conflict of Interest in Agenda Item 11.1.7 - Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given I am referenced in the written response from Cr Bella tabled within the agenda item.

The Particulars:

1. The name of the related party is – Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

Cr Englert

In accordance with Chapter 5B of the *Local Government Act 2009*, I inform the meeting that I, Cr Justin Englert have a Declared conflict of interest in Agenda Item 11.1.2 – Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars:

1. The name of the related party is Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

Cr Townsend

In accordance with Chapter 5B of the Local Government Act 2009, I, Cr Pauline Townsend, inform the meeting that I have a Declared conflict of interest in Agenda 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this item given my decision on the matter that is underpinning the subject of the Facebook posts.

The particulars:

1. The name of the related party is - Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict interest, I will leave the meeting room while the matter is considered and voted on.

Cr Hassan

In accordance with Chapter 5B of the *Local Government Act 2009*, I, Belinda Hassan, inform the meeting that I have a Declared Conflict of Interest in Agenda Item 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars:

1. The name of the related party is – Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

Cr Mann

In accordance with Chapter 5B of the *Local Government Act 2009*, I inform the meeting that I, Cr Fran Mann have a Declared conflict of interest in Agenda Item 11.1.2 – Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars:

1. The name of the related party is Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

Cr Jones

In accordance with Chapter 5B of the *Local Government Act 2009*, I Cr Alison Jones inform the meeting that I have a Declared conflict of interest in Agenda Item 11.1.2 – Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars

1. The name of the related party is – Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

Cr Seymour

In accordance with chapter 5B of the *Local Government Act 2009*, I Cr Russell Seymour inform the meeting that I have a Declared conflict of interest in the agenda item 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars

1. The name of the party is: Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the room while the matter is considered and voted on.

Cr Bonaventura

In accordance with Chapter 5B of the *Local Government Act 2009*, I Cr Laurence Bonaventura inform the meeting that I will declare a conflict of interest in Agenda Item 11.1.2, Referral from Office of independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this item given my decision on the matter that is underpinning the subject of the social media posts.

The Particulars:

1. The name of the related party is – Cr Martin Bella
2. The nature of my relationship with the related party is that as a colleague Councillor
3. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered.

CONFLICT OF INTEREST - ITEMS 13.1 AND 13.2

Mayor Williamson

In accordance with Chapter 5B of the *Local Government Act 2009*, I, Mayor Greg Williamson, inform the meeting that I have a Declared Conflict of Interest in Agenda Items 13.1 – MRC 2023-031 Design and Construct Pioneer River Floating Pontoon Bluewater Quay, Mackay and 13.2 – MRC 2023-030 Design and Construct Building Refurbishment – 8 River Street, Mackay.

The nature of my interest is as follows:

My son Dean Williamson is a part owner of the property at 31 River Street, which is within the PDA and within close proximity to the proposed works the subject of the tenders and with the potential that it could be viewed that this property could be impacted.

The Particulars:

1. The value and date of the gift is/are – N/A
2. The name of the related party is – Dean Williamson
3. The nature of my relationship with the related party is that - Father
4. The nature of the related party's interest in this matter is/are – Part owner of the property at 31 River Street

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

CONFLICT OF INTEREST - ITEM 17.4

Cr Mann

In accordance with Chapter 5B of the *Local Government Act 2009*, I inform the meeting that I, Cr Fran Mann have a Declared conflict of interest in Agenda Item 17.4 – Draft Minutes Invest Mackay Events and Conference Attraction Program – 8 May 2023.

The nature of my interest is as follows:

I declare I am the current Treasurer of the Zonta Club of Mackay who have applied for conference funding assistance.

The Particulars:

1. The value and date of the gift is/are – N/A
2. The name of the related party is Zonta Club of Mackay
3. The nature of my relationship with the related party is that - Treasurer of the Zonta Club of Mackay
4. The nature of the related party's interest in this matter is/are – Grant applicant for conference funding support

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

7. CONFIRMATION OF MINUTES

7.1. CONFIRMATION OF MINUTES - 26 APRIL 2023

Council Resolution ORD-2023-122

THAT the Ordinary Meeting Minutes dated 26 April 2023 be adopted.

Moved Cr Bonaventura

Seconded Cr Jones

CARRIED UNANIMOUSLY



MINUTES

Ordinary Meeting

**Held at Council Chambers
Sir Albert Abbott Administration Building
73 Gordon Street, Mackay**

On Wednesday 26 April 2023

ORDINARY MEETING - 26 APRIL 2023

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ORDINARY MEETING - 26 APRIL 2023

His Worship the Mayor, Cr Williamson conducted an acknowledgement of Country acknowledging the traditional custodians of the land on which we meet today.

Mayor Williamson advised that the Council Meeting is being streamed live, recorded and published in accordance with Council's Standing Orders, including publishing on Council's web-site.

Mayor Williamson advised those present in the public gallery that, by attending a public meeting of the Council they are consenting to their image, voice and comments being recorded and published, and comments will form part of the live stream and recording.

1. ATTENDANCE

His Worship the Mayor, Cr G R Williamson (Chairperson), Crs M J Bella, L G Bonaventura, J F Englert, M I Green, B C Hassan, A N Jones, F A Mann, K L May, R J Seymour and P A Townsend were in attendance at the commencement of the meeting.

Also present was Mr S Owen (Chief Executive Officer), Mrs P Jaenke (Minute Secretary), Mr D McKendry (Executive Officer), Mr J Devitt (Director - Engineering & Commercial Infrastructure), Ms A Nugent (Director - Development Services), Mr J Carless (Director - Capital Works), Mr M Kelly (A/Director - Community & Client Services), Ms A Hays (Director - Organisational Services), Mr M Sleeman (Manager - Corporate Communications & Marketing) and Mrs K Verroen (Coordinator Corporate Governance).

The meeting commenced at 10:00 am.

2. OPENING PRAYER

Pastor Matthew Pearce from the Seventh Day Adventist Church led those present in Prayer.

3. ABSENT ON COUNCIL BUSINESS

Nil

4. APOLOGIES

Nil

5. CONDOLENCES

Cr Townsend expressed condolences, on behalf of Council to the family of Raymond "Ray" Wilson, who passed away on April 2, aged 101. Cr Townsend advised that Ray was a World War II Veteran who had enlisted in the Army in 1941 and served in New Guinea on three occasions between 1942 and 1945. Ray is remembered as a military 'legend' and a devoted family man who sang his grandchildren to sleep with wartime love songs. Ray's service was recognised last month by the RSL Mackay Sub Branch, who renewed his membership and presented him with his service record, slouch hat and other memorabilia. Cr Townsend passed on condolences to Ray's wife of 73 years Mary, his 6 children, grandchildren, great-grandchildren and great-great-grandchildren.

6. CONFLICT OF INTEREST

In accordance with Chapter 5B of the *Local Government Act 2009*, Cr Bella has a Declared conflict of interest in Agenda Item 11.1.2, Referral from Office of Independent Assessor.

The nature of Cr Bella's interest is as follows:

ORDINARY MEETING - 26 APRIL 2023

Subject of Report

Mayor Williamson advised that a number of Conflicts of Interest (as below) had been received for Agenda Item 11.1.2 and referred the matter to the Chief Executive Officer (CEO).

In accordance with Chapter 5B of the *Local Government Act 2009*, I, Mayor Greg Williamson, inform the meeting that I have a Declared Conflict of Interest in Agenda Item 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given I am referenced in the written response from Cr Bella tabled within the agenda item.

The Particulars:

- a. The name of the related party is – Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

In accordance with Chapter 5B of the *Local Government Act 2009*, I inform the meeting that I, Cr Justin Englert have a Declared conflict of interest in Agenda Item 11.1.2 – Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars:

- a. The name of the related party is Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

In accordance with Chapter 5B of the *Local Government Act 2009*, I, Cr Pauline Townsend, inform the meeting that I have a Declared conflict of interest in Agenda 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this item given my decision on the matter that is underpinning the subject of the Facebook posts.

ORDINARY MEETING - 26 APRIL 2023

The particulars:

- a. The name of the related party is - Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

In accordance with Chapter 5B of the *Local Government Act 2009*, I, Cr Belinda Hassan, inform the meeting that I have a Declared Conflict of Interest in Agenda Item 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars:

- a. The name of the related party is – Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

In accordance with Chapter 5B of the *Local Government Act 2009*, I inform the meeting that I, Cr Fran Mann have a Declared conflict of interest in Agenda Item 11.1.2 – Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars:

- a. The name of the related party is Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

ORDINARY MEETING - 26 APRIL 2023

In accordance with Chapter 5B of the *Local Government Act 2009*, I Cr Alison Jones inform the meeting that I have a Declared conflict of interest in Agenda Item 11.1.2 – Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

The Particulars

- a. The name of the related party is – Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered and voted on.

In accordance with chapter 5B of the *Local Government Act 2009*, I Cr Russell Seymour inform the meeting that I have a Declared conflict of interest in the agenda item 11.1.2, Referral from Office of Independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this matter given my decision on the matter underpinning the subject of the Facebook posts.

- a. The name of the party is: Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the room while the matter is considered and voted on.

In accordance with Chapter 5B of the *Local Government Act 2009*, I Cr Laurence Bonaventura inform the meeting that I will declare a conflict of interest in Agenda Item 11.1.2, Referral from Office of independent Assessor.

The nature of my interest is as follows:

I believe it could be perceived that I have a conflict in participating in decisions relating to this item given my decision on the matter that is underpinning the subject of the social media posts.

The Particulars:

- a. The name of the related party is – Cr Martin Bella
- b. The nature of my relationship with the related party is that as a colleague Councillor
- c. The nature of the related party's interest in this matter is the subject of the report

As a result of my conflict of interest, I will leave the meeting room while the matter is considered.

ORDINARY MEETING - 26 APRIL 2023

The CEO advised that Item 11.1.2 would be removed from the Agenda and therefore would not be discussed at today's meeting, enabling further advice to be sought.

7. CONFIRMATION OF MINUTES

7.1. CONFIRMATION OF MINUTES - 12 APRIL 2023

Council Resolution ORD-2023-101

THAT the Ordinary Meeting Minutes dated 12 April 2023 be adopted.

Moved Cr Jones

Seconded Cr May

CARRIED UNANIMOUSLY

8. BUSINESS ARISING OUT OF PREVIOUS MINUTES

ORDINARY MEETING - 26 APRIL 2023

UPDATE ON QUESTIONS ARISING FROM COUNCIL MEETING – 26 APRIL 2023

AGENDA ITEM	MATTER	RESPONSE
15 – Public Participation	Mr Brian Larkman addressed Council in relation to street guttering on McKenney Street, South Mackay.	<p>After site inspection and review of the matter raised by Mr Larkman, a written response was provided on 21 April 2023.</p> <p>The position being that in relation to McKenny St there are no plans to undertake any works associated with the current driveway access and kerb cross overs that exist on the eastern end of the McKenny St. It is acknowledged these do create an issue for street sweepers and there is no scheduled program to clean underneath these cross overs by council staff. Currently Council responds on a complaint basis only (noting that based on this request Council has attended site and cleaned in crossing). There are many of these cross overs in existence across the region, and Council we will continue to review these from a maintenance perspective, however it is not something Council have as a scheduled program with current resourcing. Council does also rely on the residents to maintain the council verge which is generally done.</p> <p>In relation to the matter raised on general amenity around urban areas, this is something acknowledged in the current growth climate and Council are actively working to assess opportunities and resource allocation to improve this aspect.</p>

ORDINARY MEETING - 26 APRIL 2023

9. MAYORAL MINUTES

Nil

10. CONSIDERATION OF COMMITTEE REPORTS & RECOMMENDATIONS

Nil

ORDINARY MEETING - 26 APRIL 2023

11. CORRESPONDENCE AND OFFICER'S REPORTS**11.1. OFFICE OF THE MAYOR AND CEO****11.1.1. ADOPTION OF COUNCIL POLICIES**

Author	Senior Governance Officer (Pam Currell)
Responsible Officer	Executive Officer (David McKendry)
File Reference	094 - Related Party / 096 - Legal Assistance for Councillors and Employees
/ COU120 - Petitions	

Attachments

1. COU094 - Related Party [11.1.1.1 - 5 pages]
2. COU096 - Legal Assistance For Councillors and Employees [11.1.1.2 - 9 pages]
3. COU120 - Petitions [11.1.1.3 - 13 pages]

Purpose

To present the following Council policies and any associated Corporate Standard for consideration and adoption:

- COU094 – Related Party
- COU096 – Legal Assistance for Councillors and Employees
- COU120 – Petitions

Related Parties

There are no identified related parties.

Corporate Plan LinkageFinancial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

Mackay Regional Council (MRC) have a process of reviewing policies and any associated corporate standard to ensure that they are relevant and up to date. The process involves a review by the responsible program manager, circulation to the management team for consultation and final submission to the executive leadership team (ELT) for endorsement, prior to presenting to Council for endorsement and adoption.

COU094 – Related Party

This policy ensures compliance with the *Australian Accounting Standard AASB124* and the *Local Government Act 2009* and seeks to reduce the risk that Council transactions may be influenced by the interests of parties related to the transaction.

This policy has been reviewed as part of MRC's policy review process.

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COU096 – Legal Assistance for Councillors and Employees

This is a best practice policy that sets out a framework which MRC will provide legal assistance to Councillors and employees who may require personal legal representation as a direct result of their office roles within MRC.

This policy has been reviewed as part of MRC's policy review process.

COU120 – Petitions

This new policy and associated corporate standard have been drafted to set the parameters for submissions of petitions in accordance with Council's Standing Orders and provide a consistent approach for submitting petitions, including the new option of an e-Petition.

Consultation and Communication

As part of the review process consultation has been undertaken with relevant stakeholders including responsible and associated program managers, director and ELT.

Resource Implications

The implementation of these policies will not require additional resources beyond those currently budgeted.

Risk Management Implications

There were no risk management implications identified regarding the proposed policies.

Conclusion

It is recommended that Council adopt the following policies and their associated corporate standards:-

1. COU094 – Related Party
2. COU096 – Legal Assistance for Councillors and Employees
3. COU120 – Petitions

Officer's Recommendation

THAT Council adopt the following policies and their associated Corporate Standard:

1. COU094 – Related Party
2. COU096 – Legal Assistance for Councillors and Employees
3. COU120 – Petitions.

Council Resolution ORD-2023-102

THAT Council adopt the following policies and their associated Corporate Standard:

1. **COU094 – Related Party**
2. **COU096 – Legal Assistance for Councillors and Employees**
3. **COU120 – Petitions.**

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Moved Cr Jones

Seconded Cr Townsend

CARRIED UNANIMOUSLY

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11.1.2. REFERRAL FROM OFFICE OF INDEPENDENT ASSESSOR

Author	Executive Officer (David McKendry)
Responsible Officer	Chief Executive Officer (Scott Owen)
File Reference	Councillor Code of Conduct
Attachments	1. Councillor Investigation Policy 2. Code of Conduct for Councillors in Queensland

Purpose

The purpose of this report is for Council to determine in its opinion whether or not Cr Martin Bella has engaged in inappropriate conduct as per Section 150AG of the *Local Government Act 2009* (LGA), and if so what if any actions to apply.

Related Parties

- Office of Independent Assessor
- Councillor Conduct Tribunal
- Complainants – Names withheld for privacy reasons

Corporate Plan LinkageFinancial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

In Queensland, complaints concerning Councillor conduct are referred to the Office of the Independent Assessor (OIA). After investigating a matter, the OIA may decide to refer suspected inappropriate conduct to the relevant local government for further investigation.

On 9 October 2022 the OIA received a complaint about the conduct of Cr Bella. It was alleged that Cr Bella made defamatory and derogatory statements at the Council meetings on 13 and 27 July 2022, and also in social media posts, the content of which would be in breach of the Code of Conduct for Councillors.

On 7 November 2022 the OIA referred the allegation against Cr Bella in relation to the social media statements only to Council to be dealt with, pursuant to section 150W(1)(b) of the LGA. In relation to the allegations linked to the Council meetings comments, the advice from the OIA was that they did not consider that they would amount to inappropriate conduct.

On 14 November 2022 Council's Acting Chief Executive Officer referred the matter related to social media posts only to the Councillor Conduct Tribunal (Tribunal) for investigation in accordance with Council's Councillor Investigation Policy.

On 3 February 2023 Council received the report from the Tribunal in relation to the suspected inappropriate conduct referral.

The Tribunal summarised the matter under review as whether the social media comments were appropriate, or whether they may have breached section –150K(1)(a) of the Local Government Act 2009 (Qld) ('the Act'), in that

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the conduct is contrary to behavioural standard 2 in the Code of Conduct for Councillors in Queensland approved on 4 August 2020, namely:

'2. Treat people in a reasonable, just, respectful and non-discriminatory way'

The outcome of the investigation by the Tribunal being–

The Tribunal has investigated the suspected inappropriate conduct of the Councillor referred by the Independent Assessor to the local government and has provided recommendations to the local government pursuant to section 150DL(1)(a)(i) & (ii) of the LGA.

*The Tribunal has formed the opinion that the evidence **is sufficient** for the Council to reach a determination that the allegation of inappropriate conduct is sustained on the balance of probabilities.*

In accordance with Clause 1.2 of Council's Councillor Investigation Policy, Cr Bella is provided the opportunity to put his case in writing for the Council's consideration. In response Cr Bella provided the below –

I understand that my reply to sustained, and in many cases shocking, comments on a social media post may be seen as inappropriate.

My actions may not be seen as reflective of standards expected of me as an elected official, and, as in every case, I take responsibility for my actions.

In this case, however, I will take the opportunity to explain the exceptional circumstances that led to my reply.

In this instance, I experienced a great deal of both stress and pressure, due to abuse, and even what equates to death threats, directed at both myself, and my colleagues, by some members of the public, many of whom were ill informed of the issues at hand.

I did what I felt was right in the circumstances at play – some may see this as a mistake. I recognise that my replies may be deemed inappropriate, and assure you that there was no intent to harm – merely to ease the pressure myself and others were placed under, by merely carrying out our roles in a responsible and ethical manner.

I truly believe, that the events which placed me in this position could have been avoided, if the organisation had an appropriate policy or policies in place, to deal with matters such as these when they first became apparent, as opposed to 8 days later.

I will continue to work, as I have always done, toward better policies and practices that prioritise the safety and wellbeing of our community.

I thank you for your understanding in this matter, and ask you to rest assured that I will continue to uphold essential values such as loyalty, honesty and integrity, as expected of me as a councillor.

Councillors are now required to consider the matter and determine as per section 150AG of the LGA:

- a) Whether or not in its opinion Cr Bella has engaged in inappropriate conduct in accordance with the Councillors Code of Conduct; and

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- b) If Council decides that Cr Bella has engaged in inappropriate conduct – what action (if any) Council will take under section 150AH to discipline the councillor.

If Council determines that inappropriate conduct has been undertaken, a resolution to this effect is required as well as confirmation of which disciplinary action (if any) from the legislation is applicable, (i.e. one or more of the potential actions outlined below must be selected). Council may consider any previous inappropriate conduct of the Cr Bella and any allegation made in the investigation that was admitted, or not challenged, and that Council is reasonably satisfied is true.

In this regard Council's Councillor Conduct Register does not show any complaints naming Cr Bella, or in fact any current Councillor (noting that if complaints are dismissed or withdrawn the details are still recorded however the Councillors name is not published as the allegation has not been substantiated)

To support Councillors to comply with the requirements of the LGA, the following draft motions are provided for consideration. If Council determines that no inappropriate conduct has been undertaken, a resolution to this effect is required.

Inappropriate decision:

- THAT Council decides that Cr Bella <has / has not> engaged in inappropriate conduct as per section 150AG(1)(a) of the LGA in relation to the allegation that Cr Bella has breached the behavioural standard in the Code of Conduct for Councillors in Queensland.

Potential actions if decided that conduct was inappropriate:

- THAT Council decides that even though Cr Bella has engaged in inappropriate conduct, as per section 150AG(1)(b) of the LGA that no action be taken against the Councillor.

OR

- THAT Council decides that as Cr Bella has engaged in inappropriate conduct, as per section 150AG(1)(b) of the LGA the following disciplinary action/s will apply: (Council must select one or more of the following disciplinary actions, if it determines that disciplinary action is applicable.)
 - (i) an order that the councillor make a public admission that the councillor has engaged in inappropriate conduct;
 - (ii) an order reprimanding the councillor for the conduct;
 - (iii) an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense;
 - (iv) an order that the councillor be excluded from a stated local government meeting;
 - (v) an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor;

Example: The councillor is ordered to resign from an appointment representing the local government on a State board or committee.

- (vi) an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct;

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- (vii) an order that the councillor reimburse the local government for all or some of the costs arising from the councillor's inappropriate conduct.

Consultation and Communication

- Office of Independent Assessor
- Councillor Conduct Tribunal – Report from the Tribunal provided to Councillors however not tabled with Council report for privacy reasons
- Senior Legal Counsel
- Coordinator Corporate Governance
- Cr Bella
- Mayor & Councillors
- Complainants – Names withheld for privacy reasons

Resource Implications

Cost of this investigation is \$5,518.80 inclusive of GST, being charges as billed from the Tribunal.

Risk Management Implications

Should Council decide a Councillor has engaged in inappropriate conduct, there is a requirement to publish the decision in the Councillor Conduct Registers.

Conclusion

The allegations of inappropriate conduct by Cr Bella referred to Council by the Office of the Independent Assessor have been investigated by the Councillor Conduct Tribunal in accordance with Council's Councillor Investigation Policy. Based on the response from the Tribunal Council must now determine in its opinion whether or not Cr Bella has engaged in inappropriate conduct, and if so determine what disciplinary action (if any) must be taken.

Officer's Recommendation

THAT Council consider the matter and information provided, and resolve to make a decision about allegations of inappropriate conduct against Cr Bella in accordance with section 150AG of the *Local Government Act 2009*.

As per Item 6 Conflict of Interest, this Item was withdrawn.

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11.2. CAPITAL WORKS**11.2.1. CAPITAL WORKS MONTHLY REVIEW REPORT - MARCH 2023**

Author Director Capital Works (Jim Carless)
Responsible Officer Director Capital Works (Jim Carless)
File Reference Departmental Monthly Review Reports

Attachments

1. 202303 - Capital Works Monthly Review Report - March 2023 [**11.2.1.1** - 32 pages]

Purpose

To provide Council with the Capital Works Monthly Review Report for the month of March 2023.

Related Parties

Nil

Officer's Recommendation

THAT the Capital Works Monthly Review Report for the month of March 2023 be received.

Cr Seymour queried the completion time for the works on Lorne Road, Walkerston.

The Director for Capital Works, Jim Carless advised that he would take the question on notice.

Council Resolution ORD-2023-103

THAT the Capital Works Monthly Review Report for the month of March 2023 be received.

Moved Cr Englert

Seconded Cr Green

CARRIED UNANIMOUSLY

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11.3. DEVELOPMENT SERVICES**11.3.1. DEVELOPMENT SERVICES MONTHLY REVIEW REPORT - MARCH 2023**

Author	Director Development Services (Aletta Nugent)
Responsible Officer	Director Development Services (Aletta Nugent)
File Reference	DMRR

Attachments

1. Development Services Monthly Review Report - March 2023 [11.3.1.1 - 21 pages]

Purpose

To provide Council with the Development Services Monthly Review Report for the month of March 2023.

Related Parties

Nil

Officer's Recommendation

THAT the Development Services Monthly Review Report for March 2023 be received.

Council Resolution ORD-2023-104

THAT the Development Services Monthly Review Report for March 2023 be received.

Moved Cr Green

Seconded Cr Jones

CARRIED UNANIMOUSLY

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11.3.2. REQUEST FOR WAIVER OF INFRASTRUCTURE CHARGES AND DEVELOPER CONTRIBUTIONS

Author Acting Manager Development Planning and Engineering (Jamie Lee)
Responsible Officer Director Development Services (Aletta Nugent)
File Reference DA-2022-200, DA-2013-341, DA-2015-180, DA-2013-83, DA-2012-62, DA-2012-62/A, DA-2013-131 and DA-2013-131/A, DA-2009-4

Attachments Nil

Purpose

To seek Council's consideration of the following:

1. Waiving indexation on infrastructure charges and headworks contributions where (up to) a three year payment plan has been entered into by a landowner for the payment of unpaid charges;
2. Provide delegation to Director Development Services and Chief Executive Officer to waive indexation on up to three year payment plans;
3. Request by landowners to waive indexation applied on infrastructure charges;
4. Request by landowners and representatives to waive unpaid infrastructure charges;
5. Request to waive infrastructure charges for development under the Facilitating Development in the Mackay Region Policy (the Policy); and
6. Request for an 18 month payment plan and waiver of indexation for period of payment plan for headworks contributions associated with DA-2009-4.

Related Parties

- HN QCV Sarina Land Pty Ltd and Qantac Sarina Pty Ltd
- Coby J Halpin
- JA Ryan Investments Pty Ltd
- Adrian J Connors and Damien V Connors
- Joseph C Attard (Note Grazing Park Co) C/- RPS
- Tefol North Queensland (NJB Holding Co Pty Ltd) C/- Citecon
- Toffee Pty Ltd
- Mater Misericordiae Limited C/- Office of the Chief Executive Officer, Director – Mater Property Services

Corporate Plan LinkageFinancial Strength

Affordable Living - Our rates and charges provide value for residents and are sufficient in providing for required infrastructure, facilities and services.

Background/DiscussionWaiving of indexation for (up to) three year payment plans

At the Council Meeting held on 25 January 2023, Council endorsed the waiving of indexation applied to infrastructure charges and headworks contributions for 12 month payment plans.

Landowners have since advised that a 12 month payment plan does not provide a sufficient timeframe to pay unpaid charges and have therefore sought to extend the timeframe to make payment. However, payment plans for infrastructure charges and headworks contributions outside of a 12 month payment plan incur indexation at the current Producer Price Index (PPI) rate at the time of calculation (Producer Price Indexes, RBCI - Road & Bridge Construction, CPI All Groups Brisbane, BCI - Building Construction Index).

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The indexation of infrastructure charges and headworks contributions where payment plans have been applied requires Council officers to update the value of regular payments based on the current rate applicable. This creates confusion and further angst for the customer on the amount owed and requires administrative work by Council officers. It is considered that the value of the revenue collected via indexation in these circumstances is outweighed by Council's efforts to assist customers to pay outstanding charges, as well as the additional administrative work that arises.

Currently, any request to waive indexation of infrastructure charges and headworks contributions on payment plans greater than 12 months requires approval by the Council. It is therefore proposed that the delegation to waive indexation for outstanding infrastructure charges and headworks contributions on payment plans up to three years be provided to the Director Development Services and Chief Executive Officer.

Delegation for approval of payment schedules outside of 12 months is to remain under the delegation of the Chief Executive Officer.

Request to waive the applied indexation of infrastructure charges for development approvals

Council officers have received two requests from landowners to waive the indexation applied on outstanding infrastructure charges.

The following provides a summary of each request and a recommendation for Council's consideration:

Application Number:	DA-2013-341
Property Owner:	JA Ryan Investments Pty Ltd
Address:	13 Executive Drive, Paget
Description of Development:	Material Change of Use - General Industry (Exhaust Manufacturing)
Total of Infrastructure Charge:	\$37,548.49 (indexation approximately \$1,655.70)
Officers Recommendation:	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1. the outstanding infrastructure charges are recovered in full, including indexation; 2. a payment plan of (up to) three years be implemented to assist with monthly repayments; and 3. indexation be waived over this payment plan period. <p>Note: This is a staged development where construction could occur as needed. There are some stages yet to commence. There are other businesses that have completed similar development without receiving concession.</p>

Application Number:	DA-2015-180
Property Owner:	Coby Halpin
Address:	32 Vaucluse Crescent, East Mackay
Description of Development:	Material Change of Use – Dual Occupancy
Total of Infrastructure Charge:	\$17,552.85 (indexation approximately \$1,552.85)
Officers Recommendation:	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1. the outstanding infrastructure charges are recovered in full, including indexation; 2. a payment plan of (up to) three years be implemented to assist with monthly repayments; and 3. indexation be waived over this payment plan period.

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	Note: There are similar developments that have paid infrastructure charges in full and have not received a concession.
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Request to waive infrastructure charges for development approvals

Council officers have received requests from landowners and representatives to waive the full payment of outstanding infrastructure charges.

The following provides a summary of each request and a recommended outcome for Council's consideration:

Application Number:	DA-2013-83
Property Owner:	Adrian J Connors and Damien V Connors
Address:	84 Wood Street, Mackay
Description of Development:	Material Change of Use – Hotel
Total of Infrastructure Charge:	\$14,019.60
Officers Recommendation:	It is recommended that the outstanding infrastructure charges are recovered in full as the use has commenced and development approval acted upon.

Application Number:	DA-2012-62 and DA-2012-62/A
Property Owner:	HN QCV Sarina Land Pty Ltd and Qantac Sarina Pty Ltd
Address:	99 Armstrong Beach Road, Sarina
Description of Development:	Material Change of Use - Non-resident Workforce Accommodation
Total of Infrastructure Charge:	\$942,658.00
Officers Recommendation:	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1. the outstanding infrastructure charges are recovered in full; 2. a payment plan be made available to assist with monthly repayments; and 3. indexation be waived over this payment plan period. <p>Note: Stage two (200 accommodation rooms) constructed and building approval finalised. The development commenced and can be re-established onsite at any time under the existing approval.</p> <p>Charges recently paid for commercial component require recalculation in consideration of 20% concession as not connected to sewer and to be refunded to QCV.</p>

Application Number:	DA-2013-131 and DA-2013-131/A
Property Owner:	Mater Misericordiae Limited C/- Office of the Chief Executive Officer Director – Mater Property Services
Address:	76 Willetts Road, North Mackay
Description of Development:	Material Change of Use – Extension to Hospital
Total of Infrastructure Charge:	\$283,862.10
Officers Recommendation:	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1. the outstanding infrastructure charges are recovered in full; 2. a 12 month payment plan be made available to assist with monthly repayments; and 3. indexation be waived over this payment plan period.

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	Note: Mater Misericordiae Limited are a registered charity with the Australian Charities and Not-for-profits Commission. Similar developments have been required to pay infrastructure charges and have not received a concession outside approval granted through the Facilitating Development in the Mackay Region Policy.
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Request to waive infrastructure charges under the Facilitating Development in the Mackay Region Policy

Council officers have received requests for development to be considered under the Policy.

The following provides a summary of each request and a recommended outcome for Council's consideration:

Application Number:	DA-2022-200
Property Owner:	Tefol North Queensland (NJB Holding Co Pty Ltd) C/- Citecon
Address:	49-51 Central Park Drive, 36-38 Iridium Drive, 40-42 Iridium Drive
Description of Development:	Material Change of Use - Medium Impact Industry
Total of Infrastructure Charge:	\$150,427.89
Officers Recommendation:	It is recommended that the development is not approved under the Policy and outstanding infrastructure charges be recovered in full. Note: The development is a significant investment and expansion, however other similar developments have occurred without receiving concession.

Application Number:	Development application not yet submitted (referred to as Note Park)
Applicant:	Joseph C Attard (Note Grazing Park Co) C/- RPS
Address:	267 Barrie Lane, Homebush
Description of Development:	Function Facility / Tourist Attraction
Total of Infrastructure Charge:	Full extent of charges unknown due to insufficient information for calculation.
Officers Recommendation:	It is recommended that the development is not approved under the Policy. Note: Existing operations are occurring onsite without a development approval, with the Policy designed to attract new development and generally not applied to existing development.

Request to enter an 18 month payment plan and the waiving of indexation

Council officers have received a request to enter an 18-month payment plan for headworks contributions and the waiving of indexation over this payment plan period as outlined below.

Application Number:	DA-2009-4
Property Owner:	Toffee Pty Ltd
Address:	29-35, 39 & 41 Davey Street and 2 Hughes Street, Glenella
Description of Development:	Material Change of Use – Hospital (Extension to Northview Aged Care Centre Facility)
Total of Infrastructure Charge:	\$34,922.40 (Stage 1)
Officers Recommendation:	It is recommended that:

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	<ol style="list-style-type: none"> 1. an 18-month payment plan be approved; and 2. indexation be waived over this payment plan period. <p>Note: The value of revenue collected via indexing in these circumstances is outweighed by the additional administrative work that arises.</p>
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Consultation and Communication

Consultation has taken place between the Development Planning and Engineering Program and each of the affected landowners that have requested for their infrastructure charges to be waived.

Consultation has taken place between the Economic Development and Tourism Program and the applicants' representatives regarding requests for consideration under the Facilitating Development in the Mackay Region Policy requests.

The item was the subject of a briefing to Councillors on 19 April 2022.

Resource Implications

It is not possible to provide an accurate estimate of the loss of revenue through waiving the indexation of infrastructure charges or headworks contributions associated with payment plans as these are subject to indexation calculations at the time of payment. However, the amount waived over the payment plan period is considered to have a negligible impact in context of Council's total collection of adopted infrastructure charges and headworks contributions.

It is noted that outstanding infrastructure charges are being indexed upon notification to landowners, providing a current and indexed charge.

These monies would otherwise be budgeted for and used for the funding of trunk infrastructure projects as identified within Council's Local Government Infrastructure Plan Schedule of Works.

Risk Management Implications

Risks associated with recommending the waiving of indexation within (up to) three-year payment plans includes the loss of revenue of infrastructure charges and headworks charges.

Conclusion

Consideration has been given to the circumstances of each development approval, with the recommendations outlined below. As Council continues to collect unpaid adopted infrastructure charges and headworks contributions, future waivers may be presented to Council upon request of the landowner/applicant or where the circumstances of the applications are similar to those contained herein.

Officer's Recommendation

THAT Council:

1. Approve the waiving of indexation on infrastructure charges and headworks contributions where up to a three-year payment plan has been entered into;
2. Approve delegation for the Director Development Services and Chief Executive Officer to waive indexation of adopted infrastructure charges and headworks contributions where up to a three-year payment plan has been entered into by a landowner;
3. Refuse the request by landowners to waive indexation applied on infrastructure charges associated with DA-2013-341 and DA-2015-180;

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4. Refuse the request to waive the adopted infrastructure charges associated with DA-2013-83, DA-2012-62, DA-2012-62/A, DA-2013-131 and DA-2013-131/A, however, approve the waiving of indexation over a payment plan period;
5. Refuse the request to grant infrastructure charges concessions for DA-2022-200 and the Note Park development (application yet to be received) under the Facilitating Development in the Mackay Region Policy;
6. Approve an 18-month payment plan and the waiving of indexation over the payment plan period for headworks contributions associated with DA-2009-4.

Council Resolution ORD-2023-105**THAT Council:**

1. Approve the waiving of indexation on infrastructure charges and headworks contributions where up to a three-year payment plan has been entered into;
2. Approve delegation for the Director Development Services and Chief Executive Officer to waive indexation of adopted infrastructure charges and headworks contributions where up to a three-year payment plan has been entered into by a landowner;
3. Refuse the request by landowners to waive indexation applied on infrastructure charges associated with DA-2013-341 and DA-2015-180;
4. Refuse the request to waive the adopted infrastructure charges associated with DA-2013-83, DA-2012-62, DA-2012-62/A, DA-2013-131 and DA-2013-131/A, however, approve the waiving of indexation over a payment plan period;
5. Refuse the request to grant infrastructure charges concessions for DA-2022-200 and the Note Park development (application yet to be received) under the Facilitating Development in the Mackay Region Policy;
6. Approve an 18-month payment plan and the waiving of indexation over the payment plan period for headworks contributions associated with DA-2009-4.

Moved Cr Englert

Seconded Cr May

CARRIED UNANIMOUSLY

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11.3.3. REQUEST FOR COUNCIL OWNERSHIP OF FISH HABITAT STRUCTURES

Author Director Development Services (Aletta Nugent)
Responsible Officer Director Development Services (Aletta Nugent)
File Reference {file-number}

Attachments

1. Rubble to Reef - Project Brief [11.3.3.1 - 3 pages]
2. Rubble to Reef - Draft Monitoring Plan [11.3.3.2 - 2 pages]
3. Letter to Mackay Regional Council - Rubble to Reef Project [11.3.3.3 - 1 page]
4. Decommissioning Action Plan [11.3.3.4 - 3 pages]

Purpose

For Council to consider the request from Reef Catchments for Council to accept ownership of Habitat Reef Modules located within Port waters.

Related Parties

- Reef Catchments (Mackay Whitsunday Isaac) Limited
- James Cook University
- North Queensland Bulk Ports

Corporate Plan LinkageCommunity and Environment

Sustainable Practices - We are responsible and active custodians of our natural environment, with future targets and commitments aimed at driving us towards a cleaner, greener and more sustainable region. Climate change will continue to be a consideration in forward planning and we will continue to implement sustainability initiatives in council operations.

Live and Visit

Eco-Tourism Adventure and Leisure - We are a world-famous tourism destination, providing eco, adventure and water-based sport, recreation, and leisure opportunities.

Background/Discussion

Reef Catchments has received funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project. This project involves the deployment of 30 Habitat Reef Modules within the inshore marine environment of the Mackay Whitsunday region by June 2023.

Detail on the proposed installation of the Modules is provided in Attachment 1. It is intended that the Modules will provide the conditions conducive to recruitment and regeneration of coral, fish and crustacean communities.

The Modules will be located in Port waters surrounding the Port of Mackay. Reef Catchments cannot own the Habitat Reef Modules and the process for North Queensland Bulk Ports (NQBPs) to consider taking ownership was considered too lengthy. Therefore, Reef Catchments requested that Council accept ownership of the Modules.

Councillors were briefed on the proposal on 9 February 2022 and 20 April 2022. Following the briefings, officers negotiated a Memorandum of Understanding (MOU) with Reef Catchments, to provide a framework for Council and Reef Catchments to work together on the planning of the project. In accordance with the MOU, it was agreed

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to prepare a report to Council recommending that Council resolve to take ownership of up to 30 Habitat Reef Modules subject to the parties working in good faith to:

- Consider possible sites for the deployment and installation of the Habitat Reef Modules; and
- Develop viable approaches for long term monitoring of Habitat Reef Modules effectiveness at remaining secure and supporting coral reef regeneration.

Reef Catchments is obliged under the MOU to provide evidence that:

- The proposed sites have been included in Maritime Safety Queensland navigational hazard charts;
- The Habitat Reef Modules are RPEQ certified for stability in 1% ARI wave conditions; and
- All permits and approvals of any relevant Authority have been obtained for the deployment and installation of the Habitat Reef Modules for the chosen proposed sites.

In accordance with the MOU, Council and Reef Catchments will enter into an agreement to acquire the Modules upon Council resolving to accept their ownership.

Since the execution of the MOU, Reef Catchments has been progressing the project, with regular project updates and consultation with Council officers. As part of this, the Habitat Reef Modules were RPEQ certified for stability in up to 1% ARI conditions and Reef Catchments has worked with Maritime Safety Queensland regarding the procedure for plotting the Modules on navigational hazard charts.

Throughout all discussions in relation to this project, a reasonable monitoring regime was discussed as being utilising side scanning sonar technology to inspect the Modules following a 1% AEP weather event. This was further refined to include a 1% AEP event resulting in significant wave height of more than 4.6m recorded at proximate buoys. This included the option of securing underwater footage to check the ecological status of the Modules.

Reef Catchments are currently working through another significant milestone for the project, which is obtaining a sea dumping permit from the federal Department of Agriculture, Water and the Environment. As part of this, draft monitoring conditions that will attach to the permit have been provided. The draft monitoring conditions are included in Attachment 2. In summary, there will be a requirement to undertake monitoring of the Modules once a year for the first five years of the permit, and then every five years for the life of the permit (30 years). This is in addition to post 1% AEP event monitoring. If there is a build up of marine debris on the Modules posing an entanglement hazard, commercial divers must be deployed to remove the debris. It should be noted that these additional monitoring requirements were not foreseen or expected by Reef Catchments or Council officers at the time the MOU was entered into.

Council officers raised concerns with this requirement for ongoing monitoring. In response to this, Reef Catchments has agreed to take on responsibility for the ongoing monitoring outside post event monitoring and what is agreed for the first 12 months with NQBP. A letter from Reef Catchments confirming this support is shown in Attachment 3.

There is also a decommissioning plan that has been developed by Reef Catchments as part of the permit application, see Attachment 4. The obligations in this plan are broadly consistent with the discussions before and after the MOU was signed, noting that all of the triggers for removal of the Modules are considered unlikely. However, Council officers advised that Council would not agree to a permit condition that required the Modules to be removed at the end of the life of the permit unless one of the other triggers were met. Reef Catchments have advised that they will accept responsibility for this should it become a condition in the permit due to the low likelihood of it being required.

Council officers have concerns overall with the permit and the obligations it potentially places on Council. While Reef Catchments have stated they will take on most of the obligations, they are the Natural Resource Management group for the region, and as such there is no guarantee that they will be in a position to monitor and discharge the obligations outlined in the sea dumping permit for a 30 year period. Council, as joint permit holder, will be left with responsibility if Reef Catchments are unable to perform their obligations.

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The current cost of undertaking a monitoring inspection as per the permit is \$5300 (excl. GST). While this is not a significant cost, undertaking this type of activity is not Council core business and there is a real risk that this legal responsibility will be missed over time, putting Council in breach of its legal obligations.

The benefits of this project to the marine environment and recreational fishing are recognised. However, the regulatory requirements sitting with Council in relation to this has grown significantly from what was envisaged when entering into the MOU and when Council was asked to accept ownership of the Modules.

Reef Catchments is progressing quickly with the project, including arranging community engagement events and public interpretation resources to promote the installation of the Modules. While all of the steps in the MOU have not yet been met or fulfilled, these permit conditions represent a significant departure from what was previously discussed and it is considered timely for Council to formally consider whether it is willing to accept these conditions and ownership of the Modules. Therefore, the effect of this report is to bring forward the commitment for Council to formally consider accepting ownership of the Modules as outlined in the MOU.

Should Council not accept ownership of the Modules, the project cannot be completed as Reef Catchments has been unable to secure another organisation that can accept ownership of the Modules. Reef Catchments has expended in the order of \$150,000 on this project, and has advised that they will not be reimbursed from grant funds for any of the costs incurred unless the Modules are deployed. The Modules are in the process of being constructed, and there is nowhere to store them on land should they not be deployed. Reef Catchments has advised that if the project does not proceed, they will consider options to recover the funds expended so far, which may include approaching Council for this funding.

The benefits of the project and the negative impact on Reef Catchments should it not proceed are acknowledged. However, based on the increased obligation for Council to have ongoing, active involvement in the management of the Modules and the risk that permit obligations may be missed over time due to this sitting outside Council core business, it is recommended that Council not accept ownership of the Habitat Reef Modules.

Consultation and Communication

There has been ongoing consultation between Reef Catchments and Council officers. Councillors were briefed on the proposal on 9 February 2022 and 20 April 2022.

Reef Catchments have a communications plan for the project.

Resource Implications

Should the project progress and Reef Catchments perform the additional monitoring obligations under the permit as per their commitment, the resource implications for Council will only arise following a 1% AEP event. Given the current cost of inspecting the Modules is \$5,300 (excl. GST) and the obligation can be built into Council's emergency management planning, this is considered to have a limited impact on Council's operations and resources.

Should Council have to step in as a joint permit holder and perform more of the monitoring over a 30 year period, this will have an impact on resources by necessitating Council as an organisation embed this non-core business activity into its operations so that the legal responsibility does not get missed.

Reef Catchments has indicated that it may seek to recover expenditure already incurred on the project from Council, should Council decline to accept ownership of the Modules and the project not proceed.

Risk Management Implications

A risk assessment relating to Council accepting ownership of the Modules was undertaken early last year, identifying risks including movement of the Modules, unsuitability of the module structures, failure of Reef Catchments to perform their monitoring obligations, colonisation of the structures by invasive species and

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inadequate management of the Modules as Council assets. The risk level assigned to these risks ranged from medium to high, with a number of controls outlined that would reduce the risk to an acceptable level. It should be noted that this risk assessment was on the basis of the limited monitoring obligations originally discussed, with Reef Catchments/NQBP/JCU identified as doing some initial monitoring of the Modules.

The increased monitoring obligations give rise to a new risk that Reef Catchments and Council will not meet the conditions of the sea dumping permit. The Likelihood of this occurring has been assessed as "Likely" with the Consequences of not meeting this legislative requirement assessed as "Moderate", resulting in a risk level of High.

Conclusion

When first approached about this project by Reef Catchments, Council was asked to accept ownership of the Habitat Reef Modules as Council assets, given their proposed location and the nature of the project proponent. Should Council decline to accept ownership now, with the project scheduled to be completed by June 2023, this could impact the ability of the project to proceed.

The conditions that will attach to the sea dumping permit are such that Council would be required to have a much more active role in the ongoing management of the Modules, extending significantly past being passive owners who are required to check on them after a severe weather event. It is for this reason that it is recommended that Council not accept ownership of the Habitat Reef Modules and that Reef Catchments be advised accordingly.

Officer's Recommendation

THAT Council not accept ownership of the Habitat Reef Modules proposed to be deployed by Reef Catchments with funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project.

Cr Hassan advised that Councillors had received further information this morning from the Director and noted that as a Board Member of Reef Catchments, there is further information yet to be provided.

PROCEDURAL MOTION

THAT the motion be laid on the table.

CARRIED

Council Resolution {resolution-number}

THAT Council not accept ownership of the Habitat Reef Modules proposed to be deployed by Reef Catchments with funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project.

Moved {mover}

Seconded {seconded}

CARRIED UNANIMOUSLY/LOST

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11.4. ENGINEERING AND COMMERCIAL INFRASTRUCTURE

11.4.1. ECI - TRANSPORT & DRAINAGE MONTHLY REVIEW REPORT - MARCH 2023

Author	Executive Assistant (Robyn Smith)
Responsible Officer	Director Engineering & Commercial Infrastructure (Jason Devitt)
File Reference	MRR - T & D

Attachments

1. ECI - Transport Drainage Monthly Review - March 2023 [**11.4.1.1** - 16 pages]

Purpose

Attached is a copy of the Engineering & Commercial Infrastructure – Transport & Drainage Monthly Review Report for the month of March 2023.

Related Parties

N/A

Officer's Recommendation

THAT the Engineering & Commercial Infrastructure – Transport & Drainage Monthly Review Report for the month of March 2023 be received.

Cr Mann referred to the incident of exposure to chemical or substance and queried if the person involved is ok.

The Director for Engineering and Commercial Infrastructure, Jason Devitt advised that he would take the question on notice.

Council Resolution ORD-2023-106

THAT the Engineering & Commercial Infrastructure – Transport & Drainage Monthly Review Report for the month of March 2023 be received.

Moved Cr Mann

Seconded Cr Townsend

CARRIED UNANIMOUSLY

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11.4.2. ECI - WASTE SERVICES MONTHLY REVIEW REPORT - MARCH 2023

Author Executive Assistant (Robyn Smith)
Responsible Officer Director Engineering & Commercial Infrastructure (Jason Devitt)
File Reference MRR - Waste

Attachments

1. ECI - Waste Services Monthly Review March 2023 [**11.4.2.1** - 15 pages]

Purpose

Attached is a copy of the Engineering & Commercial Infrastructure – Waste Services Monthly Review Report for the month of March 2023.

Related Parties

N/A

Officer's Recommendation

THAT the Engineering & Commercial Infrastructure – Waste Services Monthly Review Report for the month of March 2023 be received.

Cr Seymour queried if Council is still trialling crushed glass in road base.

The Director for Engineering and Commercial Infrastructure, Jason Devitt advised that crushed glass had been used on the road in to Hogans Pocket but would take the question on notice and provide an update.

Council Resolution ORD-2023-107

THAT the Engineering & Commercial Infrastructure – Waste Services Monthly Review Report for the month of March 2023 be received.

Moved Cr Hassan

Seconded Cr Townsend

CARRIED UNANIMOUSLY

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11.4.3. ECI - WATER SERVICES MONTHLY REVIEW REPORT - MARCH 2023

Author Executive Assistant (Robyn Smith)
Responsible Officer Director Engineering & Commercial Infrastructure (Jason Devitt)
File Reference MRR - Water

Attachments

1. ECI - Water Services Monthly Review - March 2023 [**11.4.3.1** - 22 pages]

Purpose

Attached is a copy of the Engineering & Commercial Infrastructure – Water Services Monthly Review Report for the month of March 2023.

Related Parties

N/A

Officer's Recommendation

THAT the Engineering & Commercial Infrastructure – Water Services Monthly Review Report for the month of March 2023 be received.

Council Resolution ORD-2023-108

THAT the Engineering & Commercial Infrastructure – Water Services Monthly Review Report for the month of March 2023 be received.

Moved Cr Townsend

Seconded Cr Hassan

CARRIED UNANIMOUSLY

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11.5. ORGANISATIONAL SERVICES

11.5.1. ORGANISATIONAL SERVICES MONTHLY REVIEW REPORT - MARCH 2023

Author	Director Organisational Services (Angela Hays)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	Departmental Monthly Review Reports

Attachments	1. Organisational Services Monthly Review Report March 2023 [11.5.1.1 - 21 pages]
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Purpose

To provide Council with the Organisational Services Monthly Review Report for the month of March 2023.

Related Parties

Nil

Corporate Plan Linkage

Operational Excellence

Process and Systems - We develop and continually improve and innovate to create efficient processes that deliver value for our community. Council will endeavour to make service levels more transparent and harness opportunities for existing and emerging technologies to aid this delivery.

Officer's Recommendation

THAT the Organisational Services Monthly Review Report for the month of March 2023 be received.

Council Resolution ORD-2023-109

THAT the Organisational Services Monthly Review Report for the month of March 2023 be received.

Moved Cr Townsend

Seconded Cr Green

CARRIED UNANIMOUSLY

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11.5.2. NEW LEASE TO AJK CONTRACTING PTY LTD

Author	Commercial Lease & Property Officer (Barb Sauer)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	003482-572-CI

Attachments

1. MADI Image AJK Lease Area [11.5.2.1 - 1 page]

Purpose

To approve a new lease to AJK Contracting Pty Ltd over an area of approximately 900 m2 being part of Lot 572 on CI3482, Hume Street, Mackay for a period of 3 years for the purpose of extracted sand storage.

Related Parties

AJK Contracting Pty Ltd

Corporate Plan LinkageInvest and Work

Diversified Economy - We have a diversified economy that attracts new and emerging industries, such as sport, tertiary education, health, tourism, agribusiness, biofutures industry, and the Mining Equipment Technology and Services (METS) sector.

Background/Discussion

Mackay Regional Council is trustee of the Reserve for Public Purposes being Lot 572 on CI3482 located adjacent to Ron Camm Bridge, Caneland Central Shopping Centre and Hume Street, Mackay.

Within the reserve sits three leases in total, Mackay Junior Moto Cross Association Inc. and Mobile Crushing Co Pty Ltd and the lease to AJK Contracting Pty Ltd.

AJK Contracting Pty Ltd have leased an area of approximately 900m2 since 2009 with the most recent lease being for a 3 year period, expiring in December 2022. AJK Contracting Pty Ltd continue to occupy the premises month to month under the terms of the expired lease and have advised they wish to enter into a new lease.

The previous lease to AJK Contracting Pty Ltd included an associated licence deed to Ticwood Pty Ltd however Ticwood Pty Ltd have advised that they no longer require the licence deed. The lease area will remain at 900m2 despite the licence deed not being required.

According to Section 236 (1) (c) (iii) of the *Local Government Regulation 2012*, "a local government may dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of renewing the lease of land to the existing tenant of the land." Therefore, Council is not required to tender this before leasing the property, subject to the provisions of sections 236 (3) & (5) which require the consideration to be equal to or more than the market value of the land as assessed by an independent Valuer.

The sand extraction activities are licensed (Dept Environmental & Sciences), lease agreements are required providing formal consent for the storage undertaken within the reserve. It is a Council condition attaching to the EPA sand extraction permit that sand is to be stored for a minimum of seven (7) days to ensure that wet and therefore excessively heavy sand loads are not transported across Council roads. Other conditions include covering of dredged material during transportation to prevent loss and adhering to erosion and sediment control measures in accordance with Council's engineering design guidelines – soil and water quality management.

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Consultation and Communication

Consultation has occurred between AJK Contracting Pty Ltd; Ticwood Pty Ltd; Manager - Property Services; Supervisor, Land Operations – Property Services; Commercial Lease & Property Officer – Property Services; Legal Services and Mackay Regional Council Land & Road Use Committee.

Resource Implications

All costs incurred in respect to the preparation and lodgement of the lease documents will be borne by the Lessee.

The lease will be a standard lease inclusive of rental of \$1,050 per annum (excluding GST) with annual CPI increases for the life of the lease. An independent valuation has been obtained by registered valuer Knight Frank which has confirmed the current market rent is accurate.

The lease will also allow for recovery of costs associated with maintenance of the unsealed section of Hume Street, West Mackay which is the access road to the lease area.

Risk Management Implications

The lease to AJK Contracting Pty Ltd expired on 18/12/2022 and AJK Contracting Pty Ltd continue to occupy the premises month to month under the terms of the expired lease.

It is proposed that the lease renewal should also include a renewal of indemnity regarding the crossing of the Bluewater Trail.

Conclusion

That approval of the new lease for sand storage purposes is the most advantageous outcome to Mackay Regional Council and the regional community.

Officer's Recommendation

THAT Council resolves that:

1. an exemption applies under Section 236 (1) (c) (iii) of the *Local Government Regulation 2012*, “a local government may dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of renewing the lease of land to the existing tenant of the land”; and
2. Council approve a new lease to AJK Contracting Pty Ltd over an area of approximately 900m² being part of Lot 572 on CI3482, Hume Street, Mackay for a period of 3 years for the purpose of Extracted Sand Storage for an annual rental of \$1,050 per annum (excluding GST).
3. The lease renewal also includes a renewal of indemnity regarding the crossing of the Bluewater Trail.

Council Resolution ORD-2023-110

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THAT Council resolves that:

1. an exemption applies under Section 236 (1) (c) (iii) of the *Local Government Regulation 2012*, “a local government may dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of renewing the lease of land to the existing tenant of the land”; and
2. Council approve a new lease to AJK Contracting Pty Ltd over an area of approximately 900m² being part of Lot 572 on CI3482, Hume Street, Mackay for a period of 3 years for the purpose of Extracted Sand Storage for an annual rental of \$1,050 per annum (excluding GST).
3. The lease renewal also includes a renewal of indemnity regarding the crossing of the Bluewater Trail.

Moved Cr Bonaventura

Seconded Cr Green

CARRIED UNANIMOUSLY

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11.5.3. BUDGET REVIEW - MARCH 2022/23

Author Manager Financial Services (Justin Rule)
Responsible Officer Director Organisational Services (Angela Hays)
File Reference 2022/2023 Budget Review

Attachments

1. Statement of Income and Expenses - MBR 2023 [11.5.3.1 - 1 page]
2. Statement of Financial Position - MBR 2023 [11.5.3.2 - 1 page]
3. Statement of Changes in Equity - MBR 2023 [11.5.3.3 - 1 page]
4. Statement of Cashflow - MBR 2023 [11.5.3.4 - 1 page]
5. Key Financial Sustainability Metrics - MBR 2023 [11.5.3.5 - 1 page]
6. Capital Summary - MBR 2023 [11.5.3.6 - 1 page]
7. Project Movement List - MBR 2023 [11.5.3.7 - 1 page]

Purpose

To present the March 2023 third quarter Budget Review.

Related Parties

Nil.

Corporate Plan Linkage

Priority: Organisational Performance

Strategy: Financial sustainability and efficiencies - Maintain the financial sustainability of the council by implementing rigorous financial management practices across all council programs.

Background/Discussion

In accordance with section 170(3) of the *Local Government Regulation 2012*, Council may by resolution, amend the budget for a financial year at any time before the end of the financial year.

Following completion of the third quarter of the financial year, it is timely to review the budget, for any known variations, to better reflect the forecasted closing position for the 2022/2023 financial year.

The revised budget proposed for adoption with this report is summarised as follows:

Operational**Revenue**

Category	Amount	Comments
Fees and charges	\$1,213,510	Reduction in Waste Disposal income \$977K due to lower than forecast attendees at disposal facilities. Parking meters are currently not in use resulting in a reduction in the fines and penalties issued. Development Planning applications, Waste Facility usage and Plumbing Inspections have all declined with the change in market climate.
Rental Income	\$235,961	Several MRC owned properties are vacant and will remain vacant until the end of the year including Blue Water Quay.

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Net rates and utility charges	\$210,000	Reduction in Water and Sewage income.
Sales contracts and Recoverable works	(\$556,540)	Increased revenue forecast for Main Roads Maintenance and Main Roads Maintenance additional works \$494K as a result of contract variation and DFRA claims. Bakers Creek Septic Waste Removal is also forecasting \$100k additional income. Offsetting these forecast increases, Water Networks are forecasting a decrease in recoverable income due to the current climate.
Recurrent grants, subsidies, contributions and donations	(\$557,655)	Contribution received to assist in the Stormwater Quality program. LRCI Phase 3 forecasting an additional \$96K income which is offset by materials and services. Unbudgeted income received for McCready's Creek project from Queensland Reconstruction Authority \$45K. Department of Education grant for Trainees & Apprentices \$26K.
Other recurrent income	(\$857,405)	Additional revenue forecast as the number of shows held at the MECC has increased (offset in materials and services).
Interest Received	(\$1,469,131)	Increase in anticipated income from investments.
	(\$1,781,260)	Total operating revenue adjustments

Overall total revenue is forecasted to favourably increase by \$1.78M, with various adjustments to rates and utility charges, fees & charges, grants & subsidies, interest received, and other operating income.

It should be noted that adjustments to grants & subsidies and some fees and charges for events has a corresponding increase or decrease in expenses.

Expenses

Category	Amount	Comments
Employee Benefits	(\$1,987,012)	Reduction due to staff vacancies across the whole of Council and the difficulty of recruitment in the current climate.
Finance Costs	(\$27,019)	Based on current trends, savings have been identified.
Depreciation	\$1,171,667	Adjustments to depreciation and amortisation based on expected movements throughout the financial year.
Materials and Services	\$3,328,352	Additional repairs and maintenance expenditure forecast in unsealed and sealed road maintenance \$981K, and \$200K in tree maintenance to clear the current backlog. MECC has forecast higher than budgeted events income, this results in an offsetting expense as payments are made to promoters and event expense incurred \$1.1M. Additional requests in the equipment hire space are directly attributable the requirement wet hire equipment due to staff vacancies \$621K. Increased cost of fuel and chemicals across all areas of Council Operations \$518K. Contractors overspend is directly attributable to Sealed Road Maintenance where contractors have been engaged to deliver roadside mowing and spraying services due to staff vacancies \$470K. Increases have been offset by savings across Department Management and Program Development relating to initiatives which have been identified as no longer a priority. Additional savings within

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		People & Culture for Strategic Action projects also no longer considered a priority.
Operational Expenses in Capital Projects	(\$217,752)	Net operational movement across multiple capital projects.
	(\$2,268,236)	Total operating expenditure adjustments

Operating expenditure is forecasted to increase overall by \$2.27M. Most of the expenditure is associated with increases in contractors, community entertainment and facilities and equipment hire which is offset by decreased employee benefits costs due to staff vacancies.

	Original Budget \$'000	Current Amended Budget \$'000	March Budget Review Adjustment \$'000	Amended Budget \$'000
Operating Revenue	(278,056)	(281,385)	(1,781)	(283,167)
Operating Expense	277,327	280,405	2,268	282,674
Operating (Surplus)/Deficit	(729)	(980)	487	(493)

As a result of the above movements in revenue and expenses, MRC's forecasted operating surplus will decrease to \$493K (a surplus decrease from the December Budget Review by \$487K).

Capital Projects

- See detailed project listing attached

Project	Capital Expenditure Amount	Operational Expenditure Amount	Capital Income Amount	Operational Income Amount
New Projects	\$1,340,603	\$0	(\$249,065)	\$0
Existing Project Adjustments	\$6,676,870	\$259,207	\$163,246	(\$160,157)
Existing Project Savings/Cancel	(\$2,213,503)	(\$188,722)	\$171,765	\$0
Existing Projects Deferred	(\$19,253,806)	(\$288,237)	\$1,205,996	\$0
TOTAL	(\$13,509,837)	(\$217,752)	\$1,291,942	(\$160,157)

Capital projects expenditure is forecast to decrease overall by \$13.5M. This is made up of savings and deferrals of \$19.3M offset by additional capital project expenditure \$8M. It should be noted that \$19.3M of expenditure is being deferred to next financial year in line with expected delivery timeframes.

Overall capital revenue is decreasing by \$1.3M this is as a result of net grant income adjustments from existing and deferral projects and proceeds from the disposal of assets.

	Original Budget \$'000	Current Amended Budget \$'000	March Budget Review Adjustment \$'000	Amended Budget \$'000

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Capital project budget	\$106,765	\$117,863	(\$13,728)	\$104,135
- <i>Capital Expenditure</i>	\$104,649	\$114,732	(\$13,510)	\$101,222
- <i>Operational Expenditure</i>	\$2,117	\$3,131	(\$218)	\$2,913
Capital Funding budget	(\$23,262)	(\$23,136)	\$818	(\$22,318)
- <i>Capital funding</i>	(\$22,912)	(\$22,637)	\$978	(\$21,318)
- <i>Operational funding</i>	(\$349)	(\$499)	(\$160)	(\$659)

In summary, known changes to the capital works program have been identified and adjusted as detailed above.

Ongoing review of the capital program will continue throughout the year and changes identified will be reported to Council for approval.

Consultation and Communication

The requirements of the capital program are constantly monitored during the financial year, including detailed monthly reporting to Management and Councillors.

Identified changes which require budget amendments will be reviewed by the Executive Leadership Team and presented regularly to Council for approval.

Resource Implications

The revised capital project expenditure program for 2022/2023 has decreased by \$13.51M to \$101.22M.

The operating surplus has decreased to \$493K. This will continue to be monitored during the remainder of the year.

Risk Management Implications

The budget needs to reflect expected costs of delivery, therefore changes to budgets associated with changes in delivery timing and changes in costs need to be addressed as soon as possible.

This budget review brings to account known variations to the original budget adopted on 22 June 2022 and adjustments throughout the year.

Conclusion

The March 2023 budget review amendments will be included in the current approved budget and become the current amended budget.

The amended budget will be reflected in the April monthly Strategic Financial Report.

The Long-Term Financial Forecast has been updated based on the changes identified in this report and the effect on future forecasts.

Council's current forecasted operating surplus is \$493K for the 2022/2023 financial year. Costs and revenue will continue to be monitored.

Capital expenditure delivery is progressing and will continue to be monitored. Known adjustments have been made to the budget to reflect any changes to estimates, current construction market and delivery timing. Capital delivery remains a focus of Council.

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Officer's Recommendation

THAT the changes identified in the December Budget Review be adopted and become the approved amended budget from April 2023.

Council Resolution ORD-2023-111

THAT the changes identified in the December Budget Review be adopted and become the approved amended budget from April 2023.

Moved Cr May

Seconded Cr Green

CARRIED UNANIMOUSLY

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11.5.4. FY23/24 FEES & CHARGES

Author Manager Financial Services (Justin Rule)
Responsible Officer Director Organisational Services (Angela Hays)
File Reference Fees & Charges 2023/24

Attachments 2023/24 Fees and Charges Schedule

Purpose

To seek Council's endorsement of the reviewed fees and charges schedule.

Corporate Plan Linkage

Priority: Organisational Performance

Strategy: Financial sustainability and efficiencies - Maintain the financial sustainability of the council by implementing rigorous financial management practices across all council programs.

Related Parties

Nil

Background/Discussion

In accordance with the Local Government Act 2009 (the Act), Council has charging powers to establish user pays charges. These user pays charges are in relation to the use of Mackay Regional Council (MRC) facilities and for the provision of identified services.

The fees and charges being tabled in this report are either cost recovery or commercial in nature, and management have reviewed all charges to ensure they address appropriate cost drivers or industry standards.

Approximately 49% of fees and charges have increased between 2.5% and 4.5%. Some variations to this have been experienced due to rounding of small dollar amounts.

In addition, some fees have remained unchanged for a variety of reasons including:

- a) rounding of fees negated a percentage increase,
- b) remained the same to promote increased attendance,
- c) industry standard fees or in the case of cost recovery fees the cost of delivery is equal to the fee being charged.

Approximately 12% of fees and charges have increased more than 4.5%. For cost recovery fees and charges that have increased by more than 4.5%, a cost recovery calculation was performed, and benchmarking of the service undertaken. Some fees have been increased to bring the fees in alignment with other policies.

Fees and charges that have been removed either during this review include:

- a) where they have been incorporated into another fee
- b) are a duplication of an existing fee, or
- c) the service is no longer provided by Mackay Regional Council or provided by external contract.

New fees and charges that have been created include:

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- a) Fees for any new activities that have been introduced, or
- b) to recover some administrative costs in processing of documentation.

Consultation and Communication

The schedule of proposed fees and charges has been reviewed by relevant Directors and Managers and discussed with the Executive Leadership Team. Fees that have changed have been further reviewed by the relevant Director to provide justification.

Resource Implications

Fees and charges form a significant part of Council's revenue raising requirements and provide a source of funding and/or contribution to programs delivered by MRC.

Risk Management Implications

The Act allows Council to establish cost recovery fees and charges and fees and charges in line with commercial principles. Where the true cost of services is not recovered through fees, then additional impost is placed on other revenue sources, typically rates.

Conclusion

It is recommended that the proposed schedule of MRC fees and charges be adopted as tabled.

Officer's Recommendation

THAT in accordance with the Local Government Act 2009, Council adopts the Fees and Charges Schedule as attached, to take effect from 1 July 2023.

Council Resolution ORD-2023-112

THAT in accordance with the Local Government Act 2009, Council adopts the Fees and Charges Schedule as attached, to take effect from 1 July 2023.

Moved Cr Bonaventura

Seconded Cr Townsend

CARRIED UNANIMOUSLY

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11.5.5. STRATEGIC FINANCIAL REPORT - MARCH 2023

Author	Manager Financial Services (Justin Rule)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	Strategic Financial Report

Attachments	1. Strategic Financial Report - March 2023 [11.5.5.1 - 22 pages]
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Purpose

To adopt Mackay Regional Council's (MRC) Strategic Financial Report for the month of March 2023.

Related Parties

Nil.

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

Under Part 9, section 204 of the *Local Government Regulation 2012*, the local government is required to prepare a financial report which the Chief Executive Officer presents at a meeting of the local government once a month.

The financial report must state the progress that has been made in relation to the local government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

Consultation and Communication

Chief Executive Officer, Directors, Manager Financial Services.

Resource Implications

MRC is forecasting an operating surplus of \$1.0M for the 2022/23 financial year following adoption of the December budget review by Council on 25 January 2023. The actual operating result for March 2023 is reporting a favourable variance of \$1.2M against YTD budget.

Risk Management Implications

Variances will be closely reviewed and considered in future budget processes if required.

Conclusion

For the period ending March 2023, MRC reported a favourable operating variance of \$1.2M against YTD budget. Operating expenditure is reporting under YTD budget, primarily in materials and services (\$1.4M) and is largely attributable to delays in recognition of forecast expenditure for consultants. Revenue is also reporting slightly higher than current month forecast for the reporting period.

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To date, \$70.4M has been expended in the delivery of Council Projects; \$68.8M capital expenditure and \$1.6M operational expenditure. Council projects includes accrued expenditure for works in progress and associated operational costs expended in the delivery of these works.

Officer's Recommendation

THAT the Strategic Financial Report for March 2023 be received.

Council Resolution ORD-2023-113

THAT the Strategic Financial Report for March 2023 be received.

Moved Cr Jones

Seconded Cr Townsend

CARRIED UNANIMOUSLY

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11.5.6. RESPONSE TO PETITION – CHANGE TO STREET NAME – MCCARTHY STREET HAY POINT

Author	Executive Assistant (Nicole Robertson)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	McCarthy Street, Roads-General

Attachments

1. Resolution - Minutes Extract - 8 March 2023 [**11.5.6.1** - 24 pages]
2. Receipt of Petition - Minutes Extract - 12 April 2023 [**11.5.6.2** - 5 pages]

Purpose

To provide Council with information in relation to a petition received regarding the decision to rename McCarthy Street Hay Point, to MacCarthy Street, and in the absence of further information to recommend that Council confirms its decision in support of renaming.

Related Parties

- Petitioners (As per attachment)
- Mr Glen MacCarthy

Corporate Plan LinkageFinancial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

Council at its Ordinary Meeting of 12 April 2023 received a Petition, being from a number of residents of McCarthy Street, stating that they did not want the street renamed per the Council decision.

The Petition resulted from advice to residents from the Council decision at its meeting of 8 March 2023, wherein it was resolved –

Council Resolution ORD-2023-58

THAT in accordance with section 254H of the Local Government Regulation 2012, the following are recorded as reasons in support of a decision made at a local government meeting inconsistent with a recommendation or advice given to the local government by an advisor of the local government –

Having received the Community Consultation report for the proposed renaming of McCarthy Street Hay Point following a Council resolution on 27 July 2022 –

a. This change will correct a historical spelling error in the naming that did not reflect the original owners of the land in the Hay Point area namely MacCarthy and Hellewege

b. Under Council policy COU090 'Naming of Infrastructure Assets' section 1.1 'Request for naming or Renaming of an Infrastructure Asset' dot point four states if 'It is found that the information submitted regarding the naming of the infrastructure asset is factually incorrect'.

ORDINARY MEETING - 26 APRIL 2023

c. The results of the survey of 37 landholders of McCarthy Street indicated only 10 objections in 15 responses received leaving 22 who offered no comment indicating that there was a high probability they had no objection to the change.

FURTHER THAT Council resolves to rename McCarthy Street Hay Point, to MacCarthy Street.

Moved Cr Bonaventura Seconded Cr Jones

CARRIED UNANIMOUSLY

Under the *Local Government Act 2009 (Act)*, Council has the ability to name roads (extract in part) –

“60 Control of roads

(1) A local government has control of all roads in its local government area.

(2) This control includes being able to—

(a) survey and resurvey roads; and

(b) construct, maintain and improve roads; and

(c) approve the naming and numbering of private roads; and

(d) name and number other roads; and”

In this regard Council also has a Policy that guides the naming of roads/streets, and other infrastructure.

For this matter the recommendation to Council from officers to the meeting of 8 March 2023 was not to rename McCarthy Street given the results of the community consultation report. However, Council has the ultimate ability to name or rename a road/street under the provisions of section 60(2)(d) of the Act. Plus, despite the Policy, Council sets policies and also has the ability to change/amend, or make decisions either not in line with policies or for which a policy does not clearly cover.

Consultation and Communication

- Council meeting 27 July 2022 (Notified Motion)
- Council meeting 8 March 2023
- Road Renaming Consultation Report - McCarthy St to MacCarthy St road renaming
- Petition received at Council meeting 12 April 2023

Resource Implications

Previously addressed.

Risk Management Implications

Nil

Conclusion

In this case Council acknowledged the officer's recommendation not to rename the street, and in doing so and deciding to approve the renaming recorded reasons for its decision. As such, Council has followed required

ORDINARY MEETING - 26 APRIL 2023

process and has the legislative ability to rename a road/street, with the renaming of McCarthy Street then a discretionary decision for Council.

Given that the decision of 8 March 2023 was unanimous with all Councillors present at the meeting, it is suggested that unless the information contained within the Petition is sufficient for Councillors to reconsider this unanimous decision that the resolution of 8 March should stand.

Officer's Recommendation

THAT Council acknowledges the concerns of Petitioners re the Petition received by Council at it's meeting of 12 April 2023

FURTHER THAT Council confirms its position to support the renaming of McCarthy Street Hay Point, to MacCarthy Street, for the reasons listed in the Council resolution of 8 March 2023.

ALSO THAT the principle petitioner be advised of the decision.

Council Resolution ORD-2023-114

THAT Council acknowledges the concerns of Petitioners re the Petition received by Council at it's meeting of 12 April 2023

FURTHER THAT Council confirms its position to support the renaming of McCarthy Street Hay Point, to MacCarthy Street, for the reasons listed in the Council resolution of 8 March 2023.

ALSO THAT the principle petitioner be advised of the decision.

Moved Cr May

Seconded Cr Jones

CARRIED UNANIMOUSLY

ORDINARY MEETING - 26 APRIL 2023

12. RECEIPT OF PETITIONS

Nil

13. TENDERS

Nil

14. CONSIDERATION OF NOTIFIED MOTIONS

Nil

15. PUBLIC PARTICIPATION

Nil

16. LATE BUSINESS

Mayor Williamson thanked Councillors for participating in ANZAC Day activities, noting that there were about 25 parades in the district and Council was represented at all of them. Mayor Williamson thanked Cr Englert for his role as marshal of the very large parade held in Mackay.

Cr Mann advised that she had attended the Eton Dawn Service and was asked to pass on the thanks of residents for the great work Council staff had done in preparing the park for the service.

Cr May advised that Rob Ballard from the Sarina Organising Committee had asked that thanks be passed on to the Mayor and the staff who had liaised with the Committee to ensure the success of the ANZAC Day activities and also, passed on the thanks of the Half Tide Organising Committee for the work of Council's staff to ensure the grass was mowed and the wall was cleaned to allow for additional plaques to be installed.

17. CONFIDENTIAL REPORTS

The meeting did now close to the public.

17.1. LEGAL SERVICES MONTHLY REPORT - MARCH 2023

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (e) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter relating to **legal advice obtained by Council or legal proceedings involving Council including for example, legal proceedings that may be taken by or against Council.**

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (h) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to negotiations relating to the taking of land by the Council under the *Acquisition of Land Act 1967*.**

Council Resolution ORD-2023-115

THAT the Legal Services Monthly Report for March 2023 be accepted.

Moved Cr Jones

Seconded Cr Englert

ORDINARY MEETING - 26 APRIL 2023

CARRIED UNANIMOUSLY

**17.2. APPROVED SPONSORSHIP UNDER THE INVEST MACKAY EVENTS AND CONFERENCE
ATTRACTION PROGRAM - MARCH 2023**

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to Council's budget**.

Council Resolution ORD-2023-116

THAT the sponsorship approved under the Invest Mackay Events and Conference Attraction Program are noted.

Moved Cr Mann

Seconded Cr Hassan

CARRIED UNANIMOUSLY

**17.3. APPROVED CONCESSIONS UNDER THE FACILITATING DEVELOPMENT IN MACKAY REGION
POLICY - MARCH 2023**

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to Council's budget**.

Council Resolution ORD-2023-117

THAT the concessions approved under the Facilitating Development in the Mackay Region Policy are noted.

Moved Cr Hassan

Seconded Cr Englert

CARRIED UNANIMOUSLY

17.4. FY23/24 FEES & CHARGES - CONFIDENTIAL

Confidential

Confidential Report to be forwarded separately.

ORDINARY MEETING - 26 APRIL 2023

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter relating to **Council's budget**.

Council Resolution ORD-2023-118

THAT in accordance with the Local Government Act 2009, Council adopts the Commercial Fees and Charges Schedule for the MECC, Mackay Stadium and the Sugar Shed Group Tour as attached, to take effect from the 1 July 2023.

Moved Cr Mann

Seconded Cr Townsend

CARRIED UNANIMOUSLY

17.5. SENINIS ROAD RESUMPTION REPORT

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (e) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter relating to **legal advice obtained by Council or legal proceedings involving Council including for example, legal proceedings that may be taken by or against Council**.

Council Resolution ORD-2023-119

THAT Council resolve to issue a Notice of Intention to Resume for road purposes on the owners of:

1. Lot 6 on CP CI1513 for an area of 710m2 as shown on drawing no. A3-10092A;
2. Lot 7 on CP CI1513 for an area of 9,225m2 as shown on drawing no. A3-10093A and A3-10094A.

AND that following the completion of the objection period, a further report be provided to Council recommending further actions in relation to this matter.

Moved Cr Englert

Seconded Cr May

CARRIED UNANIMOUSLY

17.6. DISPOSAL OF COUNCIL LAND - L1 RP866509, 30 GORDON STREET, MACKAY

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (g) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter relating to **negotiations relating to a commercial matter involving the Council for which a public discussion would be likely to prejudice the interests of the Council**.

ORDINARY MEETING - 26 APRIL 2023

Council Resolution ORD-2023-120

THAT Council resolves to apply the exemption under Section 236(1)(b)(ii) of the Local Government Regulation 2012 to “dispose of a valuable non-current asset other than by tender or auction if – the valuable non-current is disposed of to a community organisation” in respect of the sale of 30 Gordon Street, Mackay (Lot 1 on RP866509) to Selectability Ltd (ACN 167 329 928), being a community organisation; and

THAT Council resolves to delegate to the Chief Executive Officer the power to negotiate terms and enter into contract of sale on behalf of Mackay Regional Council for 30 Gordon Street, Mackay (Lot 1 on RP866509) with Selectability Ltd (ACN 167 329 928).

Moved Cr Mann

Seconded Cr Townsend

CARRIED UNANIMOUSLY

18. MEETING CLOSURE

Meeting closed at 10:47 am.

19. FOR INFORMATION ONLY

19.1. BUILDING WORKS STATISTICS - MARCH 2023

ORDINARY MEETING - 26 APRIL 2023

19.2. DEVELOPMENT APPLICATIONS - MARCH 2023

Nil

ORDINARY MEETING - 26 APRIL 2023

Confirmed on Wednesday 24 May 2023.

.....
MAYOR

8. BUSINESS ARISING OUT OF PREVIOUS MINUTES

UPDATE ON QUESTIONS ARISING FROM COUNCIL MEETING HELD ON 26 APRIL 2023

AGENDA ITEM	MATTER	RESPONSE
11.2.1 – Capital Works Monthly Review Report	Cr Seymour queried the completion time for the works on Lorne Road, Walkerston.	<p>The road was due to be completed and opened by end April, however rain held up the completion of the asphalt works to the property accesses. The road was opened to the public in early May.</p> <p>There are also some minor drainage works which will be completed in May without any further road closures.</p>
14.4.1 – ECI – Transport & Drainage Monthly Review Report	Cr Mann referred to the incident of exposure to chemical or substance and queried if the person involved is ok.	The Director advised that there doesn't appear to be a safety incident relating to exposure to chemicals even though this was referenced in the overview summary. It appears that the statement likely related to the foreign object in the eye. In this case the employee was fine and there were no ongoing issues.

9. MAYORAL MINUTES

Nil

10. CONSIDERATION OF COMMITTEE REPORTS & RECOMMENDATIONS

10.1. DRAFT MINUTES - HERITAGE REFERENCE GROUP - 8 MAY 2023

Author	Acting Manager Strategic Planning (Jay Rosenberg)
Responsible Officer	Director Development Services (Aletta Nugent)
File Reference	SPLP-031

Attachments

1. Draft Minutes - Heritage Reference Group - 8 May 2023 [**10.1.1** - 4 pages]

Purpose

To receive the draft minutes of the Heritage Reference Group meeting held 8 May 2023 and give consideration of the Group's recommendation.

Related Parties

Nil

Officer's Recommendation

THAT the draft minutes of the Heritage Reference Group meeting dated 8 May 2023 be received.

AND THAT Council accept the recommendations of the Heritage Reference Group at item 5.1 and approve the installation of a Commemorative Street Blade at Morley Street, subject to a revised design for the blade being endorsed by Council.

Cr May advised that she wished to note for the public record, that at the Council Briefing which occurred after the meeting of the Heritage Reference Group, she declared a conflict of interest, as she was unaware until then that a property that she owns was subject to the Local Heritage Register, something covered in the Heritage Reference Group meeting on 8 May 2023.

Council Resolution ORD-2023-123

THAT the draft minutes of the Heritage Reference Group meeting dated 8 May 2023 be received.

AND THAT Council accept the recommendations of the Heritage Reference Group at item 5.1 and approve the installation of a Commemorative Street Blade at Morley Street, subject to a revised design for the blade being endorsed by Council.

Moved Cr Mann

Seconded Cr Hassan

CARRIED UNANIMOUSLY



Heritage Reference Group Minutes

Date:	8 May 2023	Time: 4.00pm – 5.30pm	Venue: JCC (Jubilee Community Centre) — Training Room
Chairperson:	Councillor Fran Mann (CFM), Deputy Chairperson Councillor Karen May (CKM)		
MRC (Mackay Regional Council) Representatives:	Strategic Planning – Tabitha Cocup (TC) Acting Manager Strategic Planning – Jay Rosenberg (JR) Museums Coordinator – Alicia Stevenson (ASt) Strategic Planning – Robert Tily (RT)		
External Representatives:	Kate Large (KL), Sandra Amore (SA) Sandra Field (SF) Jean Turvey (JT) Beverley Currie (BC) John Cant (JC) Proxy for Steven Pritchard - Dr Lyall Ford (LF) Al Grundy (AG)		
Apologies:	Steven Pritchard (SP) Nicholas McDougall (NM) Christine Vaughan (CV)		
Circulation Members:	Heritage Collections Supervisor - Lara Clarke (LC), Manager Property Services – Maurie Fatnowna (MF) and Senior Coordinator Community Programs - Robert Ryan (RR)		
Purpose:	Provide information and advice to Council on current and emerging cultural heritage and historical matters within the Mackay Local Government Area.		

Item Number	Item	Action Officer	Discussion/Actions/Update
Item 1	Acknowledgement to Country		
1.1	Welcome to meeting	CFM	Acknowledgement of Country. Noted apologies.
Item 2	Adoption of Previous Minutes		
2.1	Previous Minutes Adopted by Council	CFM	Adopted
Item 3	Conflict of Interest Declaration		
3.1	At this time, we ask all committee members to declare any perceived or actual conflict of interest they may have in respect to matters listed in this agenda before the commencement of a meeting.	CFM	Jean Turvey raised that a member of Mackay Family History Society has lodged the Commemorative Sign Application that is listed on this meeting's agenda and discussed the application with JT prior to HRG meeting.
Item 4	Standing Items		

4.1	Local Heritage Register Review Update	RT	<p>RT presented on LHR research stage update, noting the presentation contains information privileged to HRG members only at this stage, mentioning public consultation was proposed to commence in 2024.</p> <p>All sites presented to HRG are noted as being potential heritage places at this stage, with the project subject to council briefing and public consultation.</p> <p>Categories of research findings presented per locality, noting detailed research on designations still required.</p> <p>The next steps are to undertake detailed research and prepare citations. MRC will be collaborating with Department of Environment and Science Heritage Officers.</p> <p>Draft citations, once prepared, will be provided to a third-party heritage consultant for review and endorsement, confirming legitimacy.</p> <p>Both general and site-specific consultation will be held to seek feedback and fulfill gaps in research from the community on the citations, consultation methodology displayed to group.</p> <p>Council briefing scheduled for 10 May.</p>
Item 5	Agenda Items		
5.1	Commemorative Street Blade Application	TC	<p>TC presented on background of Commemorative Street Blade project.</p> <p>Application was received for a Commemorative Street Blade to be installed at Morley Street, was circulated to HRG members on 19 April 2023.</p> <p>HRG members conducted an assessment of application and evaluation process and made the following <u>recommendation</u>:</p> <ul style="list-style-type: none"> • Council to approve the use of a Commemorative Street Blade for Morley Street, as per the relevant policies and subject to budget availability, discussed as being in the range between \$400-\$1000 per commemorative blade, including procurement and installation. <p>The current design used on commemorative street blades was discussed, with comment made that the 150-year design would not seem appropriate if used on any new commemorative street blade installations. The HRG made the following <u>recommendation</u>:</p> <ul style="list-style-type: none"> • Council to investigate a more appropriate commemorative street blade design to be used in future installations.

			<p>TC will continue work with Corporate Communications on creation of a new design with an aim to present options to HRG at the next scheduled meeting to seeking member recommendation to Council on revised design.</p> <p>Findings from desktop audit presented showing that a number of streets do not appear to have a commemorative street blade installed, which could be a result of being missed at the time or subsequently were replaced with a standard blade. Commemorative street blades for multi-entrance streets were also discussed with a consistent approach to be further investigated. A further update will be provided at the next scheduled meeting.</p> <p>It was discussed that the current commemorative blades were in honour of those who served in WWI and WWII and that no other servicemen/women from other conflicts had commemorative street blades at this time but application for commemorative blades of streets with surnames of those who served in other conflicts was available to be submitted via formal application to council subject to the relevant policy.</p> <p>CFM raised that the majority of research for the initial project was provided by North Mackay State High School and questioned if it may be a possibility to approach high schools in our region to see if there may be interest in completing further research. Curriculum and interest from schools were discussed as well as budget implications and resourcing to be investigated.</p>
5.2	Maryborough Heritage Conference Presentation	CFM	<p>CFM presented on her attendance at the Maryborough Heritage Conference on strengthening heritage tourism, government owned heritage listed buildings, protecting and conserving cultural heritage and adaptive reuse of heritage buildings. CFM spoke to work other local government are doing with heritage buildings. CFM to prepare further conference documentation to circulate to HRG.</p>
Item 6	General Business		
6.1	Update from Mackay Isaac Tourism Projects	JC	<p>Mackay Isaac Tourism (MIT) questioned if laneways containing artwork could have regular tours held, with CFM responding that this is an Artspace/MECC enquiry, CFM to liaise with relevant MECC officers and provide response to MIT. MIT suggest conferences in town could partake in laneway tours.</p> <p>MIT requested Storyboards installation at public artwork that speak to history of our region, specifically the sugar cube and fishbone artwork installations. CFM advised that signage and storyboard are planned for these items, CFM to follow up with waterfront team and respond to MIT.</p> <p>MIT looking to develop 3-4 hour itinerary opportunities in the city centre and region wide and how to promote this via the tourism kiosk and online. MIT see the city heart and the history of our region as a great story to tell to visitors and residents</p>

			<p>alike, hoping the heritage listing of local places could be incorporated into walk and drive itineraries to be developed by MIT. CFM to provide current citations on local heritage places to MIT for use in further promotional work developed by MIT.</p> <p>MIT advise they are happy to pull information and research together for further additions to online heritage trails to provide visitors further activities to do. MIT website can currently pull together places clickable by the customer and an itinerary can be generated for the customer and explained this in the context of promoting local heritage listed places.</p> <p>CFM advised that we need to find the correct way to consider these ideas noting the HRG is for strategic projects and the ideas appear they may be of operational character.</p>
6.2	Brisbane Open House	CFM	Scheduled for 15 & 16 July 2023, Cr Mann is particularly interested in Lamb House located at Kangaroo Point. Cr Mann will pass event program information on to all HRG members when available.
Item 7	Future Events		
7.1	An opportunity to discuss future events	ALL	Nil
Item 8	Next Meeting Date		
8.1	Future Heritage Reference Group meetings: 26 June 2023 4.00pm – 5.30pm 23 October 2023 4.00pm – 5.30pm	TC	Noted.

10.2. AUDIT COMMITTEE - MINUTES OF MEETING 11 MAY 2023

Author	Secretariat (Jeanne Ronald)
Responsible Officer	Executive Officer (David McKendry)
File Reference	Audit Committee

Attachments	1. Draft Minutes [10.2.1 - 7 pages]
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Purpose

To receive the draft final minutes of the Audit Committee (the Committee) meeting held on 11 May 2023.

Related Parties

Nil

Corporate Plan Linkage

Priority: Organisational Performance

Strategy: Governance and performance - Ensure that council complies with all of its statutory obligations, minimises its exposure to litigation, manages its risk, undertakes targeted internal audits, and meets community expectations of transparency and performance reporting.

Background/Discussion

In accordance with Section 211 (1) (c) of the *Local Government Regulation 2012* (the regulation), the Committee must as soon as practicable after a meeting, give the local government a written report about the matters reviewed at the meeting and the committee's recommendations about the matters.

Furthermore, under Section 211 (4) of the regulation, the Chief Executive Officer must present the report at the next meeting of the local government.

Consultation and Communication

The draft minutes were approved by the Chair of the Committee and circulated to the Committee.

Resource Implications

Nil

Risk Management Implications

Nil

Officer's Recommendation

THAT the minutes of the Committee meeting of 11 May 2023 is presented.

Council Resolution ORD-2023-124

THAT the minutes of the Committee meeting of 11 May 2023 is presented.

Moved Cr Bella

Seconded Cr Jones

CARRIED UNANIMOUSLY



FINAL MINUTES

Audit Committee

Held at Council Chambers
Sir Albert Abbott Administration Building
73 Gordon Street, Mackay

On Thursday 11 May 2023

AUDIT COMMITTEE - 11 MAY 2023

ORDER OF BUSINESS

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AUDIT COMMITTEE - 11 MAY 2023

Chair Mr T Cronin acknowledged the traditional custodians of the land on which we meet today, the Yuwibara and Yuibera people and paid his respects to their Elders past and present. He also extended his acknowledgement to all Aboriginal members of the Birri Gubba Nation.

1. ATTENDANCE**Committee Members:**

Mr T Cronin (Chairperson), His Worship the Mayor Cr GR Williamson, Cr M Bella and Ms M McKendry (External Audit Committee Member).

Observers:

Cr K May and Cr B Hassan.

Council Officers:

Mr S Owen (Chief Executive Officer), Mrs A Hays (Director Organisational Services), Mr C Ruggeri (A/Manager, Financial Services), Mrs M Harris (Senior Internal Auditor) and Mrs J Ronald (Minute Secretary)

Visitors:

Mr D McKendry (Executive Officer), Mr P Hinton (External Auditor, SBB Partners), Mr J Gould (External Auditor, SBB Partners), Ms M Manual (Senior Manager, QAO), Mr M Claydon (QAO), Mrs J Wix (Internal Auditor), Ms E Barnes (A/Financial Accounting Co-ordinator), Ms S Shuttlewood (Co-ordinator Performance & Risk), Mr C Jessup (A/Manager Asset Management) via Teams, Mr J Cocker (A/Chief Operating Officer), Mr M Harris (A/Manager, Water Networks), Mr D Royston-Jennings (Regional Risk Coordinator JLT) and Mr S Hildred (Manager, Information Services)

The meeting commenced at 10:00 am.

2. APOLOGIES

Nil

3. CONFLICT OF INTEREST

Nil

4. CONFIRMATION OF MINUTES**Audit Resolution AC-2023-13**

THAT the minutes of the Audit Committee held on 23 February 2023 be accepted.

Moved Mayor GR Williamson

Seconded Monica McKendry

CARRIED

5. BUSINESS ARISING OUT OF PREVIOUS MINUTES**6.1 Financial Services Report**

Action – QAO & Manager Financial Services to provide at next meeting information/briefing on new framework

Completed – included in today's agenda.

AUDIT COMMITTEE - 11 MAY 2023

6.1.5 Proforma Financial Statements & Project Timelines 2022/23

Action – Manager Financial Services (FS) to seek clarification in terms of changes to the Federal Assistance Grants arrangements.

Completed – Email sent to Committee.

6.1.6 Accounting File Notes 2022/23

Action – Manager Financial Services and Manager Asset Management - The Committee suggested to Council to amending the tenders for valuations from one year to 5 year as this would be more beneficial and provide continuity in this area.

Completed – Council will build this into the next tender process post July 2023.

6.2 - Asset Management Report

Action – Chief Executive Officer to provide briefing to Audit Committee following a Council Briefing regarding Asset Management processes.

Completed – included in today's agenda.

6.3 Enterprise Risk Management Reports

Action – Co-ordinator, Performance & Risk to provide risk appetite statements at the May meeting.

Update to be provided for this meeting

6. REPORTS TO BE TABLED**6.1.1. INTERIM MANAGEMENT REPORT**

Audit Resolution AC-2023-14

THAT the Audit Committee receive the 2022/23 Interim Report to the Mayor.

Moved Mayor GR Williamson

Seconded Monica McKendry
CARRIED UNANIMOUSLY

6.1.2. EXTERNAL AUDIT & QAO BRIEFING PAPER

Audit Resolution AC-2023-15

THAT the Audit Committee receive the attached briefing paper.

Moved Mayor GR Williamson

Seconded Cr Bella
CARRIED UNANIMOUSLY

6.1.3. DRAFT STRATEGIC FINANCIAL REPORT - APRIL 2023 (UNADOPTED)

Audit Resolution AC-2023-16

THAT the Audit Committee receive the draft Strategic Financial Report for April 2023.

Moved Tim Cronin

Seconded Cr Bella
CARRIED UNANIMOUSLY

AUDIT COMMITTEE - 11 MAY 2023

6.1.4. INTERIM ACCOUNTING FILE NOTES (KNOWN ACCOUNTING ISSUES) 2022/23

Audit Resolution AC-2023-17

THAT the Audit Committee receive the interim 2022/23 accounting file notes and provide feedback.

Action – The committee requested the new sustainability ratios to be presented in the December 2023 meeting.

Moved Tim Cronin

Seconded Cr Bella
CARRIED UNANIMOUSLY

6.1.5. INTERNAL AUDIT PROGRESS REPORT

Audit Resolution AC-2023-18

THAT the Internal Audit Progress Report be received by the Audit Committee.

Moved Mayor GR Williamson

Seconded Cr Bella
CARRIED UNANIMOUSLY

6.1.6. INTERNAL AUDIT - AUDIT ACTIONS REGISTER

Audit Resolution AC-2023-19

THAT the Audit Action Register as at 31 March 2023 be reviewed by the Audit Committee.

AND THAT all items identified as being completed, are endorsed by the Audit Committee so that they can be removed from the register.

Moved Mayor GR Williamson

Seconded Tim Cronin
CARRIED UNANIMOUSLY

6.2.1. ASSET MANAGEMENT UPDATE

Audit Resolution AC-2023-20

THAT the Audit Committee note the update for Asset Management.

Moved Mayor GR Williamson

Seconded Monica McKendry
CARRIED UNANIMOUSLY

AUDIT COMMITTEE - 11 MAY 2023

6.3.1. INTERNAL AUDIT - ANNUAL INTERNAL AUDIT PLAN 2023-24

Audit Resolution AC-2023-21

THAT the Internal Audit Plan Report and nominated audit reviews for 2023/24 be endorsed by the Audit Committee.

Action – The Internal Audit Plan with the timing be presented at the next meeting.

Moved Monica McKendry

Seconded Mayor GR Williamson

CARRIED UNANIMOUSLY

6.3.2. FOLLOW UP INTERNAL AUDIT REPORT - VOLUNTEER MANAGEMENT

Audit Resolution AC-2023-22

THAT the Follow-Up Internal Audit Report – Volunteer Management be received by the Audit Committee.

Moved Tim Cronin

Seconded Cr Bella

CARRIED UNANIMOUSLY

6.3.3. INTERNAL AUDIT REPORT ICT CLOUD MANAGEMENT

Audit Resolution AC-2023-23

THAT the Internal Audit Report – ICT Cloud Management be received by the Audit Committee.

Moved Monica McKendry

Seconded Mayor GR Williamson

CARRIED UNANIMOUSLY

6.4.1. PRESENTATION - CYBER SECURITY UPDATE

Mr S Hildred (Manager, Information Services) presented to the Committee.

6.5.1. STRATEGIC RISK REPORT Q3 2022-2023

Audit Resolution AC-2023-24

THAT the Strategic Risk Report, Third Quarter 2022-2023 is received by the Audit Committee.

Action – The Risk Appetite statements to be presented at the next meeting.

Moved Tim Cronin

Seconded Monica McKendry

CARRIED UNANIMOUSLY

6.5.2. PRESENTATION - JARDINE LLOYD THOMPSON (JLT) INSURER

Mr D Royston-Jennings (Regional Risk Co-ordinator JLT) presented to the Committee via teams.

AUDIT COMMITTEE - 11 MAY 2023

6.6.1. PRESENTATION - PEOPLE & CULTURE & HRIS UPDATE

Mrs A Hays (Director, Organisational Services) presented to the Committee.

6.7.1. PRESENTATION - DAMAGED SEWER MAIN - PARADISE STREET

Mr J Cocker (A/CEO, Water & Waste Services) and Mr M Harris (A/Manager Water Networks) presented to the committee.

7. OTHER BUSINESS

7.1. REVIEW OF ANNUAL MEETING PLAN

The Annual Meeting Plan was reviewed.

2.00pm The Chair closed the meeting for a closed session with Committee members for the CEO Presentation.

2.30pm The Chair opened the meeting after the closed session.

7.2. NEXT MEETING

The next meeting will be held on Thursday 24 August 2023.

8. MEETING CLOSURE

Meeting closed at 2.30pm.

11. CORRESPONDENCE AND OFFICER'S REPORTS

11.1. OFFICE OF THE MAYOR AND CEO

11.1.1. MAYOR'S MONTHLY REPORT

Author	Mayor (Greg Williamson)
Responsible Officer	Mayor (Greg Williamson)
File Reference	DMRR

Attachments

1. Mayoral Monthly Report - April 2023 [**11.1.1.1** - 6 pages]

Purpose

To provide Council with the Mayor's Monthly Report for the month of April 2023.

Related Parties

Nil

Officer's Recommendation

THAT the Mayor's Monthly Review Report for April 2023 be received.

Mayor Williamson provided an overview of the report and advised that from now on the report would focus on the weeks in between the Council Meetings.

Council Resolution ORD-2023-125

THAT the Mayor's Monthly Review Report for April 2023 be received.

Moved Cr Williamson

Seconded Cr May

CARRIED UNANIMOUSLY

MAYORAL MONTHLY REVIEW REPORT APRIL 2023



Mayor Greg Williamson



SUMMARY OF CONTENT

Key Events Attended

Key Events Attended – Points of Note

Key Meetings Held

Key Meetings Held – Points of Note

KEY EVENTS ATTENDED

Listing of key events attended as Mayor
representing council

- Opened Annual Toastmasters Northern Division Conference
- Launched YOL 1000 Report
- Speaker at Motor Trade Association Qld Auto Career Evening
- Launched Mackay Young Mayors Program
- Speaker at Parts of the Mind & Self Art Exhibition
- Attended Iftar Dinner
- Attended Rebel Nation Company celebration evening
- Attended Energy Queensland Board's Mackay stakeholder function
- Judge - Students from Catherine McAuley College in "Future Anything" presentations.
- Attended RIN April Twilight Networking Event
- Guest Speaker at Holy Spirit College Anzac Service
- Opened Whitsunday Voices Literature Festival Launch function
- Launched Mackay Festival of Arts 2023 Program
- Speaker at Grand Opening of Pioneer Valley Men's Shed
- Presented awards at Mackay Thai Community Songkran festival
- Guest Speaker at Mackillop State School Anzac Day Service
- Anzac Day Services – Speaker Walkerston Dawn, Speaker Mackay main parade, Speaker Mackay & District South Sea Islander Association Service, Mirani Sunset, Speaker Finch Hatton evening service
- Welcome for Advance Queensland's Mackay Symposium
- Welcome for CQ University Board Meeting in Mackay
- Mackay ARC tour for CQU Board members and Sports Precinct presentation
- Attended CQU Mackay Graduation Ceremony
- Provided Civic Reception for new CQU Chancellor, Mr Graham Innes
- Panel member for Misogyny Opus Post Show Q&A
- Speaker at CQU Mackay Chiropractic Class of 2022 Graduation Ball
- Opened Football Queensland's Junior State Carnival
- Attended Memorial Service for Melody Burton – Heart Kids
- Provided community welcome for Karen Jacobsen's Misogyny Opus Mackay premier.

KEY EVENTS ATTENDED - POINTS OF NOTE

- **Young Mayors Program** - Mackay Regional Council and the Melbourne based Foundation for Young Australians (FYA) have launched Australia's first ever Young Mayors Program here in Mackay. The FYA is a non-profit organisation dedicated to assisting young people across the country. They aim to foster courage, imagination, attitude and beliefs and while also providing practical tools to assist young people excel in life and work. There were 21 candidates for 12 elected positions. The Queensland Electoral Commission designed the election process. The candidates campaigned in their schools and throughout the region and after the election we celebrated the successful candidates at the Mackay River Wharves.
- **ANZAC DAY** - There were 25 Anzac services throughout our region attended by our elected members and senior staff. The main parade in Mackay was one of the biggest we have seen in years with around 6,000 school students joining Returned Service and currently serving personnel marching to commemorate this special day of remembrance. It remains one of the most significant community participation days.
- **Pioneer Valley Men's Shed** – Men's Sheds are a shining example of how a community gets together to provide the mateship and sense of purpose many men lose when they stop working. This new shed at Mia Mia is offering men (and women!) of all ages the opportunity to learn new skills in woodwork, metal work, gardening and computing.
<https://www.facebook.com/PVMShed>
- **Energy Queensland** - Energy Queensland's Chair, Board and Executive attended a stakeholder function in Mackay to outline the work they are doing in the Mackay area and around the broader energy transition issue. Energy Queensland is keen to gather the views of our community to inform their planning for investment and how they charge for the use of electricity networks into the future. All electricity customers are invited to complete a survey designed to inform Energy Queensland. Registration is required to complete the survey on this link: [Queensland's energy future | Talking Energy](#)
- **CQU Mackay Graduation** - We welcomed the new CQU Chancellor Graham Innes AM to Mackay with a Civic Reception ahead of the CQU Mackay graduation ceremony. Mr. Innes delivered an inspirational address proving his disability as a blind person - whilst presenting problems - , has not held him back in being able to achieve in his career.

The CQU graduation saw over 200 graduates receive their certificates from the Chancellor. What makes CQU unique is the inclusion of Vocational Education graduates in their ceremony. The first person across the stage received a Cert 3 in a VocEd course and the last person received a Doctor of Philosophy. It was a fantastic celebration of higher education in our community.

KEY MEETINGS

- Queensland Resources Industry Development Plan (QRIDP) Ministerial Advisory Group Meeting
- Sarina Community Meeting
- ATSI Mackay, Path to Treaty
- Anzac Day Committee Meeting
- Minister Scanlon – Waste Levy Impact
- Mike Kaiser – DG Dept State Development, Infrastructure, Local Government & Planning
- Practice Manager the Courage Project
- Bridge McKenzie, Shadow Minister for Transport and Regional Development
Andrew Willcox MP, Member for Dawson
- Qld Health Team
- Regional Queensland Council of Mayors
- Greater Whitsunday Council of Mayors
- Senator Gerrard Rennick, LNP Senator for Qld

KEY MEETINGS HELD - POINTS OF NOTE

From the listing of key meetings held, the following are listed as points of note

QLD Resources Industry Development Plan

Meeting included the Minister, Directors General and senior resources staff along with four Mayors of resources councils. The significant learnings for our region were around:

- A \$5M investment to determine the extent to which valuable minerals can be extracted by reusing waste from existing resources-related activities.
- A whole-of-government critical minerals strategy to capitalise on the global interest in critical minerals.
- The re-commercializing of abandoned mines.
- A \$5M investment to develop the Queensland Battery Industry strategy.

Mike Kaiser

DG Dept State Development, Infrastructure, Local Government & Planning

The potential for the establishment of State interest in the positioning of Mackay as a future feedstock supplier and industry leader in the bio-food and bio-fuel markets. (A subsequent announcement has been made in State Parliament to that effect).

Minister Megan Scanlan

To express the concerns of councils in the central region over the cost to ratepayers of the State's ambitious "zero waste to landfill" program and to seek the state's assistance in engaging private enterprise in the waste debate.

Queensland Health and Aged Care Team

Kim Jackson, Director, Health QLD team

Jo Barrett-Menzies, Assistant Director, Health QLD team

Emma O'Brien, Departmental Office, Health QLD team

Renee Barratt, Departmental Officer, First Nations Health Division

A regional discussion on aged care and general health issues

11.1.2. CHIEF EXECUTIVE OFFICER'S MONTHLY REVIEW REPORT

Author	Chief Executive Officer (Scott Owen)
Responsible Officer	Chief Executive Officer (Scott Owen)
File Reference	DMRR

Attachments	1. FINAL - CEO Monthly Review Report - April 2023 [11.1.2.1 - 18 pages]
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Purpose

To provide Council with the Chief Executive Officer's Monthly Review Report for the month of April 2023.

Related Parties

Nil

Officer's Recommendation

THAT the Chief Executive Officer's Monthly Review Report for April 2023 be received.

The Chief Executive Officer (CEO), Scott Owen, introduced the new format of reporting which will hopefully provide a strategic look at Council's activities. The CEO thanked Councillors and staff for the effort and work that went into preparations for and representation at ANZAC Day activities throughout the region.

Council Resolution ORD-2023-126

THAT the Chief Executive Officer's Monthly Review Report for April 2023 be received.

Moved Cr May

Seconded Cr Mann

CARRIED UNANIMOUSLY

CEO MONTHLY REVIEW REPORT APRIL 2023



Scott Owen CEO



SUMMARY OF CONTENT

CEO's Summary

Safety

Highlights

Workforce Profile

Utilisation of Council Facilities

Community Events

Community Engagement

Customer Contacts

Regional Growth

Economic Snapshot

Development Activity

CEO'S SUMMARY

It is noted that this is the first council meeting under the new monthly cycle arrangement, as well as the presentation of newly formatted reports, being this CEO's monthly report (replacing previously presented individual departmental reports), as well as a new Mayor's Monthly Report.

Items of note -

- The Mackay district was heavily involved in Anzac Day events (25 in total). Acknowledgement to all of the Council staff involved in preparations for the day
- It was pleasing to be able to attend council's Workplace Health and Safety Representatives Forum. These staff volunteer as WHS representatives and are passionate about safety.
- Higher than normal staff turnover is not something unique to council in the current climate, but is still a focus area, with planning looking at opportunities to enhance the attractiveness of council as an employer. In particular, there is a challenge to focus on flexible employment options, something that is now a standard expected by employees in considering employers.
- A recent Pioneer Valley Mountain Bike community update session at Finch Hatton Showgrounds was well attended by locals, It was also a good opportunity to inspect first-hand the start of works, highlighted in this report, for stage one site works.

SAFETY

WHS Representatives Forum

- Forum held on 3 May as an opportunity for all MRC WHS representatives to meet, discuss issues, and receive professional development.
- CEO presented reinforcing position of the importance of safety when delivering projects.
- One of the focus sessions for the Forum was gathering ideas for the planning of an MRC Safety Day, proposed to be held to align with Safe Work Month (October) 2023. This will be a Council focused day involving presentations by key industry bodies and suppliers relevant to Council operations.
- Another key item of the day was an opportunity to consult on the focus of Safety Committee meetings and refocus their intent. The outcome of the session being a refreshed Safety Committee Agenda to guide to ensure best outcomes.

ICAM (Incident Cause Analysis Method)

- Investigation is undertaken for all notifiable and major incidents. The outcomes of these are focused on learnings and improvements.
- An ICAM was recently presented to ELT following a reported incident from a Flail Mower. Outcomes include updates to Standard Operating Procedures (SOPs), training, investigation of equipment used by other industries, and a review of alternative options.
- Two (2) WHS Advisors undertook ICAM training, as part of a program to ensure all WHS Advisors are fully trained, therefore providing extra resourcing to undertake these key learning exercises.

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•  This month there were **38** safety interactions, **28** site safety inspections across council, and **21** random drug and alcohol tests were undertaken

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HIGHLIGHTS

Container Refund Scheme Expanded

The Container Refund Scheme will be expanded to include glass wine and pure spirit bottles from November 2023. From this date, all glass wine and pure spirit bottles will be eligible for a 10-cent refund when returned to a Container Refund Point in Queensland.

Opportunity to Support Papua New Guinea Waste Team

Waste Services is currently investigating the opportunity of assisting the Port Moresby Waste Services Team after an approach at a recent Local Authority Waste Management Action Committee (LAWMAC) Meeting.

MECC hosts CQ University Graduation Ceremony

More than 140 graduates received their testamurs at the Mackay Entertainment and Convention Centre (MECC), supported by proud family members, friends, teachers, and peers. The ceremony was opened by the Chancellor Mr Graeme Innes AM, who acknowledged the achievements of the graduates in front of almost 600 guests. The ceremony was followed by a Civic Reception, hosted by Mayor Greg Williamson.

Mackay Anzac Day march and parade

A record number of marchers, including more than 6000 school children, as well as supporters, lined the streets for Mackay's main Mackay Anzac Day parade. With a new route this year to help accommodate for the growing numbers, marchers made their way from Caneland Central along Victoria, Wellington and Alfred streets into Jubilee Park for the Anzac Day ceremony. Coordinated by Corporate Communications and Marketing, a number programs and directorates across council played a key role in making the 25 services across the region a success last month.

'Cactus Masterclass' makes it mark

A "Cactus Masterclass" was held at Mirani and attended by members of Mackay Regional Council's Pest Management and Natural Environment teams, staff from Isaac and Whitsunday shire councils, and others from QPS, Landcare Australia, Department of Transport and Main Roads, and Kleinfelder Environmental. A range of subjects were covered, including identification, compliance, history, and control of cactus in Australia.

Draft Standard Development Conditions under view

Industry consultation in relation to draft standard conditions for development approvals has been completed, with three submissions received from the local development industry. Amendments will be made in response to the submissions with implementation scheduled in June. This initiative will result in a suite of standard conditions that are contemporary and consistent, with greater transparency of development conditions for developers and their consultants.

Facilitating Development in the Mackay Region Policy amended

Following a review of the policy, council has adopted amendments to the Facilitating Development in the Mackay Region Policy. To support the development of more affordable housing types across the region, Council has endorsed an increase to the incentives in *Schedule 7 – Housing diversity*, from 50 per cent up to 100 per cent for up to \$500,000. This is a significant incentive applicable to eligible applicants, to bring alternative housing products to the market to increase supply and diversity of choice in the current market.

Parks works schedules under review for greater efficiency

With the assistance of Assetic, Parks officers are reviewing current schedules and refining their delivery to optimise fleet and labour usage. Assetic allows for a high visibility of works scheduling and provides an "in the field" works management system for Team Leaders and Supervisors, providing costings, frequency, and the ability to store operational forms, such as pre-starts and distribution sheets on the work order. Scheduled maintenance through Assetic allows for reactive maintenance to be implemented at a suitable time in the run, minimising drive time and complementing the prescribed approach. The data gathered from Assetic will better inform budgeting, scheduling and parks planning strategies moving forward.

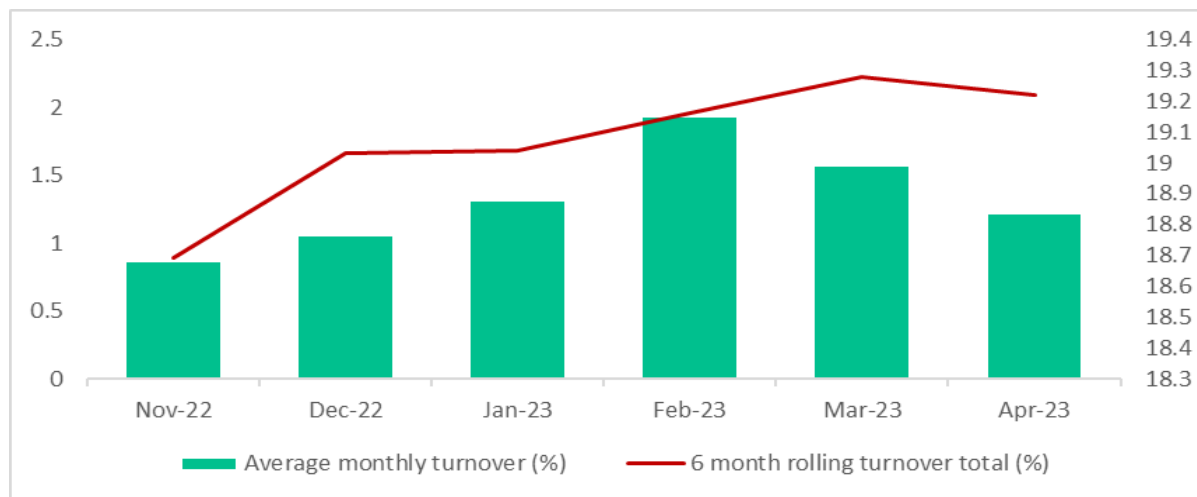
WORKFORCE PROFILE

Staff Contingent

The current make-up of Council's workforce is below. Of note, 80% of staff are permanently employed. The number of active vacancies remains consistent with the previous month, with overall staff numbers remaining consistent.

	CW	CCS	DS	ECI	OM & CEO	OS	TOTAL	Prev. month
Casual	1	73	6	1	1	1	83	84
Contract	4	5	3	8	2	6	28	28
Job Share	0	6	0	1	0	3	10	10
Permanent Full Time	83	116	176	294	24	159	852	838
Permanent Part Time	3	25	8	4	2	34	76	78
Temporary Full Time	5	19	17	16	0	22	79	88
Temporary Part Time	1	7	2	1	0	9	20	18
TOTAL EMPLOYEES*	97	251	212	325	29	234	1148	1144
TOTAL ACTIVE VACANCIES**	19	20	17	35	3	36	130	129

Employee Turnover



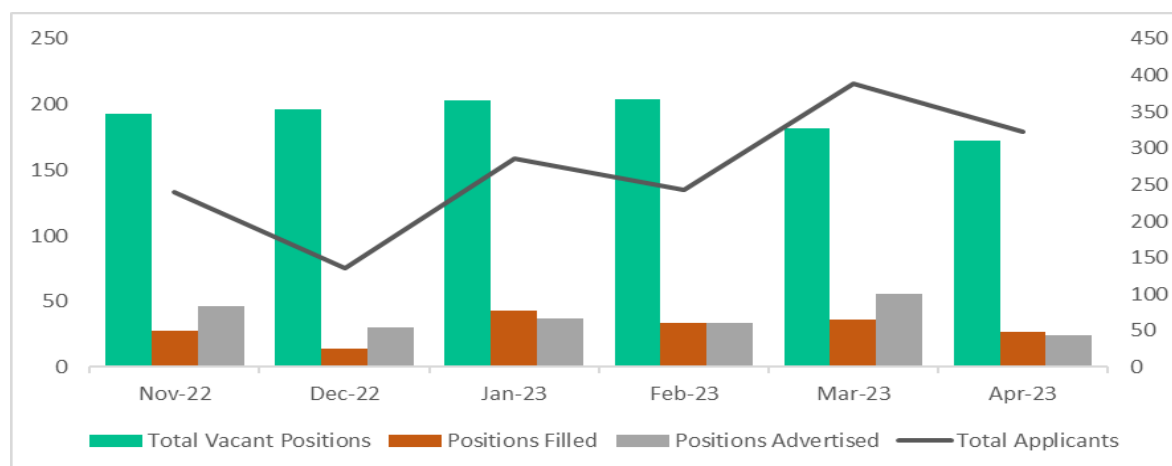
STAFF TURNOVER



12 month rolling average was 19.22%.
The monthly turnover for April was 1.22%.

Activities to support staff retention are being prioritised, with future planning including a review of remuneration frameworks, reward and recognition processes, and flexible working arrangements.

Monthly Recruitment



This month there were **172** vacant positions, **24** positions were advertised resulting in **322** applicants and **27** positions filled.

Key Workforce Initiatives

- The award winning, MRC-led *Water Industry Worker project* has successfully secured a tender contract with a Registered Training Provider to deliver national water training packages to nine (9) partnership Queensland Councils with projections for partnership Council participation to grow to 15 in the FY2024 period.
- MRC employees Savannah Vella and Eddie Tiller have been shortlisted for the highly competitive Qld Training Awards – Bob Marshman Trainee of the Year category.
- We celebrate Horticulture trainee Tahni Cross, who completed her traineeship and has secured a permanent Parks Maintenance Officer position at the Botanic Gardens. This was Tahni's dream job that she wanted from the time she commenced her traineeship. Tahni received glowing reports throughout her traineeship and completed her studies early.
- The importance of our employee's health and wellbeing is continuing to be realised, with a significant milestone being achieved in April. 75% of all MRC employees are now actively utilising the free resources provided through our health and wellbeing Platform *Zest4Life*.

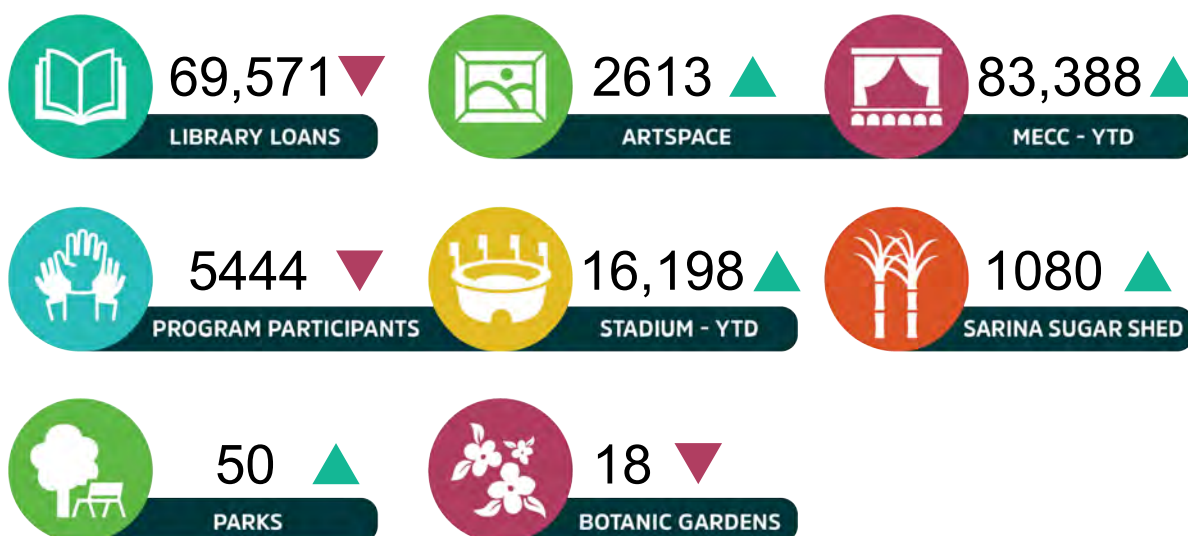


UTILISATION OF COUNCIL FACILITIES

Aquatic Facilities (total April attendance compared April 2022)

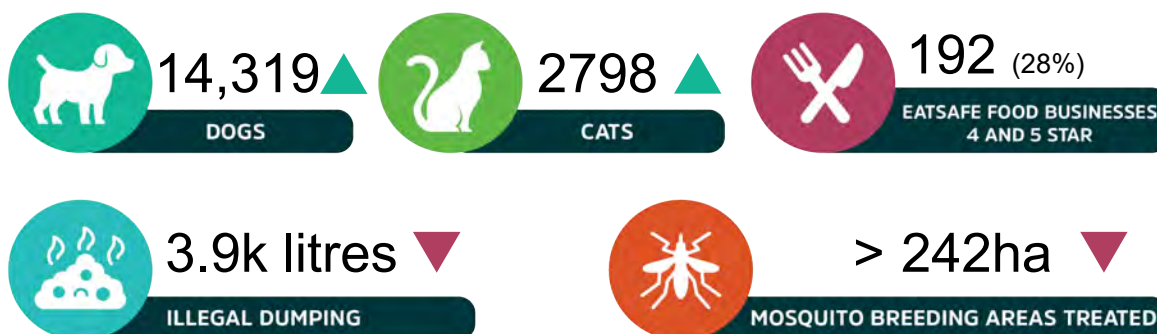


Public Programs and Facilities



Library loans are only down slightly on the March figure of 70,994. Similarly, Community program participants are down from 6533 in March. Botanic Gardens grounds hire bookings only down one from 19 in March.

Health and Regulatory Services Registrations and Stats



Improved collection of information relating to illegal dumping allows a more comprehensive analysis of the volume (litres) of waste dumped each month and who has cleaned up dumped waste. In April, the volume dumped was down and 15 per cent was cleaned up by the offender, compared to 13 per cent for the YTD.

COMMUNITY EVENTS

Upcoming Events

Date	Event	Location
19/05/2023	Themed guided walk at Mackay Regional Botanic Gardens (to celebrate their 20th birthday)	Botanic Gardens
19/05/2023	PGA Mackay Golf Pro AM	Assorted
19/05/2023	Fire and Ash: Woodfire Pottery of Arthur and Carol Rosser exhibition opening	Artspace
20/05/2023	Legends on the Lawn	GBR Arena
20/05/2023	Composting workshop (to celebrate Botanic Gardens 20th birthday)	Botanic Gardens
22/05/2023	Qld Ballet - Community Engagement Partnership with MECC	MECC
26/05/2023	Themed guided walk at Mackay Regional Botanic Gardens (to celebrate their 20th birthday)	Botanic Gardens
27/05/2023	Botanic Gardens Open Day (to celebrate their 20th birthday)	Botanic Gardens
31/5/2023	National Reconciliation Week activity	Under the fig tree - Civic Precinct
01/06/2023	Guided walk with Councillors and morning tea (to celebrate Botanic Gardens 20th birthday) (9am)	Botanic Gardens
02/06/2023	Guided walk with staff and stakeholders (with Lawrie Smith) to celebrate Botanic Gardens 20th birthday (1pm)	Botanic Gardens
02/06/2023	Themed guided walk at Mackay Regional Botanic Gardens (to celebrate their 20th birthday)	Botanic Gardens
02/06/2023	City Heart Fridays	City Heart incl. locations along Wood, Victoria and Macalister Sts
03/06/2023	SGAP native plant sale, Botanic Gardens Nursery to celebrate Botanic Gardens 20th birthday	Botanic Gardens
04/06/2023	Garden design workshop with Lawrie Smith to celebrate Botanic Gardens 20th birthday	Botanic Gardens
04/06/2023	Mackay Marina Run	Mackay Harbour
06/06/2023	Citizenship Ceremony - QLD Week	MECC
10/06/2023	Don Quixote performed by The Grand Kyiv Ballet	MECC
14/06/2023	Whitsunday Festival of STEM Challenge	MECC
20/06/2023	Council Mackay Show display	Mackay Showgrounds
24/06/2023	BE Social FEST	GBR Arena
30/07/2023	Mackay Festival of Arts (July 1 – July 31)	Mackay
01/07/2023	Pirtek and IMS Mackay Motor Show	Showgrounds

COMMUNITY ENGAGEMENT

Active and upcoming engagement

Accessible Communities Action Plan (consult)

Council is developing a new Accessible Communities Action Plan. Consultants Cred have been engaged to review the existing plan. Consultation will include workshops and a survey that is available online and a hard-copy version in our Libraries and Senior Citizens Centre.

2023 Australian Liveability Census (consult)

National Liveability Census has one month to go. It is open to all community members to provide their feedback. The census is open until June 30.

Mackay Region RV Strategy (inform / consult)

Draft strategy is expected to be ready for public review late May. Consultation will open for a three-week period with an online survey open for feedback.

Bus Station tender (inform)

The tender for stage two of the Bus Station on Mangrove Road was to be released this month. The second stage will focus on the construction of the bus shelter. Caneland Central will look after the construction of the covered walkway from the shopping centre to the new bus stop.

Bloomsbury water main (inform)

We have been successful in receiving funding for the project. An information session was held at Midge Point Tavern in early May. The tender is expected to be released late May. More information provided to residents on the delivery of this project prior to works starting.

Pioneer Valley Mountain Bike Trails (inform / consult)

Information session was held in early May to detail how the three tenders will be delivered. We had good attendance and more information will be released when the contractors begin in early-June.

Lorne Road and Creek Street reopened to motorists (inform)

Council reopened Lorne Road and Creek Street to motorists in early May. The reconstruction and shoulder widening of these roads are completed and only minor works remain. Council hopes to have these works completed in the coming weeks.

More shared footpaths on the way (inform/consult)

Contractor Vassallo Constructions started two new shared footpaths in early May. Paths are being built along Webberley Street in East Mackay and Heaths Road in Mount Pleasant. Consultation was undertaken with the adjacent business on Heaths Road and information was sent to surrounding residents.

More information on these and other projects can be found at connectingmackay.com.au

CUSTOMER CONTACTS

Top Five Customer Requests

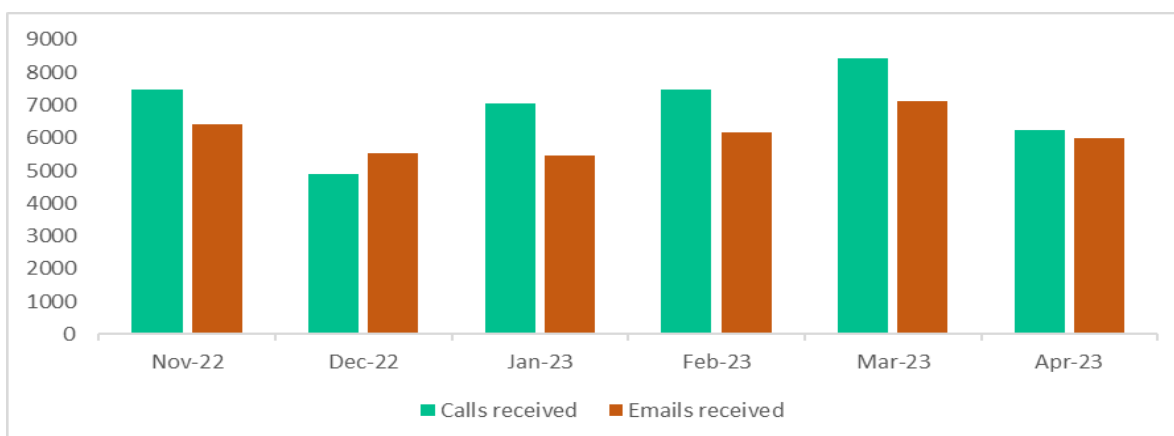
Pathway requests lodged	Volume	% of total requests
Replace wheelie bin	405	11.9
Phone message	257	7.6
Water – leak (public area)	182	5.4
Repair wheelie bin	152	4.5
Tree maintenance	133	3.9

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Across council,
78% of customer
requests were
responded to
on time.

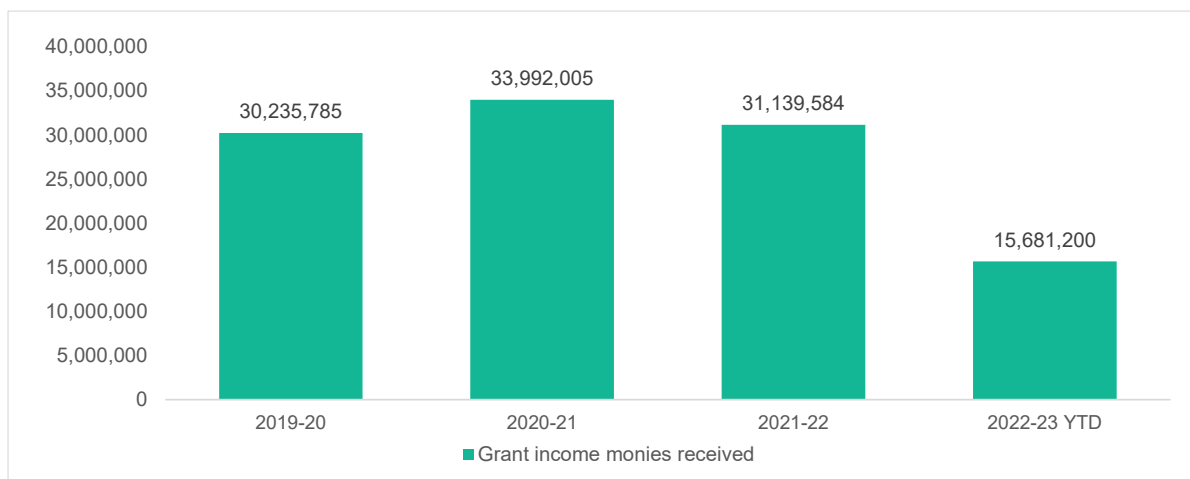
Customer Enquiries



KPI	KPI Description	Target			Result
		Red (Under KPI)	Green (Met KPI)	Blue (Exceed KPI)	
First Contact Resolution (FCR)	The percentage of external customer enquiries that are resolved at the first point of contact.	< 50%	50-60%	> 60%	50%
Abandoned Calls	The percentage of customers that abandon their call before being served.	> 6%	4.5-6%	< 4.5%	11%
Customer Satisfaction	A measure of customer satisfaction as reported by the end of call survey.	< 80%	80-85%	> 85%	96%

REGIONAL GROWTH

External Grant Funding



Successful funding submissions announced

- Department of Communities, Housing & Digital Economy – Sarina Neighbourhood Emergency Relief \$6,973.00

Applications Submitted

- Nil

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\$25m, or 87%, of Council spend in April was with local suppliers.

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Mackay REGIONAL COUNCIL

SIGNIFICANT PROJECTS



Seaforth Esplanade redevelopment construction progress

Seaforth Esplanade Redevelopment

- Construction scheduled from September 2022 to September 2023.
- \$8.6M
- Project status - on schedule.



Shuttle access for stage 1

Pioneer Valley Mountain Bike Trails – Stage 1

- Construction scheduled from February 2023 to December 2023.
- \$8.65M
- Project status - on schedule.



Northern Beaches Community Hub road construction

Northern Beaches Community Hub - J4 Road Construction

- Construction scheduled from November 2022 to January 2024.
- \$6.74M
- Project status – on schedule.



Ron Searle Drive completed bus shelter

Bus Shelters - Passenger Transport Accessible Infrastructure Program

- Construction scheduled from November 2022 to June 2023.
- \$1.9M
- Project status – schedule slightly delayed due to supplier resource constraints delaying installation, now expected early June 2023.

Mackay City and Waterfront Project Update

The Mackay City and Waterfront City Safety Grant was released in April. The City Safety Grant provides commercial businesses and incorporated bodies funding to improve the late-night economy, community safety and connectivity around licensed venues and surrounding areas within the City Centre.

Applications are invited from eligible applicants to receive a grant of up to \$3000 to deliver safety infrastructure such as lighting (security & decorative) and/ or CCTV to improve Safety and amenity within the Mackay City. Submissions are due by Friday, 19 May.

The April City Heart Fridays event was a great success, hosting more than 15 individual activities. The City Heart Fridays concept was also recently entered into the Mainstreet Australia awards 2023, and has been named as a finalist in four categories:

- Best main street place activation, event or initiative – council working with Trader Association, traders, community group etc – activity cost under 100k
- Best traditional /digital marketing – Council/Government
- Best regional main street or town centre; and
- Most sustainable main street or town centre

The award winners will be announced on Friday, 19 May.

Local Government Infrastructure Plan

A five-year review of the Local Government Infrastructure Plan (LGIP) has been completed. Following the review Council has decided to progress an amendment to the LGIP. Preparation of the LGIP amendment will now commence.

ECONOMIC SNAPSHOT

Economic Indicators (Quarterly)

Indicator	Dec 21	Mar 22	Jun 22	Sep 22	Dec 22	Mar 23
Employment						
Unemployment rate	2.6%	2.5%	2.6%	2.6%	2.4%	NA
Employed persons	66,881	67,583	68,335	70,470	70,721	NA
Real Estate						
Median house sale	\$410,000	\$420,000	\$425,000	\$440,000	NA	NA
Median house rent 3 bed house (12 month ending)	\$400	\$420	\$425	\$450	\$450	\$460
Median rent 2 bed unit (12 month ending)	\$320	\$320	\$325	\$340	\$350	\$350
Res. Vacancy rate	0.7%	0.6%	0.5%	0.6%	1.0%	1.0%
Residential Lot Supply						
Lots approved	158	345	21	78	NA	NA
Lots registered	78	99	44	56	26	27

Data relates to the Mackay Local Government Area and is updated on a quarterly basis as it is received by Council. There is often a 3-6 month lag from the receipt of data for a previous quarter. The 'employed persons' data does get adjusted retrospectively by the source. This may see quarterly figures change but is a valuable indicator for recognising trends. ^ Queensland Government data (QLD Treasury).

E-Statistics

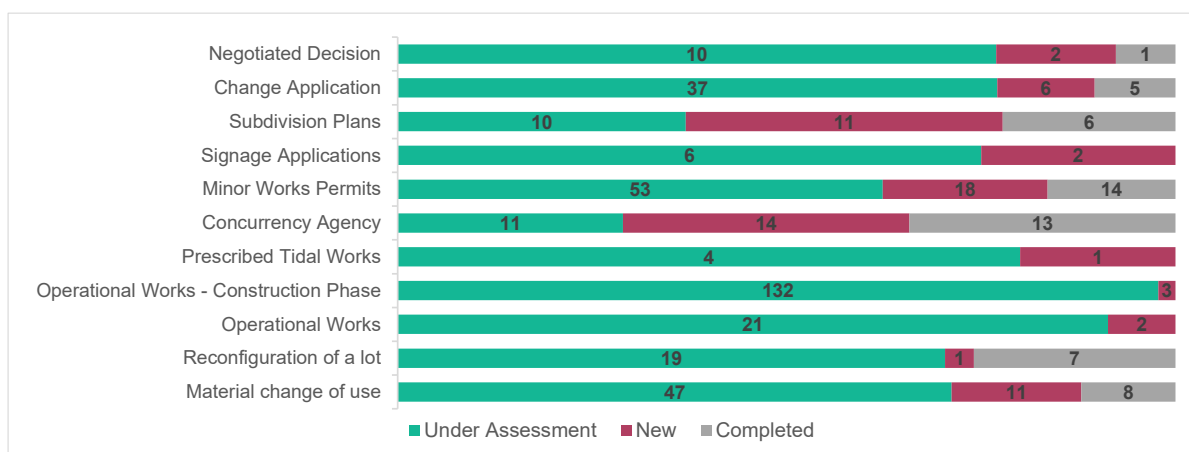
	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23	Apr 23
Mackay Region Joblink Analytic Report Active Users	346	188	282	485	389	351
Internet Vacancy Index (Central Qld) Advertised Jobs*	4,555	4,103	4,123	4,145	4,857	NA
SEEK Advertised Jobs**	1,594	1,027	1,552	1,608	1,707	1,728
Sarina Field of Dreams Website Visitation	270	262	285	119	319	325
Hooked on Mackay Facebook	5,729	5,767	5,837	5,889	6,019	6,107
Hooked on Mackay Instagram	868	889	892	904	920	923
Hooked on Mackay Youtube Subscribers	302	312	323	330	346	392
Net Free Zone Voluntary Code Sign-ups	716	716	716	716	716	716
Mackay Region Event Organisers Connect Facebook Group Members	122	124	134	146	150	151
Invested in Mackay Subscribers	586	591	594	594	589	591

*The Internet Vacancy Index (IVI) is the only publicly available source of detailed data on online vacancies, including for around 350 occupations (at all skill levels), as well as for all states/territories and 37 regions. The IVI is based on a count of online job advertisements newly lodged on SEEK, CareerOne and Australian JobSearch during the month. As such, the IVI does not reflect the total number of job advertisements in the labour market as it does not include jobs advertised through other online job boards, employer websites, word of mouth, in newspapers, and advertisements in shop windows. The IVI also does not take account of multiple positions being advertised in a single job advertisement. The data available is broken down as far as Central QLD which includes 9 local Government areas and is calculated on a 3-month moving average.

**SEEK data is captured on the 1st Tuesday of each month.

DEVELOPMENT ACTIVITY

Applications Received by Development Planning and Engineering



This month **146** building approvals incl. amendments together with **71** development and **42** plumbing applications were lodged

Building Applications Lodged with Mackay Regional Council

Class	April 22	April 23	Year to date	Total value of proposed works
Class 1A	43	35	154	\$14,347,033
Other classes	130	84	408	\$4,435,989
Totals	173	119	562	\$18,783,022

11.1.3. ADOPTION OF COUNCIL POLICIES

Author	Coordinator Corporate Governance (Kerri Verroen)
Responsible Officer	Executive Officer (David McKendry)
File Reference	013 - Tree and/or Vegetation Vandalism 052 - Drinking Water Quality 046 - Information Privacy / 065 - Community Leasing

Attachments

1. 013 - Tree and/or Vegetation Vandalism [**11.1.3.1** - 12 pages]
2. 052 - Drinking Water Quality [**11.1.3.2** - 4 pages]
3. 046 - Information Privacy [**11.1.3.3** - 17 pages]
4. 065 - Community Leasing [**11.1.3.4** - 22 pages]

Purpose

To present the following Council policies and any associated Corporate Standard for consideration and adoption:

1. COU013 – Tree and/or Vegetation Vandalism
2. COU052 – Drinking Water Quality
3. COU046 – Information Privacy
4. COU065 – Community Leasing

Related Parties

There are no identified related parties.

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

Mackay Regional Council (MRC) have a process of reviewing policies and any associated corporate standard to ensure that they are relevant and up to date. The process involves a review by the responsible program manager, circulation to the management team for consultation and final submission to the Executive Leadership Team (ELT) for endorsement, prior to presenting to Council for adoption.

COU013 – Tree and/or Vegetation Vandalism

This policy and its associated corporate standard have been developed in response to instances of vandalism of trees and vegetation on Council managed land across the region.

This policy has been reviewed as part of MRC's policy review process.

COU – Drinking Water Quality

This policy is a best practice policy to provide a strategic, preventative approach to drinking water management and outline the treatment and distribution of potable water.

This policy has been reviewed as part of MRC's policy review process.

COU046 – Information Privacy

This policy is a best practice policy to manage personal information as required by the *Information Privacy Act 2009* and confidential information by the *Local Government Act 2009*.

This policy has been reviewed as part of MRC's policy review process.

COU065 – Community Leasing

This policy is a best practice policy to ensure there is an equitable and consistent approach in providing tenure to community organisations.

This policy has been reviewed as part of MRC's policy review process.

Consultation and Communication

As part of the review process consultation has been undertaken with relevant stakeholders including responsible and associated program managers, director and ELT.

Resource Implications

The implementation of these policies will not require additional resources beyond those currently budgeted.

Risk Management Implications

There were no risk management implications identified regarding the proposed policies.

Conclusion

It is recommended that Council adopt the following policies and their associated corporate standards:-

1. COU013 – Tree and/or Vegetation Vandalism
2. COU052 – Drinking Water Quality
3. COU046 – Information Privacy
4. COU065 – Community Leasing

Officer's Recommendation

THAT Council adopt the following policies and their associated Corporate Standard:-

1. COU013 – Tree and/or Vegetation Vandalism
2. COU052 – Drinking Water Quality
3. COU046 – Information Privacy
4. COU065 – Community Leasing

Council Resolution ORD-2023-127

THAT Council adopt the following policies and their associated Corporate Standard:-

- 1. COU013 – Tree and/or Vegetation Vandalism**
- 2. COU052 – Drinking Water Quality**
- 3. COU046 – Information Privacy**
- 4. COU065 – Community Leasing**

Moved Cr Bonaventura

Seconded Cr Hassan

CARRIED UNANIMOUSLY

COUNCIL POLICY**TREE AND/OR VEGETATION VANDALISM**

Program: Parks, Environment and Sustainability
Date of Adoption:
Resolution Number:
Review Date:

Scope

This policy applies to all public and Council-managed land in the region including parks, reserves and road reserves.

Objective

The purpose of this policy is to promote a consistent approach to deterring and responding to the loss of trees or vegetation arising from deliberate vandalism on Council-managed land.

Policy Statement

This policy has been developed in response to numerous instances of vandalism of trees and vegetation on Council-managed land across the region. This is particularly apparent in the coastal zone, where development pressure and conflicts between sea views and vegetation has seen the vandalism of trees and vegetation on public land under the control and management of MRC.

Council considers that to the extent this policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

This process to remain in force until otherwise determined
by Mackay Regional Council

COUNCIL POLICY

TREE AND/OR VEGETATION VANDALISM

Contents

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COUNCIL POLICY**TREE AND/OR VEGETATION VANDALISM****1.0 Principles**

This policy outlines the recommended steps to be followed to provide:

- A consistent approach to deterring and responding to instances of tree or vegetation vandalism on Council-managed land across the region;
- A consistent approach to engaging and involving the community in the long-term protection and management of vegetation and in reporting tree and vegetation vandalism; and
- A transparent investigation and decision-making framework when responding to tree and vegetation vandalism events.

There are many reasons why vandalism of trees and vegetation occurs. Some acts are random and without purpose, while others occur through ignorance, perceived risk or are motivated by personal self-interest or gain (e.g. better access to the waterfront, or unimpeded views). Where possible, the response to acts of vandalism should be adapted to suit the perceived motivation (For example, community education and Ranger patrols may be the best response to random vandalism, while prosecution and fines may be the most effective deterrent to economically-motivated acts).

Tree and vegetation vandalism can occur in a variety of forms, including poisoning, pruning, removal, destruction, and mowing of native understory. This kind of vandalism has a significant and cumulative impact on the region. Impacts include reduced visual and community amenity, loss of environmental services such as wind-breaks and erosion control, and loss of wildlife habitat.

Such vandalism can have substantial financial and human-resource costs for MRC. These include the direct loss of the asset value of the trees or vegetation, the cost of the investigation, rehabilitation and repair costs, and the cost of implementing potential deterrence measures.

There are a range of options available to MRC to both prevent and respond to tree and vegetation vandalism. These include education, monitoring and prevention activities, regulation, enforcement and rehabilitation.

The most effective responses involve a suite of actions, rather than a single action, and combine enforcement, education, and rehabilitation. Effective responses need to be quick, predictable, consistent, fair and well resourced.

2.0 Complaints

Any complaints in relation to a decision or a service relating from this policy will be assessed and managed in accordance with MRC's Administrative Action Complaints Policy, a copy of which can be found on MRC's website.

When an individual feels that they are the subject of MRC's failure to act compatibly with human rights, they can make a complaint directly to MRC. These complaints will be assessed against the *Human Rights Act 2019*.

COUNCIL POLICY**TREE AND/OR VEGETATION VANDALISM**

Complaints may be made as following:

In writing to
Chief Executive Officer
Mackay Regional Council
PO Box 41
MACKAY QLD 4740

Via Email - complaints@mackay.qld.gov.au

In person at the following Council Client Services Centres:

- MRC Mackay Office – 73 Gordon Street, Mackay
- MRC Sarina Office – 65 Broad Street, Sarina
- MRC Mirani Council Office – 20 Victoria Street, Mirani

3.0 Definitions

To assist in interpretation the following definitions shall apply:

Council shall mean all elected representatives including the Mayor of Mackay Regional Council.

Council-managed land shall mean all land managed by Mackay Regional Council (MRC) including land for which MRC is the freehold title owner, and land for which MRC is a trustee, including parks, reserves and road reserves.

MRC shall mean Mackay Regional Council.

Tree and/or vegetation vandalism shall mean the unlawful destruction, damage or injury to trees and or vegetation. Examples include poisoning, mowing, pruning, removal, lopping, topping and ringbarking.

4.0 Review of Policy

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

COUNCIL POLICY

TREE AND/OR VEGETATION VANDALISM

5.0 References

- MRC Local Law No. 4, Part 2, Section 5 (Subordinate LL4, Schedule 1)
- MRC Local Law No. 1, Part 2, Section 5 (Schedule 2, Part 2, 1(b))
- *Environmental Protection Act 1994*
- *Coastal Protection and Management Act 1995*
- *Vegetation Management Act 1999*
- *Environmental Protection and Biodiversity Conservation Act 1999*

6.0 Attachments

- Corporate Standard 013.1 – Tree and/or Vegetation Vandalism

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Amendments made to Policy	Council	09/10/2019
3	Review	Amendments		

CORPORATE
STANDARD

TREE AND/OR VEGETATION VANDALISM

Program	Parks, Environment and Sustainability
Date of Endorsement	New
Review Date	New

1.0 Scope

This Standard applies to all public and Council-managed land in the region including parks, reserves and road reserves.

2.0 Objective

This policy outlines the recommended steps to be followed to provide:

- A consistent approach to deterring and responding to instances of tree or vegetation vandalism on Council-managed land across the region;
- A consistent approach to engaging and involving the community in the long-term protection and management of vegetation and in reporting tree and vegetation vandalism; and
- A transparent investigation and decision-making framework when responding to tree and vegetation vandalism events.

3.0 Reference

- MRC Local Law No. 4, Part 2, Section 5 (Subordinate LL4, Schedule 1)
- MRC Local Law No. 1, Part 2, Section 5 (Schedule 2, Part 2, 1(b))
- *Environmental Protection Act 1994*
- *Coastal Protection and Management Act 1995*
- *Vegetation Management Act 1999*
- *Environmental Protection and Biodiversity Conservation Act 1999*

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Council shall mean all elected representatives including the Mayor of Mackay Regional Council.

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MRC shall mean Mackay Regional Council.

Tree and/or vegetation vandalism shall mean the unlawful destruction, damage or injury to trees and or vegetation. Examples include poisoning, mowing, pruning, removal, lopping, topping and ringbarking.

CORPORATE STANDARD

TREE AND/OR VEGETATION VANDALISM

5.0 Standard Statement

5.1 Policy Principles

1. The long-term protection of trees and vegetation on Council-managed land is important in maintaining the economic, cultural, environmental, recreational and social values of the region;
2. The identification and prosecution of perpetrators of tree or vegetation vandalism should be consistent throughout the region;
3. Vandalism of trees or vegetation on Council-managed land is a serious offence;
4. Community education is a key strategy to promote the protection of trees and vegetation and to encourage the reporting of vandalism; and
5. Offenders should not be advantaged by tree or vegetation vandalism and where possible, offenders should be prosecuted. Enforcement, signage, leaving dead trees in place (where safe to do so) and replanting at higher density can be key strategies to ensure no advantage is gained.

5.2 Responses to Tree or Vegetation Vandalism

Responses to tree and/or vegetation vandalism will be determined by the scale of the vandalism. Vandalism can be "Significant, Highly Significant or Extremely Significant" (Table 1).

The significance level will be determined by using the significance level assessment framework (Table 2), though noting instances of street tree damage or destruction will be replaced at a ratio of 1 to 1 rather than any higher ratio determined by the assessment framework.

5.3 Education

Unless the community understands the benefits and value of trees and vegetation, and understands the adverse impacts of vandalism, it is difficult to sustain the level of community support necessary to deter and respond to such activities. Community education is recognised as a key component of deterring tree and vegetation vandalism.

The community education program should aim to address the following:

- To explain the various environmental functions of vegetation in natural and urban environments including: habitat, water quality, air quality, shade, erosion control, aesthetics, weed suppression, noise reduction, climate change mitigation and wind breaks;
- To explain the cumulative impacts of vegetation loss, so that the impact of a single act can be judged in the context of impacts over time;

CORPORATE STANDARD

TREE AND/OR VEGETATION VANDALISM

- To highlight the legal significance of offences (i.e. they are illegal acts), and the potential fines and punishments;
- To calculate and publicise the direct economic cost to residents of acts of vandalism, in terms of investigation, replacement, maintenance and monitoring costs, as well as loss of ecosystem services;
- To publicise successful rehabilitation and other positive outcomes, as well as successful prosecutions and enforcement actions; and
- To involve the community directly in maintenance and protection of vegetation, and in rehabilitation of damaged areas (e.g. through Coastcare activities or working with school groups).

5.4 Monitoring and Prevention

It is often possible to predict areas facing high risk of damage, such as developments abutting coastal areas, parkland or bushland reserves.

The risk of damage to these areas can be reduced by:

- Targeting community education material;
- Increasing the presence of engagement and enforcement officers;
- Monitoring vegetation condition by photographs or aerial photography;
- Involving the community in stewardship and maintenance of natural areas; and
- Developing and implementing management plans for these areas.

MRC does not have the resources to monitor all areas at risk, therefore community involvement and reporting of vandalism is integral to any monitoring and prevention program. The community must have confidence that if they do report incidents, they will be followed up promptly and effectively by MRC. Recording and responding to information provided by the community is therefore extremely important.

5.5 Investigation, Regulation and Enforcement

To promote consistency when investigating and responding to vandalism events, Health and Regulatory Services Standard Operating Procedures (SOPs) will be followed. SOPs will also be followed when proceeding with prosecution.

Although successful investigations and prosecutions may be difficult, unless people come forward with evidence, their impact is significant in making the community aware of the seriousness of illegally damaging vegetation. MRC will conduct investigations with a view to prosecuting those responsible for vegetation vandalism wherever possible.

CORPORATE STANDARD

TREE AND/OR VEGETATION VANDALISM

Subject to Council endorsement, surveillance cameras and private investigators may be used to gather evidence in certain situations, such as where repeated offences have occurred at isolated sites.

If individuals who are responsible for the damage come forward with an admission, MRC will work with those individuals to develop an approach to repair the site, with the remediation works to be funded by the individuals as an alternative to prosecution. Maintenance costs for a period of five years will be included in the remediation works.

5.6 Responses including Restoration and Signage

Replanting and restoration of areas where vandalism has occurred is critical. In natural areas, the revegetation will occur with local native species consistent with the Regional Ecosystem present (or previously present) at that site. Planting may occur at a higher density than the vegetation removed, should this be recommended in the response table. Existing site conditions may mean that it may not be possible to replant trees at a higher density. In this situation, consideration should be given to replanting trees on a one for one basis and including additional plants that are low growing or ground covering, to reduce weed encroachment and maintenance costs. If the site does not allow for increasing density, trees will be replanted on a one for one basis. Maintenance will occur until the plants are established, including watering and weed control.

If the damaged vegetation is a street tree, replanting will not occur at a higher density, but will be a one for one replacement using advanced tree stock.

Signage will be installed initially to advise people that vegetation has been vandalised and to encourage reporting. Signage will be erected in all cases. Billboard type signage (extremely significant cases) will remain in place for a minimum of 5 years, or until the vegetation has grown to the height of the top of the sign. There may be instances where more than one sign is installed. If the damaged vegetation is a street tree, a small temporary sign will be installed until a replacement tree is established.

6.0 Review of Standard

This corporate standard will be reviewed when any of the following occur:

1. The related policy documents are amended or replaced.
2. Other circumstances as determined from time to time.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date

CORPORATE
STANDARD

TREE AND/OR VEGETATION VANDALISM

Table 1: Responses to tree or vegetation vandalism.

Significance Level	Action
Significant (2.63-6.25)	1. Immediately assess the site and gather information, including door knocking or calling local residents
	2. Letterbox residents with information letter
	3. Leave trees or vegetation in place if safe to do so
	4. Install temporary educative signage for a minimum period of one year (approximate size 450 x 600mm)
	5. Enforcement (PIN or Local Court) where evidence exists
	6. Replant and maintain trees or vegetation at a density of one to one.
	7. Monitor the site
Example	<i>Removal or damage to a small number of seedlings in a revegetation area. Minor pruning or limited damage to a street tree in a residential street.</i>
Highly Significant (6.25-9.87)	1. Immediately assess the site and gather information, including door knocking or calling local residents
	2. Letterbox residents and issue a media release
	3. Leave trees or vegetation in place if safe to do so
	4. Install signage (signs to be 600 x 900mm and to remain in place until new vegetation is as tall as the height of the top of the signs).
	5. Enforcement (PIN or Local Court) where evidence exists
	6. Replant and maintain trees or vegetation. Increase the density 'two for one' if the site allows
	7. Monitor the site
Example	<i>Removal of seedlings from a revegetation area on more than one occasion or removal of a large number of seedlings. Poisoning or major damage to a mature tree.</i>
Extremely Significant (9.87-13.5)	1. Immediately assess the site and gather information, including door knocking or calling local residents
	2. Publicise widely including issuing a mayoral/councillor statement
	3. Leave trees or vegetation in place if safe to do so
	4. Install billboard type signage (signs to be 1800 x 3600mm and to remain until new vegetation is as tall as the height of the top of the signs or minimum of 5 years).
	5. Other measures to block views such as shade cloth or other mechanisms (eg shipping containers) may also be installed, in addition to or as an alternative to the billboard type signage. Multiple billboards may also be used depending on severity of case and Council discretion
	6. Replant and maintain trees or vegetation. Increase density 'three for one' if the site allows
	7. Enforcement (PIN or Local Court) where evidence exists
	8. Monitor the site
Example	<i>Major damage to multiple trees in a coastal location or natural vegetation area. Repetitive damage to the same area</i>

**CORPORATE
STANDARD**
TREE AND/OR VEGETATION VANDALISM
Table 2: Significance Level Assessment Framework

Location:

Officer

Date:

(0.125 Weighting for each criteria)

Criteria	Score
Significance of the tree	
<i>Type 2 for yes and 1 for no for each item</i>	
Historical value	
Commemorative tree	
Significant tree (on register)	
Exceptionally old or fine specimen	
Curious growth habit or physical appearance	
Horticultural/scientific value	
Unusually large size	
Rare to the area	
Outstanding aesthetic quality	
Valuable habitat or wildlife corridor	
Keystone species for community	
Contributes to the landscape	
Total	
Weighted total	
Life cycle stage	
<i>Type 3 for young, 10 for semi-mature, 42 for mature</i>	
Weighted total	
Site	
<i>1 for low profile, 2 for average profile, 3 for high profile</i>	
Weighted total	
Safe useful life expectancy (SULE)	
<i>Type 1 for short, 2 for medium, 3 for long</i>	
Weighted total	
Environmental effects	
<i>Type 2 for yes and 1 for no</i>	
Will method cause environmental problems such as poison contamination	
Will method cause problems such as erosion	
Will method cause problems such as branches left on site	
Habitat loss – loss of nesting sites	
Does the lost tree impact threatened species	
Total	
Weighted total	
Frequency of damage	
<i>Type 1 for occasional, 2 intermittent, 3 frequent, 4 constants</i>	
Weighted total	

**CORPORATE
STANDARD**
TREE AND/OR VEGETATION VANDALISM

Criteria	Score
Damage	
<i>Type 2 for major, 1 for minor</i>	
Weighted total	
Number of trees	
<i>Type 1 for 1-5, 2 for 5-10 and 3 for 10+</i>	
Weighted total	
Cost of remediation	
<i>Type in actual amount divided by 1000</i>	
Weighted total	
Total score	

COUNCIL POLICY**DRINKING WATER QUALITY**

Program: Water Treatment
Date of Adoption:
Resolution Number:
Review Date:

Scope

This policy applies to the treatment and distribution of potable water from 'source to tap' within the Mackay Regional Council (MRC) local government area.

Objective

To provide a strategic, preventative approach to drinking water total management and to outline the policy for the treatment and distribution of potable water from 'source to tap' within the MRC local government area.

Policy Statement

Water and Waste Services are committed to managing our water supply effectively to provide a safe, high-quality drinking water that consistently meets the Australian Drinking Water Guidelines (ADWG) and other regulatory requirements as well as consumer expectations.

This process to remain in force until otherwise determined
by Mackay Regional Council

COUNCIL POLICY

DRINKING WATER QUALITY

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COUNCIL POLICY**DRINKING WATER QUALITY****1.0 Principles**

MRC is responsible for the provision of quality, cost effective and environmentally sustainable water services within the region.

MRC is committed to delivering sustainable water services to the region in an efficient and commercially responsible manner, through its Water and Waste Services (WWS) program.

To achieve this, in partnerships with stakeholders and relevant agencies, WWS will:

- Manage water quality at all points along the delivery chain from source water to the consumer's tap by using a risk-based approach in which potential threats to water quality are identified and managed to minimise any threat to drinking water quality in accordance with the risks identified in the Drinking Water Quality Management Plan (DWQMP) and the ADWG framework.
- Comply with the health based criteria and where practicable the aesthetic based criteria of the ADWG framework.
- Integrate the needs and expectations of our consumers, stakeholders, regulators and employees into our planning with effective two-way communication.
- Maintain an appropriate contingency planning and incident response capacity.
- Participate in appropriate research and development activities (including employee training) to ensure continued understanding of drinking water quality issues and performance.
- Contribute to the debate on setting industry regulations and guidelines, and other standards relevant to public health and the water cycle.
- Continually improve its practices by assessing performance against corporate commitments and stakeholder expectations.

WWS will implement and maintain a drinking water quality management system consistent with the DWQMP and ADWG framework and other regulatory requirements to effectively manage the risks to drinking water quality.

The senior management of MRC are responsible for:

- ensuring that the activities of the MRC are in keeping with this policy.
- facilitating the implementation of the policy by providing the necessary authorities and allocating the required funding within MRC's budgetary constraints.

All managers and employees involved in the supply of drinking water are responsible for understanding, implementing, maintaining and continuously improving the drinking water quality management system.

WWS will communicate freely to the public its drinking water quality policy.

COUNCIL POLICY

DRINKING WATER QUALITY

2.0 Definitions

To assist in interpretation the following definitions shall apply:

Act shall mean *the Water Supply (Safety & Reliability) Act of 2008*

ADWG shall mean *Australian Drinking Water Guidelines 2011*

Council shall mean *the Mayor and Councillors of Mackay Regional Council.*

MRC shall mean *Mackay Regional Council*

Region shall mean *the area within the boundaries of MRC*

WWS shall mean *the Water and Waste Services department of MRC*

3.0 Review of Policy

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

4.0 Reference

- *Water Supply (Safety & Reliability) Act of 2008*
- Australian Drinking Water Guidelines
- Drinking Water Quality Management Plan (DWQMP)

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy		Council	20.07.11
2	Review of Policy	Amendments to Policy	Council	23.11.16
3	Review of Policy	Minor amendment to policy	Council	10.04.19

COU052 – DRINKING WATER QUALITY

Electronic version current – uncontrolled copy valid only at time of printing.

Version No. 3

COUNCIL POLICY

INFORMATION PRIVACY

Program: Executive Office
Date of Adoption:
Resolution Number:
Review Date:

Scope

This Policy applies to all Mackay Regional Council (MRC) Councillors and Staff in the collection and management of Personal Information in performing its activities, functions and duties.

Objective

The purpose of this Policy is to set MRC's position in relation to the management of Personal Information as required by the *Information Privacy Act 2009* and the management of confidential information by the *Local Government Act 2009*.

This Policy aims to:

- Demonstrate to the community how MRC meets its obligations under the *Information Privacy Act 2009 (IP Act)*;
- Provide guidance to MRC Councillors and Staff who deal with Personal Information; and
- Illustrate MRC's commitment to respecting the privacy rights of Councillors, Staff and the community.

Policy Statement

The responsible management of Personal Information is a key aspect of good governance. MRC is committed to upholding the requirements of the Information Privacy Principles (IPPs) contained in the *Information Privacy Act 2009*.

This Policy takes into consideration the diverse range of activities and functions undertaken by Council and provides an overview on compliance will be achieved.

Council considers that to the extent this Policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

 This process to remain in force until otherwise determined
 by Mackay Regional Council

COUNCIL POLICY

INFORMATION PRIVACY

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COUNCIL POLICY

INFORMATION PRIVACY

0 Principles

The responsible management of Personal Information is a key aspect of good governance.

The IP Act establishes a Personal Information privacy framework (under the Information Privacy Principles (**IPPs**)) and a Personal Information access and amendment regime which is separate from the *Right to Information Act 2009* (**RTI Act**).

As part of this, MRC will comply with the IPPs contained in the IP Act namely:

- IPP 1: Collection of Personal Information (lawful and fair);
- IPP 2: Collection of Personal Information (requested from an individual);
- IPP 3: Collection of Personal Information (relevance);
- IPP 4: Storage and Security of Personal Information;
- IPP 5: Providing Information about Documents Containing Personal Information;
- IPP 6: Access to Documents Containing Personal Information;
- IPP 7: Amendment of Documents Containing Personal Information;
- IPP 8: Checking of Accuracy of Personal Information before use by MRC;
- IPP 9: Use of Personal Information only for Relevant Purpose;
- IPP 10: Limits on Use of Personal Information; and
- IPP 11: Limits on Disclosure.

1.1 Anonymity

MRC will, wherever, lawful and practicable, offer individuals the option of anonymity in certain circumstances when dealing with MRC.

1.2 Personal Information

MRC collects Personal Information so that it can properly conduct its functions, powers, operations and commercial activities. This means that MRC collects Personal Information for a range of purposes including:

- to review and consider any applications or submissions submitted to the MRC (for example, development and building applications, applications for food or entertainment permits);
- to process any MRC related payments or transactions made with the MRC (for example, payment of MRC rates and water bills);
- to conduct any MRC compliance inspections (for example, building inspections and food or health inspections, the use of Recording Devices);
- to inform members of the public of MRC local news and developments or events where members of the community have requested to be notified (for example, MRC newsletters and notices);

COUNCIL POLICY

INFORMATION PRIVACY

- to enable MRC to respond to complaints and concerns raised by members of the public;
- to answer any search requests submitted by a member of the public for publicly available information (for example, property-related searches);
- to register pets;
- to apply for funding;
- to respond to any communications and correspondence from members of the public (including answering any queries, and dealing with any feedback or complaints);
- for MRC Staff or persons who have applied for employment or employment related activities at MRC - to process employment applications, and to process any employment related tasks at any time (for example, to verify employment related matters and information, grant building and Information Services access, to manage salary arrangements) and generally to facilitate and enable the employment, development and management of Staff in an appropriate and efficient manner;
- to maintain any MRC information databases (e.g. community organisation databases), memberships (e.g. library membership) records or registers including those that are required under Federal or State legislation;
- to administer and enforce any legislation which MRC is required to administer and enforce;
- to provide services in respect of MRC owned software;
- to undertake surveys to inform service delivery planning and review; and
- to otherwise perform MRC functions, duties and activities. This includes, but is not limited to, any statutory duties MRC has including those to other government bodies.

1.2.1 *How MRC Collects Information*

MRC collects Personal Information for these purposes in a number of ways including when people contact MRC directly by writing a letter, by telephone, email, internet or other form of electronic communication. When people visit and/or communicate with MRC through our websites (for example through an online enquiry form) or social media sites or when people participate in a competition or promotion run by MRC, Personal Information may also be collected.

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This means that the MRC may collect and hold a range of Personal Information including:

- customer name – including previous names;
- residential and postal addresses – including address history;
- dates of birth and gender;
- ethnicity;
- contact details including work and private email addresses and telephone numbers;
- photographs and CCTV footage (for example, from security cameras at MRC-controlled venues);
- audio and/or visual recordings;
- tax file numbers;
- customer or account numbers assigned to individuals by MRC;
- Australian Business Numbers;
- property ownership and/or occupier details;
- animal ownership;
- payment histories;
- licence/permit expiry dates;
- customer restrictions;
- financial information;
- pensioner / concession card details;
- library membership; and
- employment related Personal Information including personnel files; including, but not limited to:
 - a person's salary, bank account or financial details;
 - emergency contact information and next of kin;
 - diversity identifiers such as ATSI, disability, gender, age and multilingual;

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- performance and conduct file notes and disciplinary matters;
- allegations of wrongdoing against a person or details of wrongdoing or offences they may have committed;
- skills, certifications and educational qualifications;
- the fact that a person is a member or leader of an association and their attendance at meetings;
- medical details or health information; or
- membership of a trade union or professional body.

Personal Information includes some information people may not normally consider to be private, for example:

- Opinions given as part of a person's employment;
- The fact that a person is the author of a report;
- A person's name appearing in work documents; or
- A letter written in a person's official capacity, such as a letter from the president of a club.

1.2.2 *Routine Personal Work Information*

Routine personal work information solely to the work duties of public-sector Staff and is found in almost all documents held by MRC.

When disclosing routine personal work information for a legitimate function of MRC, the infringement of a public-sector Staff right to privacy would, generally, be minimal or non-existent as the disclosure would be a matter of expectation in the legitimate course of their employment.

Routine personal work information includes (but not limited to):

- Staff name, work email address and corporate telephone extension number;
- A professional opinion given wholly in a professional capacity;
- A position classification, for example 'planning officer'; or
- A work responsibility, for example, that the officer is the contact person in response to a complaint or query from a member of the public, information about qualifications held where they are required for the officer's position, for example, where a Senior Engineer holds an engineering degree.

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1.2.3 *Social Media*

MRC has a number of official social media accounts to engage with the community. Any personal information shared on these accounts will only be used for MRC functions and activities. Users of these accounts must be aware of their own individual social media site's terms of use and privacy conditions prior to use.

MRC will not disclose personal details to third parties without the individual's consent, unless required or authorised to do so by law.

1.2.4 *Mobile Apps*

Mobile applications or 'apps' are software programs designed to run on a smartphone, tablet computer or other mobile device. MRC currently has a range of mobile apps that are capable of capturing Personal Information such as location, device or contact details. Personal Information that is collected via applications are only used by Council for the purpose it was collected and managed in accordance with the IPPs.

1.2.5 *Cloud computing*

Cloud computing is a term for moving functions from a computer and agency-owned server to an online environment, usually as a solution for the storage, management, and processing of data. Sometimes cloud computing servers are located outside of Australia, and as a result, Personal Information is transferred overseas. MRC will manage the Personal Information in accordance with the IP Act.

1.3 How MRC Manages Personal Information

1.3.1 *Exemptions from IPPs*

The IPPs do not apply to information that is in the public domain. This includes Personal Information that is in a document generally available from a library, art gallery, museum, website or the Queensland State Archives.

MRC is not required to comply with certain IPPs in relation to an individual's Personal Information if that information has previously been published, or given for the purpose of publication, by the individual.

Under the IP Act, publish means publish to the public by way of television, newspaper, radio, the internet or other form of communication.

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The IPPs do not apply where another Act requires MRC to make certain Personal Information publicly available (i.e. Development information on PD online - requirement under the *Planning Act 2016*). The IP Act will defer to any other Act which provides for the collection, storage, handling, management, use or disclosure and transfer of Personal Information. A requirement to use or disclose Personal Information under another Act overrides the relevant IPPs.

Where an act or a practice of MRC is necessary for the performance of a contract which was entered before the commencement of the IP Act, the IPPs do not apply to that act or practice.

Under the IP Act, deceased people cannot have Personal Information. The definition of an individual is a “natural person”. A natural person can only be a living person. In some circumstances, information about a deceased person may also be Personal Information about a living person, e.g. family records, therefore the IPPs would apply.

In general, a commercial business or a community organisation does not have Personal Information. Disclosure of information about a company or a community organisation may not be a breach of the IPPs unless the Personal Information of an individual within that company or organisation was disclosed.

1.3.2 *Transfer of Personal Information Outside Australia*

In complying with its obligations under s.33 of the *IP Act*, MRC may transfer an individual's Personal Information to someone outside Australia only if:

- the individual agrees to the transfer; or
- the transfer is authorised or required by law; or
- MRC is satisfied on reasonable grounds that the transfer is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- two or more of the following apply:
 - MRC reasonably believes that the recipient is subject to a law, binding scheme or contract that effectively upholds the principles for the fair handling of Personal Information that are substantially similar to the IPPs;
 - the transfer is for the benefit of the individual and it is impracticable to seek their consent, but if it were practicable, the individual would be likely to consent;

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- MRC has taken reasonable steps to ensure that Personal Information it transfers will not be held, used or disclosed by the recipient in a way that is inconsistent with the IPPs.

1.3.3 *Access to, and Amendment of, Documents Containing Personal Information*

An *individual* may request in writing to access their own Personal Information under the *Information Privacy Act 2009*.

MRC will provide access to the requested information, unless it is authorised or required under an access law to refuse to give the access the individual is seeking, or the document is excluded from the operation of an access law. Suitable identification must be provided prior to an individual accessing the documents requested.

An individual may apply for amendment of their Personal Information if the information is inaccurate, incomplete, out of date or misleading.

Applications to access and amend Personal Information are to be made via the following Queensland State Government forms:

- (a) [Right to Information Privacy Access Application](#) – for an individual to apply to access their Personal Information; and
- (b) [Information Privacy Personal Information Amendment Application](#) – for an individual to apply to amend their Personal Information.

All applications are coordinated by the Corporate Governance team which nominates the appropriate decision maker to deal with the application in accordance with the Act.

1.3.4 *Use and Disclosure of Personal Information*

MRC will only use the information it holds for the purpose for which it was collected. Other uses of that information will only occur when required by law or with the express permission of the relevant individual or their appointed representatives.

It is MRC's policy that Personal Information will not be divulged, sold, traded or made available to third parties outside of MRC for their independent use unless the person to which the information relates has authorised, in writing, for MRC to do so, or the disclosure is required or allowed by law.

It is MRC's policy that Personal Information will not be made available in a public forum without the express written permission of the third party and other individuals detailed in any correspondence or collected in any way, unless otherwise permitted or required by law.

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Where MRC out-sources functions that involve the collection, utilisation and/or holding of Personal Information, contractual measures will be taken to ensure that the contractors and subcontractors do not act in a way that would amount to a breach of the Privacy Principles.

These measures include undertaking a privacy impact assessment to identify the impact that the project undertaken by the contractor might have on the privacy of individuals, and sets out recommendations for managing, minimising or eliminating that impact in accordance with the Office of the Information Commissioner "[Guide to undertaking privacy impact assessments](#)".

This assessment acknowledges the need to maintain the confidentiality of Personal Information and abide by all applicable laws. MRC will not permit third parties to sell or use the information for their own purposes.

Contracts with third parties will include clear provisions about the purposes for which the contractor is to use the information and other provisions necessary to ensure the contractor does not make unauthorised disclosures. They will also contain provisions about how the contractor is to keep the information secure, and what it must do with the information when it has completed the works under the contract.

1.3.5 Documents to which the Privacy Principles DO NOT Apply

The IPPs do not apply to documents to the extent they contain Personal Information:

- (a) arising out of, or in connection with, a controlled operation or controlled activity under the *Police Powers and Responsibilities Act 2000* or the *Crime and Corruption Act 2001*; or
- (b) arising out of, or in connection with, the covert undertaking of an operation, investigation or function of a law enforcement agency; or
- (c) obtained under a warrant issued under the *Telecommunications (Interception and Access) Act 1979 (Cwlth)*; or
- (d) a document to the extent it contains Personal Information about a person who is included in a witness protection program under the *Witness Protection Act 2000* or who is subject to other witness protection arrangements made under an Act; or
- (e) arising out of a complaint under the *Police Service Administration Act 1990, Part 7*; or

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- (f) arising out of a complaint, or an investigation of corruption, under the *Crime and Corruption Act 2001*; or
- (g) contained in a public interest disclosure under the *Public Interest Disclosure Act 2010*; or
- (h) that has been collected in an investigation arising out of a public interest disclosure under the *Public Interest Disclosure Act 2010*; or
- (i) that is also the subject of the RTI Act, Schedule 3 Exempt information; or
- (j) arising out of a commission of inquiry; or
- (k) generally available publication; or
- (l) kept in a library, art gallery or museum for the purposes of reference, study or exhibition; or
- (m) a public record under the *Public Records Act 2002* in the custody of Queensland State Archives that is not in a restricted access period under that Act; or
- (n) a letter, or anything else, while it is being transmitted by post.

1.4 Surveys

MRC is committed to engaging with Staff and the community by undertaking surveys in order to improve performance and service delivery, and to better plan services and facilities for the community.

MRC is required to meet the IPP requirements when conducting internal and external surveys.

MRC will ensure that when conducting surveys, the following will be taken into consideration:

- The inclusion of a relevant collection notice for each individual survey, advising:
 - why the information is being collected;
 - whether there is a legislative authority for collection;
 - how the information will be used; and
 - who the information will be shared with.
- MRC will only collect Personal Information that is relevant to the purpose of the survey;
- MRC will conduct the survey in a lawful and fair manner so it is not an unreasonable intrusion;

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- MRC will ensure survey questions are relevant to the survey purpose. MRC will be mindful of the types of questions which may identify an individual i.e. demographic characteristics, gender, age, occupation, nationality, free text options etc. Please note that certain surveys may require this information.
- Storage and disposal of the data collected. Where possible responses will be de-identified;
- Information collected will only be used for the identified purpose; and
- Where possible, will not use a survey tool which transfers information outside of Australia.

Guidelines about [conducting surveys](#) are available on the Office of Information Commissioner's website.

1.5 Privacy Impact Assessments

[Privacy impact assessments](#) will be used to assess the privacy impacts of MRC projects or new initiatives. Where necessary, these assessments will identify ways in which the obligations set out in the IP Act can be met.

Templates for the documents can be located on the Office of Information Commissioner's website.

1.6 Training

MRC will ensure that all appropriate officers undertake training in relation to the management of Personal Information.

Specialised training will be provided every three years to Staff undertaking compliance, enforcement, right to information and information privacy complaint management.

2.0 Recording Devices

MRC have Recording Devices in MRC Facilities, but which may not be considered MRC worksites.

As these Recording Devices may provide the opportunity to identify an individual, the use of these devices is covered by IP Act and the *Commonwealth Privacy Act 1988*.

For example, Recording Devices may be used in the following circumstances:

- CCTV surveillance and monitoring in public spaces and MRC controlled facilities and land or as part of other compliance activities;
- motor vehicle identification as part of mobile parking infringements monitoring;

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- body worn cameras and electronic recording devices used by Authorised Officers that are undertaking compliance activities; and
- desktop and mobile telephone recording devices for training, performance measuring and protection.

All MRC Programs responsible for managing the information collected as a result of these activities must adhere to IP Act provisions.

These systems will be operated in a way that minimises intrusion upon individual privacy while still allowing the Recording Devices to serve the objectives for which they were installed.

Access to Recording Devices must be made via an application for information under the RTI Act and the IP Act.

Contact should be made with MRC before making an application to ensure the recordings are still available. Depending on storage capacity, Recording Devices may only store recordings for a short period of time before being written over or deleted by the Recording Device and therefore may not be available under an application.

2.1 Remotely Piloted Aircraft (Drones)

MRC may use drones to record information in compliance with the privacy obligations in the IP Act.

In ensuring that its use of drones is in a private respectful way, MRC will comply with the Principles in Clause 1 of this Policy and, in particular, will:

- have a clearly defined purpose to ensure the information is complete and relevant to minimise potential drone intrusions;
- know and comply with all applicable laws, such as civil aviation regulations or laws about audio recording of conversations;
- design the drone program with privacy in mind at the outset enabling MRC to address issues more easily, including conducting of a privacy impact assessment prior to flight;
- engage with the community via a clear and comprehensive communication strategy to inform the community about the drone use event;
- maintain policies and procedures to govern the drone activities to meet privacy obligations and communicate this with Staff;
- take all steps to safeguard the Personal Information captured by the drone;
- ensure contracted service providers are contractually bound to comply with these same privacy obligations; and

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- enable the community to exercise their right to access information held by government.

2.2 Body Worn Cameras (BWCs)

Implementation of BWCs in law enforcement agencies has demonstrated benefits including:

- improvement in customer experience through a reduction in response time for complaint management, as accessibility to image and voice data reduces the time associated with investigating complaints;
- efficiency improvements in the digital evidence management workflow; and
- Increases safety of Staff.

When using BWCs, Council will comply with the Principles in Clause 1 of this Policy.

3.0 Complaints

MRC will ensure that all appropriate officers undertake training in relation to the management of Personal Information.

3.1 External Complaints

If a member of the public is not satisfied with the manner in which MRC has dealt with their Personal Information or handled their request for access/amendment to their Personal Information, they may lodge a formal complaint under MRC's Administrative Action Complaints Policy. A copy of this Policy can be found on MRC's website.

3.2 Internal Complaints

MRC Staff may raise a complaint about the handling of their Personal Information with their manager or the Coordinator Corporate Governance for investigation and response.

3.3 Investigation of Complaints

The Corporate Governance team, in consultation with the relevant program, will assess each complaint received and determine the appropriate complexity according to the criteria outlined in the table below in order to establish the service delivery standard for processing time against which performance will be measured:

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Type of complaint	Criteria	Decision Timeframe
Low Complexity Complaints	Low complexity complaints require no investigation and can be easily addressed through the provision of information, or through negotiating a desired outcome, perhaps through face-to-face or over the phone - a written response may not be required. Low complexity complaints should be managed at the program level.	Up to 10 business days
Medium Complexity Complaints	Medium complexity complaints may require some research into the matter; it might also require some negotiation/facilitated discussion with the complainants or consultation with other areas of MRC. They are rated a medium complexity and typically include issues that relate to a single incident or a decision. Some investigation or fact finding of the complaint issues may be required. Typically, medium complexity complaints contain a small number of issues. A written response is required.	Up to 30 business days
High Complexity Complaints	<p>High Complexity Complaints are matters where there are a large number of complaint issues; or where the complaint issues may refer to possible systemic concerns. These matters will typically involve complainants providing very detailed and lengthy background information that requires time to address.</p> <p>The matters can be of a very complex nature which may involve working with a number of programs in order to reach an outcome. Formal investigation may be required, involving assessment of information, and may involve interviews or discussions with Staff and other relevant persons, including external consultation.</p>	Up to 45 business days

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If necessary, the Coordinator Corporate Governance may extend the timeframe for processing an administrative action complaint to 60 business days. If an extension is granted, the complainant is required to be notified before the expiry of the initial timeframe.

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Access means providing an individual with Personal Information about themselves that is held by the MRC. This may include allowing that individual to inspect Personal Information or to obtain a copy of the Personal Information.

Application shall mean an application made to access information under the RTI Act and IP Act and shall apply to all of MRC's business activities.

Body Worn Camera (BWC) shall mean a portable camera worn with captures audio and visual recordings used by MRC Staff.

Close Circuit Television (CCTV) shall mean Close Circuit Television systems installed by MRC to electronically record video and/or audio of any public place or MRC Facility.

Collection means gathering, acquiring or obtaining Personal Information from any source and by any means, including information that the MRC has come across by accident or has not asked for.

Council shall mean all elected representatives, including the Mayor, of MRC.

Councillors shall mean an elected representative, including the Mayor of MRC.

IP Act shall mean *Information Privacy Act 2009*

MRC shall mean Mackay Regional Council.

MRC Facility (Facility) shall mean premises, or any MRC property, which is visited by members of the general public, where Staff work, or any part of such premises or property.

Personal Information is information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Recording Device/s shall mean and include GoPro cameras, close circuit television cameras and systems, body worn cameras, voice recorders, MRC desk and mobile phones with recording voice/audio capability and the storage of files, and the like.

RTI Act shall mean *Right to Information Act 2009*.

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Staff shall mean all persons employed by MRC on a permanent, temporary, casual basis, or otherwise engaged by MRC including those under a contract of service or a volunteer program.

Surveillance shall mean surveillance of a Facility or workplace by means of a camera that monitors or records visual images or activities on premises or in any other place.

5.0 Review of Policy

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

6.0 Reference

- *Information Privacy Act 2009*
- Information Privacy Regulation 2009
- *Right to Information Act 2009*
- Right to Information Regulation 2009
- *Public Records Act 2002*
- 113 - Management of Recording Devices Policy and its associated Corporate Standards:
 - 113.01 Close Circuit Television Systems
 - 113.02 Body Worn Camera Devices
 - 113.03 Telephone Recording Devices
- 086 - Remotely Piloted Aircraft (Drone) Policy and Procedure
- MRC – Code of Conduct

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Amendments made to content of document	Council	16.12.15
3	Review of Policy	Amendments to document	Council	22.02.17
4	Review of Policy	Amendment to document	Council	13.11.19
5	Review of Policy	Amendments to document	Council	24.02.21
6	Review of Policy	Updated/Amendments		

COUNCIL POLICY**COMMUNITY LEASING**

Program: Property Services
Date of Adoption:
Resolution Number:
Review Date:

Scope

This policy relates to Community Organisations utilising Mackay Regional Council Land (MRC Land) or buildings for sporting and community-based service purposes.

This policy does not relate to commercial occupation of Council Land.

Objective

The objective of this policy is to ensure that there is an equitable and consistent approach in providing Tenure to Community Organisations. Mackay Regional Council (MRC) seeks to promote optimal use of all MRC Land and buildings and adoption of responsible and sustainable practices through the provision of land for sporting and community based organisations.

Policy Statement

This policy aims to provide a consistent framework for managing community leasing and licensing matters. Some matters will require special terms and conditions to be negotiated between MRC and the individual community organisation.

MRC considers that to the extent this policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

This process to remain in force until otherwise determined
by Mackay Regional Council

COUNCIL POLICY

COMMUNITY LEASING

Contents

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COUNCIL POLICY**COMMUNITY LEASING****1.0 Principles**

MRC owns and controls a range of different types of land such as sporting fields, community facilities, commercial, residential and rural land holdings. The portfolio of MRC Land at any one time is based on the needs of MRC and the community.

This policy must be read in conjunction with its associated Corporate Standard 065.1 Community Leasing.

1.1 Enquiries by Community Organisations wishing to utilise MRC Land

- (a) Enquiries for the use of MRC Land for a community purpose must be made in writing and referred to the Community Lifestyle Program.
- (b) The type of Tenure available will depend on the type of land (freehold, leasehold or reserve land) to which the enquiry relates.

Some forms of Tenure grant an exclusive right to occupy the Premises to the exclusion of others and other forms of Tenure grant a non-exclusive right to occupy the Premises which mean the occupancy may be shared. Example Tenure types include:

- (i) a lease or licence of MRC owned freehold land;
- (ii) trustee lease or trustee permit of reserve land controlled by MRC as trustee; or
- (iii) a sublease of land leased by MRC.

2.0 Complaints

Any complaints in relation to a decision or a service relating from this policy will be assessed and managed in accordance with MRC's Administrative Action Complaints Policy, a copy of which can be found on MRC's website.

When an individual feels that they are the subject of MRC's failure to act compatibly with human rights, they can make a complaint directly to MRC. These complaints will be assessed against the Human Rights Act 2019.

Complaints may be made as following:

In writing to
Chief Executive Officer
Mackay Regional Council
PO Box 41
MACKAY QLD 4740

Via Email - complaints@mackay.qld.gov.au

In person at the following MRC Client Services Centres:

COUNCIL POLICY

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- MRC Mackay Office – 73 Gordon Street, Mackay
- MRC Sarina Office – 65 Broad Street, Sarina
- MRC Mirani Council Office – 20 Victoria Street, Mirani

3.0 Definitions

To assist in interpretation the following definitions shall apply:

Community Organisation shall mean a not for profit community based organisation incorporated under the Associations Incorporations Act and/or has the appropriate status under other legislation acceptable to Council.

Council shall mean all elected representatives, including the Mayor of Mackay Regional Council.

MRC Land shall mean land and buildings owned or controlled by Mackay Regional Council.

DOR shall mean the Department of Resources.

MRC shall mean the Mackay Regional Council.

Premises shall mean MRC Land, or part of MRC Land, occupied by a Community Organisation under a Tenure Agreement.

Rates Remission shall mean a partial reduction in the amount of Council MRC rates payable.

Tenure shall mean the right to occupy land or buildings pursuant to an agreement.

Tenure Agreement shall mean an agreement or deed setting out the terms and conditions of Tenure. For example: a lease, licence, trustee lease or trustee permit.

Tenure Application Form shall mean the application form contained in Annexure D of this Policies associated Corporate Standard

Term shall mean the period of time from commencement to expiry of the Tenure Agreement. For Example: 12 months, 3 years, 5 years.

4.0 Review of Policy

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

COUNCIL POLICY**COMMUNITY LEASING****5.0 Reference**

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Residential Tenancies and Rooming Accommodation Act 2008*
- *Land Title Act 1994*
- *Land Act 1994*
- *Land Valuation Act 2010*
- MRC Corporate Standard - 065.1 Community Leasing

6.0 Attachments

- MRC Corporate Standard - 065.1 Community Leasing

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy		Council	13.03.19

CORPORATE
STANDARD

COMMUNITY LEASING

Attachment A

Program
Date of Endorsement
Review Date

Property Services

1.0 Scope

This standard relates to Community Organisations utilising Mackay Regional Council Land (Council Land) or buildings for sporting and community-based service purposes.

This standard does not relate to commercial occupation of Mackay Regional Council MRC Land.

2.0 Objective

The objective of this standard is to define:

- a) how Community Organisations may enter into a Tenure Agreement with Council; for available Council Land;
- b) what form of Tenure may be offered; and
- c) defining the keys responsibilities and costs of entering into a Tenure Agreement with Council.

3.0 Reference

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Residential Tenancies and Rooming Accommodation Act 2008*
- *Land Title Act 1994*
- *Land Act 1994*
- *Land Valuation Act 2010*
- MRC Policy 065 – Community Leasing

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Community Organisation shall mean a not for profit community based organisation incorporated under the Associations Incorporations Act and/or has the appropriate status under other legislation acceptable to Council.

Council shall mean all elected representatives, including the Mayor of Mackay Regional Council.

MRC Land shall mean land and buildings owned or controlled by Mackay Regional Council.

DOR shall mean the Department of Resources.

MRC shall mean the Mackay Regional Council

CORPORATE STANDARD

COMMUNITY LEASING

Premises shall mean MRC Land, or part of MRC Land, occupied by a Community Organisation under a Tenure Agreement.

Rates Remission shall mean a partial reduction in the amount of MRC rates payable.

Tenure shall mean the right to occupy land or buildings pursuant to an agreement.

Tenure Agreement shall mean an agreement or deed setting out the terms and conditions of Tenure. For example: a lease, licence, trustee lease or trustee permit.

Tenure Application Form shall mean the application form contained in Annexure D of this Corporate Standard.

Term shall mean the period of time from commencement to expiry of the Tenure Agreement. For Example: 12 months, 3 years, 5 years.

5.0 Standard Statement

This standard is intended to fulfil the following objectives and must be read in conjunction with its associated Council Policy 065 - Community Leasing:

5.1 Steps to formalise a Tenure Agreement

- (a) A written enquiry is received by Community Lifestyle or Property Services;
- (b) A properly completed Tenure Application Form is received by Community Lifestyle;
- (c) Community Lifestyle and Property Services will evaluate the Tenure Application Form taking into consideration member numbers, sustainability and need, and the ability of the Community Organisation to meet the terms of a Tenure Agreement;
- (d) Property Services will consider available MRC Land and Tenure types and consult with MRC's Legal Services regarding the form of Tenure Agreement required and whether any approvals are required;
- (e) If the new lease proposal requires community consultation, with the result having a negative community impact, the lease proposal will not proceed;
- (f) If an appropriate Tenure is available, Property Services will advise the Community Organisation what type of Tenure and Tenure Agreement Council can offer, and the applicant and Council will agree on the terms of a Tenure Agreement;
- (g) Community Lifestyle will report to Council and seek Council approval to the grant of the Tenure Agreement;
- (h) MRC's Legal Services and/or Property Services team will proceed to arrange execution and registration (if applicable) of the Tenure Agreement;

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- (i) Property Services will liaise with the Community Organisation in relation to the ongoing management and monitoring of the Tenure Agreement.

5.2 Tenure Term

The Term of Tenure must comply with Council's maximum Tenure Terms set out in Table 1 of Annexure A hereto.

5.3 Tenure Rental

- (a) Once a Tenure Agreement is entered into, the Community Organisation will be responsible for the payment of rent payable under the Tenure Agreement.
- (b) For annual rental charged by Council, refer to Table 2 in Annexure B hereto.

5.4 Tenure Rates and Charges

- (a) Once a Tenure Agreement is entered into, the Community Organisation will be responsible for the payment of rates and charges assessed against the Premises and the Tenure Agreement.
- (b) For rates and charges charged by MRC, refer to Table 3 in Annexure C hereto.
- (c) In addition to the rates and charges charged by MRC set out in Table 3 of Annexure C hereto, the Community Organisation may also be responsible for the following charges (if applicable):
 - (i) all costs of connecting to, upgrading (if applicable) and usage and metering for, utilities, for example, electricity, gas, water, sewerage, telephone and internet;
 - (ii) trade waste and grease trap connections, upgrades, renewals, maintenance, usage, and metering charges; and
 - (ii) all costs of cleaning and removing refuse from the land.

5.5 Costs of Lease

- (a) All reasonable costs incurred by the Community Organisation and MRC associated with the preparation, negotiation, stamping and registration of any Tenure Agreement, including the costs of preparation of a survey plan (if applicable), are the responsibility of the Community Organisation.
- (b) In addition, the Community Organisation will be responsible for MRC's reasonable costs in relation to any assignment of the Tenure Agreement or subletting of the Premises, any consent required to be obtained by MRC under the Tenure Agreement, the surrender or termination of the Tenure Agreement and any breach by the Community Organisation of the Tenure

**CORPORATE
STANDARD****COMMUNITY LEASING**

Agreement.

- (c) It is usual for a tenant or licensee under a lease or licence to bear these costs. MRC endeavours to mitigate these costs where possible so that such costs are not overly burdensome on the Community Organisation.

5.6 Insurance

Community Organisations entering into a Tenure Agreement with MRC will be required to obtain and maintain, at their own cost, such insurances (including but not limited to Public Liability Insurance) as are reasonably required by MRC in respect of the occupation and use of the Premises and in accordance with the conditions of the Tenure Agreement.

5.7 Compliance with Tenure Agreement Conditions

- (a) In accepting a Tenure Agreement with MRC, the Community Organisation agrees to be bound by the terms of the Tenure Agreement and must comply with the conditions of the Tenure Agreement. Depending on the form of Tenure, the Community Organisation may also be required to comply with the *Land Act 1994* (Qld) and Land Regulation 2020 (Qld) and the mandatory standard terms imposed by State of Queensland which will also be attached to the Tenure Agreement.
- (b) A breach of the terms of the Tenure Agreement may result in termination of the Tenure Agreement and additional costs being incurred by the Community Organisation.
- (c) It is important for the Community Organisation to read and understand the Tenure Agreement. MRC recommends the Community Organisation seek legal advice to understanding its obligations under the Tenure Agreement.

5.8 Ownership of Improvements

- (a) All improvements and alterations to the Premises, both internal and external, require the prior written consent of MRC and all required regulatory approvals must be obtained.
- (b) The ownership of all fixed improvements constructed or installed on the Premises will vest in MRC from the time they are installed or constructed. This means the Community Organisation will not be permitted to remove those improvements without the consent of MRC.
- (c) All pre-existing fittings and fixtures will remain in the ownership of MRC on expiry of the Tenure Agreement.

**CORPORATE
STANDARD****COMMUNITY LEASING****5.9 Maintenance of Premises**

The Tenure Agreement will set out the Premises maintenance obligations of the Community Organisation and MRC, including but not limited to:

- (a) Be responsible of all fittings, fixtures, and infrastructure upon and within the Premises;
- (b) Maintain, preserve, and keep in good and tenable repair all improvements;
- (c) At the end of the Tenure Agreement, yield up all fittings, fixtures and infrastructure in good order and condition, fair wear, tear and damage by fire, flood, storm tempest or otherwise by Act of God or the King's enemies excepted.

5.10 Liquor Licenses and Permits

- (a) The grant of consent to the lodgement of an application for a liquor licence or permit will be subject to a successful initial assessment of the application under the Local Government Planning Scheme.
- (b) The grant of consent to the lodgement of an application for a restricted liquor permit or community liquor permit will be subject to an initial assessment by the Local Government Planning Scheme and MRC and owner or controller of the land.
- (c) The Community Organisation must not apply for any licence or permit or for any variation to a licence or permit without the prior consent of MRC.
- (d) It should be noted that Community Organisations that have an ability to generate income through their liquor licence will occur a higher rental fee, refer to Table 2 in Annexure B hereto.

5.11 Assignment, subleasing, sublicensing and use of the Premises by third parties

- (a) The Tenure Agreement must not be assigned, sublet, or sublicensed to a third party without the prior written consent of MRC. Furthermore, use of the Premises must not be granted to a third party (including a caretaker) without the prior written consent of Council.
- (b) MRC may impose conditions of consent which it considers reasonably in its absolute discretion.
- (c) Community Organisations may in some cases consider a sublease or sublicense to a commercial entity subject to MRC approval and when required, the approval of DOR.

CORPORATE STANDARD

COMMUNITY LEASING

5.12 Mortgages and Security

The Community Organisation must not mortgage, charge or otherwise use the Premises as security without the prior consent of MRC. MRC may impose conditions of consent which it considers reasonable in its absolute discretion.

5.13 Advertising and Signage

The Community Organisation must not erect advertising or signage on the Premises without the prior written consent of MRC.

5.14 Nuisance

The Community Organisation must not carry on any illegal, improper, immoral, noxious or offensive, trade, business, occupation, activity or calling nor will it do, upon the Premises anything which might be or become a nuisance, annoyance or grievance or cause damage to MRC or the neighbours.

5.15 Pests and Vermin

The Community Organisation will:

- (a) Destroy and keep down all noxious weeds, plants, and under-growth that from time to time grown on the Premises;
- (b) Keep the Premises free of rodents, termites, cockroaches, and other vermin; and
- (c) For any of those purposes at the Community Organisation's expense treat the Premises with such insecticides or other chemicals as the Lessor requires and so often as it reasonably requires.

5.16 Drainage and Vegetation

The Community Organisation must not carry out or cause to be carried out on the Premises any drainage or other interference with the surface of the ground and shall not cut down or remove any trees without the consent of MRC.

5.17 Fencing

Restrictive fencing of the Premises is not supported by MRC with fields and/or open space areas of the Premises to be made available for use by the general public when not in use by the Community Organisation.

Non-restrictive fencing such as installation of bollards or low fencing with access gaps or similar vehicle restricting fencing may be considered.

The Community Organisation must not install any fencing of any kind on the Premises without first having sought and obtained consent of MRC.

CORPORATE STANDARD

COMMUNITY LEASING

The costs of installation of any agreed fencing shall be solely borne by the Community Organisation.

5.18 Access by Council

Where the Land is reserve land, during a civil emergency event or force majeure event, MRC may use the Premises:

- (i) to provide shelter or other relief to the displaced, the injured or the endangered;
- (ii) as a storage, logistics or communications facility; or
- (iii) any other emergency response purpose for which the Premises is suitable.

5.19 Rights at the end of the Tenure Agreement

- (a) At the end of the Term of the Tenure Agreement, the Community Organisation will be required to vacate the Premises and make good the Premises to the condition it was in at the commencement of the Tenure Agreement.
- (b) A Community Organisation will not have a right to stay in the Premises at the end of the Term unless the Tenure Agreement expressly gives the Community Organisation the right to do so. Such a right may be included in the Tenure Agreement by way of an 'option to renew' the Tenure Agreement or a 'holding over' right remain in the Premises on a temporary basis with the consent of Council, or as agreed with MRC.

6.0 Review of Standard

This corporate standard will be reviewed when any of the following occur:

- 1. When any related policy documents are amended or replaced.
- 2. Other circumstances as determined from time to time.

Notwithstanding the above, this Corporate Standard is to be reviewed at intervals of no more than three (3) years.

7.0 Attachments

- A. Table 1 – Tenure Agreement Term
- B. Table 2 – Tenure Agreement Rental
- C. Table 3 – Tenure Agreement Rates & Charges
- D. Tenure Application Form

CORPORATE
STANDARD

COMMUNITY LEASING

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date

Attachment A

Table 1 – Tenure Agreement Term

Category	Tenure		Tenure Length
1	New Tenure		Maximum 5 years
2	Renewed Tenure (Following review of sustainability, need, activation and financial capability.)		Maximum 10 years*
3	Renewed or new tenure where contribution to capital improvements & demonstrated community benefit of greater or equal to:-	\$1,000,000.00	15 years*
		\$2,000,000.00	20 years*
		\$5,000,000.00	20 years +* (upon assessment)
* Subject to Council discretion			

Attachment B**Table 2 – Tenure Agreement Rental**

Proposed New Tenure Agreement Rental						
Category of Tenure	Description	First Year of New Tenure (Not Renewal)	Annual Charge – balance of Tenure	Liquor Licence	Gaming Licence	Total Per Annum
1	Tenant has limited ability to generate income. (Income between \$0 to \$20,000.00 e.g. Progress associations or small community groups.	0.00	20.00	0.00	0.00	20.00
2	Tenant has ability to generate income through their liquor licence. (Income between \$20,000.00 to \$30,000.00) Small sporting clubs. E.g. Football Clubs	0.00	25.00	25.00	0.00	50.00
3	Tenant has ability to generate income through their liquor licence. (Income between \$30,000.00 to \$40,000.00) Medium sporting clubs. e.g. Mackay Jnr Rugby League, Mackay Netball, Pioneer Tennis.	50.00	75.00	25.00	0.00	100.00
4	Tenant has ability to generate income from both a liquor licence and gaming licence. (Income over \$40,000.00) Large sporting clubs e.g. Magpies, Southern Suburbs etc.	50.00	100.00	25.00	100.00	225.00

Attachment C**Table 3 – Tenure Agreement Rates & Charges**

Rating categories:

100% Rate Remission of general rates and any special rate or charge levied where no utility services are applicable to the property.

[Tenure category - all categories]

75% Rate Remission of total rates, charges and levies (excluding water consumption charges) to Community Organisations that hold a current lease with Mackay Regional Council and has a limited ability to generate income (income up to \$20,000). Capacity to earn this amount not inclusive of grants* [Tenure category - category 1]

50% Rate Remission of total rates, charges, and levies (excluding water consumption charges). [Tenure category - categories 2 & 3]

Examples:

	Rates	Rebate	Amount Payable
Rates - no services	\$747.25	100%	Nil
Rates - Lessee with income up to \$10,000	\$1445.45	50%	\$722.72 (current rates)
		75%	\$361.36 (proposed rates with new rebate)

*New rating category only be available to sustainable organisations that are struggling to pay lease payments and maintain group activities.

Annexure D

TENURE APPLICATION FORM**COUNCIL OWNED OR MANAGED PROPERTY****1. APPLICANT ORGANISATION'S DETAILS**

NAME OF APPLICANT ORGANISATION	
ADDRESS	
NAME OF PRESIDENT	
PHONE	
EMAIL ADDRESS	
NAME OF SECRETARY	
PHONE	
EMAIL ADDRESS	
NAME OF TREASURER	
PHONE	
EMAIL ADDRESS	

2. PROPERTY REQUIREMENTS

PROPERTY DESCRIPTION OR PREFERRED LOCATION (IF KNOWN)	LOT NUMBER	
	ADDRESS	
USE PROPOSED FOR LEASE AREA		
EXISTING IMPROVEMENTS OR REQUIRED DEVELOPMENT		
LICENCE DETAILS - DOES THE ORGANISATION HOLD OR INTEND TO HOLD	RESTRICTED LIQUOR PERMIT	YES / NO
	FULL LIQUOR LICENCE	YES / NO
	GAMING LICENCE	YES / NO

**3. PROVIDE A SKETCH PLAN OF PROPOSED LEASE AREA & DEVELOPMENT
(INCLUDING DIMENSIONS)**

A large, empty rectangular box with a thin black border, intended for a sketch plan of the proposed lease area and development, including dimensions.

4. BRIEF HISTORY OF THE APPLICANT ORGANISATION – INCLUDE THE YEAR OF FORMATION

5. MEMBERSHIP DETAILS – PROVIDE MEMBERSHIP NUMBERS OF CURRENT MEMBERS AND MEMBERSHIP NUMBERS FOR THE PREVIOUS THREE (3) YEARS

CURRENT YEAR
PREVIOUS YEAR 1
PREVIOUS YEAR 2
PREVIOUS YEAR 3

6. AIMS AND OBJECTIVES OF THE APPLICANT ORGANISATION

7. CURRENT FINANCIAL POSITION & COPY OF MOST RECENT AUDITED FINANCIALS

**8. DOES YOUR ORGANISATION CURRENTLY OWN/LEASE/RENT ETC ANY LAND?
IF YES, PLEASE PROVIDE DETAILS.**

9. IF APPLICABLE, WOULD YOUR ORGANISATION BE WILLING TO SHARE A LEASE WITH ANOTHER GROUP? IF YES, PLEASE PROVIDE DETAILS OF POTENTIAL GROUP/S.

10. HAS YOUR ORGANISATION BEEN OFFERED A LEASE PREVIOUSLY, WAS THE OFFER ACCEPTED? IF NO, PLEASE PROVIDE DETAILS AS TO WHY THE OFFER WAS REJECTED.

**11. DEVELOPMENT PROPOSAL – DETAILS OF THE ORGANISATION'S DEVELOPMENT PLANS
FOR THE SUBJECT FACILITY/PROPERTY**

DESCRIPTION OF PROPOSED DEVELOPMENT	
REASONS TO JUSTIFY DEVELOPMENT	
EXPECTED/ESTIMATED TIMEFRAME FOR DEVELOPMENT	
ESTIMATED COST OF DEVELOPMENT	
OUTLINE THE SOURCE OF FUNDING	
RESOURCES REQUIRED TO ENSURE SUCCESSFUL COMPLETION OF DEVELOPMENT	
ATTACH ANY PLANS OF FUTURE	

12. APPLICANT'S SIGNATURE

SIGNATURE	
FULL NAME	
POSITION WITHIN ORGANISATION	
DATE	

Please return signed and completed Application to:

Sport & Recreation Development Officers Mackay
Regional Council
PO Box 41
MACKAY QLD 4740

Email: sport@mackay.qld.gov.au

ATTACHMENT CHECKLIST	
COPY OF CERTIFICATE OF INCORPORATION	YES / NO
MINUTES OF LAST AGM CONFIRMING APPOINTMENT OF OFFICER BEARERS AND RECENT TREASURER'S REPORT	YES / NO
COPY OF LAST AUDITED FINANCIAL STATEMENT	YES / NO
COPY OF CONSTITUTION (IF APPLICABLE)	YES / NO
COPY OF PUBLIC LIABILITY INSURANCE COVER	YES / NO
COPY OF CLUB DEVELOPMENT PLAN (IF APPLICABLE)	YES / NO
PROPOSED BUILDING OR FACILITY PLANS	YES / NO
EVIDENCE OF PROJECT FUNDING	YES / NO
LOCATION MAP/PLAN	YES / NO

11.1.4. COUNCILLOR ATTENDANCE - QUEENSLAND DISASTER MANAGEMENT CONFERENCE - CR MAY & CR ENGLERT

Author	Councillor Support Officer – Pam Jaenke
Responsible Officer	Executive Officer – David McKendry
File Reference	Councillors General

Attachments

1. 2023 Disaster Management Conference Program [11.1.4.1 - 9 pages]

Purpose

The purpose of the report is to request approval for Cr Karen May and Cr Justin Englert to attend the 2023 Queensland Disaster Management Conference to be held in Brisbane from 30 May – 1 June 2023.

Related Parties

Local Government Association of Queensland (LGAQ)

Corporate Plan Linkage

Community and Environment

Safe, Healthy and Engaged Region – Our region is a safe and resilient community, with services that support high standards of public health, and extends friendship and support to each other through both good and challenging times.

Background/Discussion

The 2023 Queensland Disaster Management Conference is being held in Brisbane from 30 May – 1 June 2023 with speakers from Federal Government, State Government, Local Government, Bureau of Meteorology, Multicultural Australia, disaster recovery organisations and more.

This conference provides an opportunity for leaders to develop a better understanding of the opportunities Queensland disaster management reforms will have for safer and more resilient communities, including engaging with diverse communities during disasters.

Consultation and Communication

Mayor and Councillors

Resource Implications

The total cost for travel, accommodation and attendance at the Conference is estimated at \$2,400 per person.

Risk Management Implications

Not Applicable

Conclusion

This Conference will provide an opportunity for Council to learn from the array of speakers, presentations and workshops, and obtain information and knowledge on the future of disaster management in Queensland, disaster recovery, community resilience and engaging with diverse communities during disasters.

Officer's Recommendation

THAT Council approve Cr May and Cr Englert's attendance at the 2023 Queensland Disaster Management Conference in Brisbane from 30 May – 1 June 2023.

Council Resolution ORD-2023-128

THAT Council approve Cr May and Cr Englert's attendance at the 2023 Queensland Disaster Management Conference in Brisbane from 30 May – 1 June 2023.

Moved Cr Jones

Seconded Cr Townsend

CARRIED UNANIMOUSLY



Queensland Disaster Management Conference Program

Moving forward together

30 May – 1 June 2023

Brisbane Convention and
Exhibition Centre



Every Queensland
community deserves
to be a liveable one

LGAQ

In Partnership with

PRINCIPAL PARTNERS



PLATINUM PARTNERS



right by your side



NETWORK DRINKS



DINNER PARTNER



COFFEE PARTNER



State agencies pre-conference satellite workshops			
Day one 30 May			
Time	Session		
08:30 – 09:00	Registration Restricted access: Attendance is by invitation only		
09:00 – 10:30	Satellite workshop program Restricted access: Attendance is by invitation only		
	 Queensland Police Service workshop Attendance by invitation only: XOs	 Queensland Fire and Emergency Services workshop Attendance by invitation only: EMCs	 Inspector-General Emergency Management workshop Attendance by invitation only: DMOs
10:30 – 11:00	Morning tea		
11:00 – 12:30	Satellite workshop program continued Restricted access: Attendance is by invitation only		
12:30 – 13:30	Lunch		
13:30 – 14:30	Satellite workshop program continued Restricted access: Attendance is by invitation only		
14:30 – 15:00	Afternoon tea		
15:00 – 16:00	Joint agencies workshop: Virtual Coordination Centres Restricted access: Attendance is by invitation only		

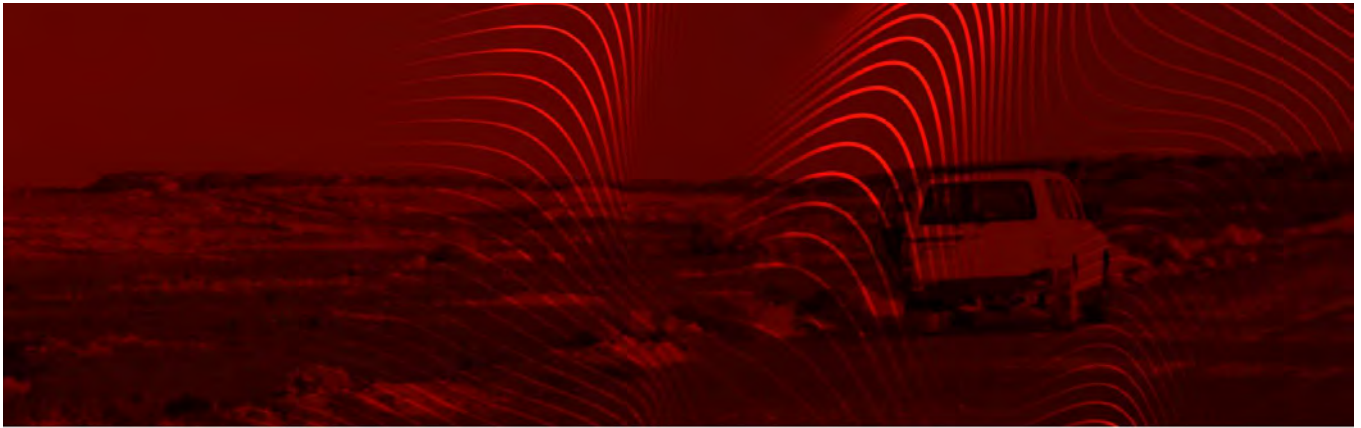
Queensland Disaster Management Conference	
Day one 30 May	
Time	Session
15:00 – 16:00	Registration Registration opens for all conference delegates
16:00 – 18:00	Networking drinks

Queensland Disaster Management Conference		
Day two 31 May		
Time	Session	Speaker
08:15 – 08:45	Registration	
08:45 – 09:20	Official opening	Adrian Schrinner Lord Mayor of Brisbane
09:20 – 09:25	A word from our partner: Telstra	
09:25 – 09:45	IGEM Insights	Ian Thompson Acting Director, Office of the Inspector General of Emergency Management
09:45 – 10:30	The future of disaster management in Queensland	Steve Gollschewski Special Coordinator, Queensland Police Service Joanne Greenfield Acting Deputy Commissioner, Queensland Fire and Emergency Services
10:30 – 11:00	Morning tea	
11:00 – 11:45	The future of disaster management in Queensland: State Emergency Service and Marine Rescue Queensland	Shane Chelepy Acting Deputy Commissioner, Queensland Police Service Andrew Short Assistant Commissioner, State Emergency Service Brian Cox Director, State Emergency Service Matt Thompson Director Marine Rescue Implementation, Queensland Fire and Emergency Services
11:45 – 11:50	A word from our partner: Brighter Super	
11:50 – 12:30	The future of disaster resilience in Queensland	Expert panel
12:30 – 13:30	Lunch	

Queensland Disaster Management Conference Day two (continued) 31 May		
13:30 – 14:25	Concurrent workshop sessions Please select one session to attend from sessions A, B and C below	
	Session A: Bushfire resilient communities in a changing climate – the role of land use planning	Robert Preston Executive Manager Sustainable Development Unit, Queensland Fire and Emergency Services James Haig State Operations Centre Coordinator, Queensland Fire and Emergency Services
	Session B: What's next for Queensland's flood warning network?	Greg Scroope Project Manager, Queensland Reconstruction Authority Greg Stuart Flood Warning Network Integrator, Bureau of Meteorology
	Session C: Local government showcase: <ul style="list-style-type: none"> Libraries as a place of refuge Resilience care kits 	Lisa Bateman Library Services Manager, Moreton Bay Regional Council Annabelle Johnstone Human and Social Recovery and Resilience Project Lead, Ipswich City Council Matt Pinder Emergency Management & Sustainability Manager, Ipswich City Council
14:25 – 14:35	Workshop change-over Please select one session to attend from sessions D, E and F below	
14:35 – 15:30	Session D: Homelessness-inclusive disaster risk reduction	Diana Young Director, Strategy and Engagement, Community Recovery at Department of Communities, Disability Services and Seniors
	Session E: Partnering with culturally and linguistically diverse Australians in disaster management	Leah Hornibrook Principal Policy Officer – Social Policy Framework, Queensland Fire and Emergency Services Robert Mukombozi State-wide Coordinator for Community Partnerships, Queensland Program of Assistance to Survivors of Torture and Trauma Kerrie Woodrow Community Development Team Leader, Multicultural Australia
	Session F: Involvement and engagement with Indigenous people in disaster management	Ricky Archer Chief Executive Officer, North Australian Indigenous Land & Sea Management Alliance

Queensland Disaster Management Conference		
Day two (continued) 31 May		
15:30 – 16:00	Afternoon tea	
16:00 – 16:10	A word from our partner: LGMS	
16:10 – 16:50	What makes for an effective LDMG	<p>Tanya Milligan Mayor, Lockyer Valley Regional Council</p> <p>Chatur Zala Chief Executive Officer, Cherbourg Aboriginal Shire Council</p> <p>Michael Tait Service Manager – Disaster Management, Redland City Council</p> <p>Michelle McNeice Emergency Management Coordinator, South West Region, Queensland Fire and Emergency Services</p> <p>Dave Cuskelly Superintendent of Police, Queensland Police Service and District Disaster Coordinator (Chair), Ipswich District Disaster Management Group</p>
16:50 – 17:00	Closing remarks	
17:00	Day close	
18:00 – 20:30	Networking conference dinner	

Queensland Disaster Management Conference Day three 1 June		
Time	Session	Speaker
08:15 – 08:50	Registration	LGAQ
08:50 – 09:00	Welcome back and housekeeping	LGAQ
09:00 – 09:40	Spotlight on recovery	Jake Ellwood Major General (ret), Chief Executive Officer, Queensland Reconstruction Authority Brendan Moon Coordinator-General, National Emergency Management Agency
09:40 – 09:45	A word from our partner: Hastings Deering	
09:45 – 10:30	Learnings from cross border events	Samantha O'Toole Mayor, Balonne Shire Council Lisa Orchin Councillor, Moree Plains Shire Council
10:30 – 11:00	Morning tea	
11:00 – 11:30	Know the signs: The new national Australian Warning System (AWS)	Kath Ryan Executive Manager Public Information and Warnings, Queensland Fire and Emergency Services
11:30 – 12:20	Thinking locally about emergency animal diseases	Allison Crook General Manager Animal Biosecurity and Welfare and Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry Peter Donaghy General Manager, Agribusiness Operations and Pacific Labour Scheme, Department of Agriculture, Fisheries and Forestry David McNab Emergency Animal Disease Preparedness, Department of Agriculture, Fisheries and Forestry
12:20 – 12:50	A nuclear needle in a haystack: Pilbara's lost radioactive capsule	Joe Buffone Deputy Coordinator General, National Emergency Management Agency
12:50 – 13:00	Closing remarks	
13:00	Close and lunch	



Registration

Full registration (QLD councils and state agencies only) **\$990.00**

Corporate registration (private sector only) **\$1,600**

All registration fees are GST inclusive.

Optional Function

Networking dinner **\$160.00**

CONTACT US

Member hotline:
1300 542 700

Web:
LGAQ.ASN.AU

Address:
LOCAL GOVERNMENT HOUSE
25 Evelyn street
Newstead, QLD 4006



Every Queensland
community deserves
to be a liveable one

11.1.5. 2024 MACKAY SHOW HOLIDAY

Author	Executive Officer (David McKendry)
Responsible Officer	Chief Executive Officer (Scott Owen)
File Reference	Mackay Show Association

Attachments

1. Letter - Office of Industrial Relations [**11.1.5.1** - 1 page]

Purpose

To consider a request for the appointment of a special holiday for the 2024 annual Mackay Show.

Related Parties

Office of Industrial Relations
Mackay & District Agricultural, Pastoral & industrial Assn Inc (Mackay Show Assn)

Corporate Plan Linkage

Live and Visit

Community Participation and Active Lifestyles – Our region is vibrant and culturally rich, home to a wide variety of events, experiences and attractions.

Background/Discussion

Correspondence has been received from the Executive Director, Industrial Relations, Office of Industrial Relations, requesting that Council advise whether a special holiday is requested for 2024 (namely for a Show Day).

A response by Council is required by Friday, 3 July 2023.

Contact has been made with the Mackay Show Assn, who advise that per the Queensland Show dates schedule, the Mackay Show is planned for Tuesday 18th June to Thursday 20th June 2024, making the applicable holiday date Thursday 20th June 2024.

This date aligns with the Pioneer Valley Show which is scheduled for Sunday 16th June 2024.

Consultation and Communication

Mackay Show Association

Resource Implications

Nil

Risk Management Implications

Nil

Conclusion

It is recommended that Council request a special holiday for the 2024 Mackay Show for Thursday 20th June

2024, being the date advised by the Mackay Show Assn.

Officer's Recommendation

THAT Council endorses that a special holiday be requested for Thursday 20th June 2024 for the hosting of the annual Mackay Show.

Council Resolution ORD-2023-129

THAT Council endorses that a special holiday be requested for Thursday 20th June 2024 for the hosting of the annual Mackay Show.

Moved Cr Bonaventura

Seconded Cr Jones

CARRIED UNANIMOUSLY



Office of
Industrial Relations

Department of Education

15 May 2023

Dear Chief Executive Officer,

As you may be aware, each year in accordance with the *Holidays Act 1983* local governments are invited to request special holidays to be observed during the following year for districts in their area.

If you wish to request special holidays to be observed during 2024 for districts in your local government area, please complete the attached request form and submit via email to info@oir.qld.gov.au by no later than **Friday, 3 July 2023**.

A local council requested special holiday is a public holiday only if it is in respect of an agricultural, horticultural or industrial show. Under federal industrial relations legislation, on a public holiday employees are, without loss of ordinary pay, entitled to be absent from work or refuse to work in reasonable circumstances. Employees who work on a public holiday are entitled to penalty rates in accordance with their award or agreement.

A special holiday for any other reason is not a public holiday but is a bank holiday only and under the *Trading (Allowable Hours) Act 1990*, is only a holiday for banks and insurance offices and under a directive of the *Public Service Act 2008*, a holiday for public service employees unless otherwise determined by a chief executive.

Upon receiving Ministerial approval, the holidays will be published in the Queensland Government Gazette. Confirmation of the approved special holidays together with a link to the Queensland Government Gazette will be emailed to your office.

Should you require further information regarding this process, please contact Ms Patricia Faulkner, Office of Industrial Relations on (07) 3406 9845 or email patricia.faulkner@oir.qld.gov.au.

Yours sincerely

A J (Tony) James
Assistant Director-General
Office of Industrial Relations

1 William Street Brisbane
Queensland 4000 Australia
GPO Box 69 Brisbane
Queensland 4001 Australia
Telephone 13 QGOV (13 74 68)
WorkSafe +61 7 3247 4711
Website www.worksafe.qld.gov.au
www.business.qld.gov.au
ABN 94 496 188 983

11.1.6. AMENDMENT TO COUNCIL MEETING DATES - JUNE ORDINARY AND SPECIAL BUDGET MEETING - 2023

Author Executive Officer (David McKendry)
Responsible Officer Chief Executive Officer (Scott Owen)
File Number Council Meetings Ordinary

Attachments Nil

Purpose

To change the proposed date for the June 2023 Council meeting, and also confirm details for the 2023 Special Budget Meeting.

Related Parties

Nil.

Corporate Plan Linkage

Organisational Performance - We are an innovative and responsive council that strives for excellence to achieve for our customers and the community. We operate efficiently and effectively to develop strong partnerships with all stakeholders providing value for money services.

Background/Discussion

Council's current Ordinary Meeting Schedule sees meetings held on the 4th Wednesday of each month (schedule adopted 22 March 2023).

For June it is proposed to amend the meeting date from Wednesday 28 June, to Wednesday 21 June. Doing so will also align with a Special Budget Meeting able to be held the same day.

In considering such a recommendation the following aspects were taken into consideration –

- Under the provisions of the Local Government Regulation 2012 (Regulation), section 257 requires that a local government must meet at least once per month.
- The Regulation allows the calling of Special Meetings (defined as - a meeting of a local government at which the only business that may be conducted is the business stated in the notice of meeting), able to be utilised outside monthly meeting cycles.

Consultation and Communication

Public advertisement related to Council meeting changes is required as per section 254B of the *Regulation*, with the exact method of advertisement left to Council's to decide with website and a conspicuous place at its public office (ie official notice board) required as a minimum.

It is proposed to amend the Council web-site, post a notice on Council's notice board, but also undertake media updates especially related to the Special Budget Meeting.

Resource Implications

N/a

Risk Management Implications

The risk of confusion from the public regarding the change of meeting dates will be mitigated through advertising and promotion of change.

Conclusion

For June it is proposed to amend the Council meeting date from Wednesday 28 June, to Wednesday 21 June. Doing so will also align with a Special Budget Meeting able to be held the same day. Regarding the Council meeting schedule, it is recommended that the following which the normal scheduling of the fourth(4th) Wednesday recommence.

In relation to advertising for Council meetings, with web-site and publishing at Council's public office (ie official notice board) as a minimum, this is seen as satisfactory to advise the public subject also to release of a specific media statement for promotion through local media outlets generally.

Officer's Recommendation

THAT Mackay Regional Council's Ordinary Meeting schedule be amended as -

1. Council's Ordinary Meeting be held on Wednesday 21 June 2023 commencing at 10.00 am.
2. Council's Special Budget Meeting be held on Wednesday 21 June 2023 commencing at 2pm.
3. Post the 21 June 2023 Ordinary Meeting, meetings would return to the normal schedule of commencing at 10.00 am on the fourth(4th) Wednesday of the month.
4. All Ordinary Meetings to be held in the Council Chambers, Administration Building 73 Gordon Street Mackay

FURTHER THAT Per section 254B of the *Local Government Regulation 2012*, that public advertisement of Council meeting changes via the Councils website, and posting of notices on official notice boards at Council offices, be undertaken of the meeting changes, supported by a specific media release.

Council Resolution ORD-2023-130

THAT Mackay Regional Council's Ordinary Meeting schedule be amended as -

- 1. Council's Ordinary Meeting be held on Wednesday 21 June 2023 commencing at 10.00 am.**
- 2. Council's Special Budget Meeting be held on Wednesday 21 June 2023 commencing at 2pm.**
- 3. Post the 21 June 2023 Ordinary Meeting, meetings would return to the normal schedule of commencing at 10.00 am on the fourth(4th) Wednesday of the month.**

4. All Ordinary Meetings to be held in the Council Chambers, Administration Building 73 Gordon Street Mackay

FURTHER THAT Per section 254B of the *Local Government Regulation 2012*, that public advertisement of Council meeting changes via the Councils website, and posting of notices on official notice boards at Council offices, be undertaken of the meeting changes, supported by a specific media release.

Moved Cr Green

Seconded Cr Hassan

CARRIED UNANIMOUSLY

11.1.7. REFERRAL FROM OFFICE OF INDEPENDENT ASSESSOR

Author	Executive Officer (David McKendry)
Responsible Officer	Chief Executive Officer (Scott Owen)
File Reference	Councillor Code of Conduct
Attachments	1. Councillor Investigation Policy 2. Code of Conduct for Councillors in Queensland

Purpose

The purpose of this report is for Council to determine in its opinion whether or not Cr Martin Bella has engaged in inappropriate conduct as per Section 150AG of the *Local Government Act 2009* (LGA), and if so what if any actions to apply.

Related Parties

- Office of Independent Assessor
- Councillor Conduct Tribunal
- Complainants – Names withheld for privacy reasons

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

In Queensland, complaints concerning Councillor conduct are referred to the Office of the Independent Assessor (OIA). After investigating a matter, the OIA may decide to refer suspected inappropriate conduct to the relevant local government for further investigation.

On 9 October 2022 the OIA received a complaint about the conduct of Cr Bella. It was alleged that Cr Bella made defamatory and derogatory statements at the Council meetings on 13 and 27 July 2022, and also in social media posts, the content of which would be in breach of the Code of Conduct for Councillors.

On 7 November 2022 the OIA referred the allegation against Cr Bella in relation to the social media statements only to Council to be dealt with, pursuant to section 150W(1)(b) of the LGA. In relation to the allegations linked to the Council meetings comments, the advice from the OIA was that they did not consider that they would amount to inappropriate conduct.

On 14 November 2022 Council's Acting Chief Executive Officer referred the matter related to social media posts only to the Councillor Conduct Tribunal (Tribunal) for investigation in accordance with Council's Councillor Investigation Policy.

On 3 February 2023 Council received the report from the Tribunal in relation to the suspected inappropriate conduct referral.

The Tribunal summarised the matter under review as whether the social media comments were appropriate, or whether they may have breached section –150K(1)(a) of the Local Government Act 2009 (Qld) ('the Act'), in that

the conduct is contrary to behavioural standard 2 in the Code of Conduct for Councillors in Queensland approved on 4 August 2020, namely:

‘2. Treat people in a reasonable, just, respectful and non-discriminatory way’

The outcome of the investigation by the Tribunal being–

The Tribunal has investigated the suspected inappropriate conduct of the Councillor referred by the Independent Assessor to the local government and has provided recommendations to the local government pursuant to section 150DL(1)(a)(i) & (ii) of the LGA.

*The Tribunal has formed the opinion that the evidence **is sufficient** for the Council to reach a determination that the allegation of inappropriate conduct is sustained on the balance of probabilities.*

In accordance with Clause 1.2 of Council’s Councillor Investigation Policy, Cr Bella is provided the opportunity to put his case in writing for the Council’s consideration. In response Cr Bella provided the below –

I understand that my reply to sustained, and in many cases shocking, comments on a social media post may be seen as inappropriate.

My actions may not be seen as reflective of standards expected of me as an elected official, and, as in every case, I take responsibility for my actions.

In this case, however, I will take the opportunity to explain the exceptional circumstances that led to my reply.

In this instance, I experienced a great deal of both stress and pressure, due to abuse, and even what equates to death threats, directed at both myself, and my colleagues, by some members of the public, many of whom were ill informed of the issues at hand.

I did what I felt was right in the circumstances at play – some may see this as a mistake. I recognise that my replies may be deemed inappropriate, and assure you that there was no intent to harm – merely to ease the pressure myself and others were placed under, by merely carrying out our roles in a responsible and ethical manner.

I truly believe, that the events which placed me in this position could have been avoided, if the organisation had an appropriate policy or policies in place, to deal with matters such as these when they first became apparent, as opposed to 8 days later.

I will continue to work, as I have always done, toward better policies and practices that prioritise the safety and wellbeing of our community.

I thank you for your understanding in this matter, and ask you to rest assured that I will continue to uphold essential values such as loyalty, honesty and integrity, as expected of me as a councillor.

Councillors are now required to consider the matter and determine as per section 150AG of the LGA:

- a) Whether or not in its opinion Cr Bella has engaged in inappropriate conduct in accordance with the Councillors Code of Conduct; and

- b) If Council decides that Cr Bella has engaged in inappropriate conduct – what action (if any) Council will take under section 150AH to discipline the councillor.

If Council determines that inappropriate conduct has been undertaken, a resolution to this effect is required as well as confirmation of which disciplinary action (if any) from the legislation is applicable, (i.e. one or more of the potential actions outlined below must be selected). Council may consider any previous inappropriate conduct of the Cr Bella and any allegation made in the investigation that was admitted, or not challenged, and that Council is reasonably satisfied is true.

In this regard Council's Councillor Conduct Register does not show any complaints naming Cr Bella, or in fact any current Councillor (noting that if complaints are dismissed or withdrawn the details are still recorded however the Councillors name is not published as the allegation has not been substantiated)

To support Councillors to comply with the requirements of the LGA, the following draft motions are provided for consideration. If Council determines that no inappropriate conduct has been undertaken, a resolution to this effect is required.

Inappropriate decision:

- THAT Council decides that Cr Bella <has / has not> engaged in inappropriate conduct as per section 150AG(1)(a) of the LGA in relation to the allegation that Cr Bella has breached the behavioural standard in the Code of Conduct for Councillors in Queensland.

Potential actions if decided that conduct was inappropriate:

- THAT Council decides that even though Cr Bella has engaged in inappropriate conduct, as per section 150AG(1)(b) of the LGA that no action be taken against the Councillor.

OR

- THAT Council decides that as Cr Bella has engaged in inappropriate conduct, as per section 150AG(1)(b) of the LGA the following disciplinary action/s will apply: (Council must select one or more of the following disciplinary actions, if it determines that disciplinary action is applicable.)
 - (i) an order that the councillor make a public admission that the councillor has engaged in inappropriate conduct;
 - (ii) an order reprimanding the councillor for the conduct;
 - (iii) an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense;
 - (iv) an order that the councillor be excluded from a stated local government meeting;
 - (v) an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor;

Example: The councillor is ordered to resign from an appointment representing the local government on a State board or committee.

- (vi) an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct;

- (vii) an order that the councillor reimburse the local government for all or some of the costs arising from the councillor's inappropriate conduct.

Consultation and Communication

- Office of Independent Assessor
- Councillor Conduct Tribunal – Report from the Tribunal provided to Councillors however not tabled with Council report for privacy reasons
- Senior Legal Counsel
- Coordinator Corporate Governance
- Cr Bella
- Mayor & Councillors
- Complainants – Names withheld for privacy reasons

Resource Implications

Cost of this investigation is \$5,518.80 inclusive of GST, being charges as billed from the Tribunal.

Risk Management Implications

Should Council decide a Councillor has engaged in inappropriate conduct, there is a requirement to publish the decision in the Councillor Conduct Registers.

Conclusion

The allegations of inappropriate conduct by Cr Bella referred to Council by the Office of the Independent Assessor have been investigated by the Councillor Conduct Tribunal in accordance with Council's Councillor Investigation Policy. Based on the response from the Tribunal Council must now determine in its opinion whether or not Cr Bella has engaged in inappropriate conduct, and if so determine what disciplinary action (if any) must be taken.

Officer's Recommendation

THAT Council consider the matter and information provided, and resolve to make a decision about allegations of inappropriate conduct against Cr Bella in accordance with section 150AG of the *Local Government Act 2009*.

Cr Bella having a Declared conflict of interest in this matter, refer Item 6, left the meeting at 10.23 am.

Mayor Williamson, Cr Englert, Cr Townsend, Cr Hassan, Cr Mann, Cr Jones, Cr Seymour and Cr Bonaventura declared a Declared conflict of interest in this matter, refer Item 6 (as per Chapter 5B of the Local Government Act 2009).

Mayor Williamson noted that due to the number of conflicts of interest, including his own, if all associated Councillors were to leave that Council will not have a quorum so advised that the Act is quite specific with a motion being required to delegate the decision to the Mayor, or in this case the Deputy Mayor who will become Acting Chair, in order to fulfil the requirements of this particular agenda item.

Council Resolution ORD-2023-131

That per section 150EU(4) of the Local Government Act 2009 (Act) it is noted that Councillors who had declared conflicts are able to make a resolution to delegate the decision on the matter without contravening conflict provisions.

Further that per section 257(2) of the Act, given that this matter is related to a Councillors conduct, and that the Mayor has declared a conflict, that the Council delegate the decision on the matter per the legislative options to the Deputy Mayor as Acting Mayor.

Moved: Cr Englert

Seconded: Cr Bonaventura

CARRIED UNANIMOUSLY

Mayor Williamson, Cr Englert, Cr Townsend, Cr Hassan, Cr Mann, Cr Jones, Cr Seymour and Cr Bonaventura left the meeting at 10.26 am.

Cr May assumed the role of Acting Chair and tabled the below asking that it be recorded as her decision.

That noting the outcome of the report from the Councillor Conduct Tribunal “that the evidence is sufficient for the Council to reach a determination that the allegation of inappropriate conduct is sustained on the balance of probabilities”, having been delegated to make a decision on this matter my decision is that per the Tribunal report that there is sufficient evidence that Cr Bella has engaged in inappropriate conduct as per section 150AG(1)(a) of the Local Government Act 2009 (LGA) in relation to the allegation that Cr Bella has breached the behavioural standard in the Code of Conduct for Councillors in Queensland.

Further that having made this decision determine that the disciplinary action applicable per the legislative options is that –

- 1. Cr Bella makes a public admission (per section 150AG(1)(b)(i) of the LGA) – However accepting that the written statement provided by Cr Bella and tabled at today’s meeting fulfills this acknowledgement**
- 2. Cr Bella attends applicable social media training to address the councillor’s conduct, the content of which to be confirmed**

The Chief Executive Officer to write to Cr Bella and the Office of the Independent Assessor advising of Council’s decision.

The Chief Executive Officer to update the Councillor Conduct Register with the decision in accordance with section 150DX of the LGA.

The Chief Executive Officer noted the decision and advised that further to item 2, he will be instructing all Councillors, inclusive of the Mayor and Deputy Mayor, to undergo both Councillor interaction and social media training, which will fulfill that obligation.

Mayor Williamson, Cr Englert, Cr Townsend, Cr Hassan, Cr Mann, Cr Jones, Cr Seymour and Cr Bonaventura returned at 10.29 am.

Cr May advised that as per the authority delegated to her, the decision made is on the screen for Councillors to note.

The Chief Executive Officer noted for the benefit of those returning to the meeting, that in addition to the recommendation of section two, all Councillors, including Mayor and Deputy Mayor, will undergo both interaction and social media training, which will fulfil that obligation.

The Mayor reassumed the Chair of the meeting.

COUNCIL POLICY**COUNCILLOR INVESTIGATIONS**

Program:	Office of the Mayor and CEO
Date of Adoption:	26 October 2022
Resolution Number:	ORD-2022-308
Review Date:	26 October 2025

Scope

This investigation policy applies to investigations and determinations of a complaint about the alleged inappropriate conduct of a Councillor/s which has been referred by the Independent Assessor.

However, this policy does not relate to the more serious categories of Councillor conduct (i.e. corrupt conduct and misconduct).

Objective

To outline how complaints about the inappropriate conduct of Councillor/s will be dealt with as required by the section 150AE of the *Local Government Act 2009* (the LGA).

Policy Statement

MRC is committed to meeting its statutory obligations in dealing with complaints relating to alleged inappropriate conduct of a Councillor.

MRC acknowledges the right of a person to lodge a complaint and is committed to upholding its duty of care by aiming to provide an effective process to all complaints received.

This process to remain in force until otherwise determined
by Mackay Regional Council

COUNCIL POLICY

COUNCILLOR INVESTIGATIONS

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COUNCIL POLICY

COUNCILLOR INVESTIGATIONS

1.0 Principles

1.1 Confidentiality

Matters of suspected inappropriate conduct of a Councillor are confidential except as otherwise specifically provided for either in the LGA or this investigation policy.

(Note: It must be kept in mind that the matter is an allegation only and not yet proven. Further, there will be circumstances where the detail of the referral will need to remain confidential to the Local Government. Any release of confidential information that a Councillor knows, or should reasonably know, to be confidential to the local government may be contrary to section 171(3) of the LGA and dealt with as misconduct.)

1.2 Natural Justice

Any investigation of suspected inappropriate conduct of a Councillor/s must be carried out in accordance with natural justice. An overview of the principles of natural justice follows.

“Natural justice” or procedural fairness, refers to three key principles:

- the person being investigated has a chance to have his or her say before adverse formal findings are made and before any adverse action is taken (fair hearing);
- the investigator(s) should be objective and impartial (absence of bias); and
- any action taken is based on evidence (not suspicion or speculation).

A fair hearing means the Councillor who is the subject of the suspected inappropriate conduct matter must be told of the case against them including any evidence and be provided with an opportunity to put their case in writing with the investigation report provided to the Councillors as part of the meeting agenda.

An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

Decisions based on evidence requires that the investigation should not be based on mere speculation or suspicion but instead must be based upon evidence material.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

1.3 Assessor's Referral

All complaints about the conduct of a Councillor/s that MRC received directly must be submitted to the Assessor who will assess the complaint and determine the category of allegation.

COUNCIL POLICY**COUNCILLOR INVESTIGATIONS**

The Council may receive from the Assessor a referral notice about the suspected inappropriate conduct of a Councillor/s.

Council may also receive referrals directly.

1.4 Receipt of Assessor's Referral

On receipt of a referral notice about the suspected inappropriate conduct of a Councillor/s from the Assessor, the Council's Chief Executive Officer will forward that referral notice to the President of the Councillor Conduct Tribunal ('the Investigator') to investigate.

1.5 Completion of Investigation

On the completion of the investigation the Investigator will provide a report to the Council outlining the investigation findings, any recommendations about dealing with the conduct and any record of the investigation costs.

The Council will consider the findings and recommendations of the Investigators report and decide whether the Councillor has engaged in inappropriate conduct and, if so, what action it will take under section 150AH of the LGA.

Provisions for internal and external review of decisions are set out in sections 150CO to 150CS of the LGA.

1.6 Early Resolution

Prior to referral to the Investigator to investigate the Chief Executive Officer must consider whether the matter is appropriate for early resolution prior to the investigation. This consideration includes any recommendation made by the Assessor.

A matter is only appropriate for early resolution if the parties to the matter agree to explore early resolution.

If the matter is resolved prior to the referral to the Investigator the Chief Executive Officer will advise the Mayor and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

1.7 Councillor Conduct Register

The Chief Executive Officer of the respective Council must ensure decisions about suspected inappropriate conduct of a Councillor/s must be entered into the Councillor conduct register.

COUNCIL POLICY

COUNCILLOR INVESTIGATIONS

Where a complaint has been resolved under paragraph 1.6 of this policy, the Chief Executive Officer will update the register to reflect that the complaint was withdrawn.

1.8 Expenses

Council must pay any reasonable expenses of Council associated with the informal early resolution or investigation of suspected inappropriate conduct of a Councillor.

(Note: Council may order the subject Councillor reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct.)

Payment of incurred costs by the subject Councillor will be considered in accordance with the Legal Assistance for Councillors and Employees Policy.

2.0 Definitions

To assist in interpretation the following definitions shall apply:

Assessor shall mean means the Independent Assessor appointed under section 150CV of the LGA.

Behavioural standard shall mean a standard of behaviour for Councillors set out in the Code of Conduct approved under section 150E of the LGA.

Conduct shall include—

- (a) failing to act; and
- (b) a conspiracy, or attempt, to engage in conduct.

Corrupt Conduct has the same meaning as 'corrupt conduct' under the *Crime and Corruption Act 2001* being conduct of a person, regardless of whether the person holds or held an appointment, that:

- (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of –
 - (i) a unit of public administration; or
 - (ii) a person holding an appointment; and
- (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that –
 - (i) is not honest or is not impartial; or
 - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or

COUNCIL POLICY

COUNCILLOR INVESTIGATIONS

- (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment.
- (c) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and
- (d) would, if proved, be –
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Corrupt conduct may include, but is not limited to:

- (a) abuse of public office;
- (b) bribery, including bribery relating to an election;
- (c) extortion;
- (d) obtaining or offering a secret commission;
- (e) fraud;
- (f) stealing;
- (g) forgery;
- (h) perverting the course of justice;
- (i) an offence relating to an electoral donation;
- (j) loss of revenue of the State;
- (l) homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;
- (m) obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person;
- (n) illegal drug trafficking;
- (o) illegal gambling.

Councillor conduct register shall mean the register required to be kept by Council as set out in section 150DX of the LGA.

Council shall mean the Mayor and Councillors of Mackay Regional Council.

Councillor shall mean the Mayor or a Councillor of Mackay Regional Council.

Inappropriate conduct see section 150K of the LGA.

COUNCIL POLICY**COUNCILLOR INVESTIGATIONS**

Investigation policy, refers to this policy, as required by section 150AE of the LGA.

Investigator shall mean the Councillor Conduct Tribunal *see Tribunal below*.

LGA shall mean the *Local Government Act 2009*.

Local government meeting shall mean a meeting of—

- (a) a local government; or
- (b) a committee of a local government.

Misconduct see section 150L of the LGA.

Model procedures shall mean the procedures to ensure the Local Government principles are reflected in the conduct of Council Meetings (including committee Meetings) as required by section 150F of the LGA.

MRC shall mean Mackay Regional Council.

Natural justice shall mean a set of principles to ensure fair and just decision making, including a fair hearing, an absence of bias, decisions based on evidence, and the proper examination of all issues.

Referral notice see section 150AC of the LGA.

Tribunal shall mean the Councillor Conduct Tribunal as established under section 150DK of the LGA.

Unsuitable meeting conduct see section 150H of the LGA.

3.0 Review of Policy

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

4.0 Reference

- *Local Government Act 2009*

COUNCIL POLICY**COUNCILLOR INVESTIGATIONS**

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy		Council	13.02.19
2	Review	Amendments	Council	26.10.22

COU101 – COUNCILLOR INVESTIGATIONS

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Queensland Government

Code of Conduct for Councillors in Queensland

Approved on 4 August 2020



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Purpose of the Code of Conduct

The Code of Conduct sets out the principles and standards of behaviour expected of Councillors and Mayors when carrying out their roles, responsibilities and obligations as elected representatives for their communities. By adhering to the behaviours set out below, Councillors will increase public confidence in local government and Council decisions.

Background

Under section 150D of the *Local Government Act 2009* (the LGA), the Minister for Local Government (the Minister) must make a Code of Conduct stating the standards of behaviour for Councillors in the performance of their responsibilities as Councillors. In addition to this, the Code of Conduct may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.

Before assuming public office, Councillors must understand and commit to complying with the local government principles and obligations of Councillors in accordance with section 169 of the LGA and 169 of the *City of Brisbane Act 2010* (CoBA), as well as the standards of behaviour set out in this Code of Conduct.

All Councillors are required to make a declaration of office under the applicable legislation. As part of that declaration, Councillors must declare that they will abide by this Code of Conduct.

The Local Government Principles and Values

The legislation is founded on five local government principles with which Councillors must comply while performing their roles as elected representatives. These principles are listed below:

1. Transparent and effective processes, and decision-making in the public interest
2. Sustainable development and management of assets and infrastructure, and delivery of effective services
3. Democratic representation, social inclusion and meaningful community engagement.
4. Good governance of, and by, local government
5. Ethical and legal behaviour of Councillors and local government employees.

This Code of Conduct provides a set of values that describe the types of conduct Councillors should demonstrate to ensure their compliance with the local government principles. These values are listed below:

1. In making decisions in the public interest, Councillors will:
 - make decisions in open council meetings
 - properly inform relevant personnel of all relevant information
 - make decisions in accordance with law and policy
 - commit to exercising proper diligence, care and attention.
2. To ensure the effective and economical delivery of services, Councillors will:
 - manage council resources effectively, efficiently and economically

- foster a culture of excellence in service delivery.
3. In representing and meaningfully engaging with the community, Councillors will:
 - show respect to all persons
 - clearly and accurately explain Council's decisions
 - accept and value differences of opinion.
 4. In exercising good governance, Councillors are committed to:
 - the development of open and transparent processes and procedures
 - keeping clear, concise and accessible records of decisions.
 5. To meet the community's expectations for high level leadership, Councillors will:
 - be committed to the highest ethical standards
 - uphold the system of local government and relevant laws applicable.

This Code of Conduct also sets out standards of behaviour aimed at helping Councillors understand how the principles and values are put into practice while performing their official duties as elected representatives.

Each standard of behaviour is not intended to cover every possible scenario. However, they provide general guidance about the manner in which Councillors are expected to conduct themselves.

It is important to note that the principles, values and standards set out in the Code of Conduct are of equal importance.

Standards of Behaviour

This Code of Conduct sets out the standards of behaviour applying to all Councillors in Queensland. The behavioural standards relate to, and are consistent with, the local government principles and their associated values.

The standards of behaviour are summarised as the three Rs, being:

1. **RESPONSIBILITIES**
2. **RESPECT**
3. **REPUTATION.**

Each standard of behaviour includes, but is not limited to, several examples to guide Councillors in complying with the Code of Conduct when carrying out their role as elected officials. Councillors are to understand and comply with the following standards of behaviour as set out in the Code of Conduct listed below.

1. Carry out RESPONSIBILITIES conscientiously and in the best interests of the Council and the community

For example, Councillors will, at a minimum, have the following responsibilities:

- 1.1 Attend and participate meaningfully in all Council meetings, committee meetings, informal meetings, briefings, relevant workshops and training opportunities to assist them in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given
- 1.2 Respect and comply with all policies, procedures and resolutions of Council
- 1.3 Use only official Council electronic communication accounts (e.g. email

accounts) when conducting Council business

- 1.4 Report any suspected wrongdoing to the appropriate entity in a timely manner
- 1.5 Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances)
- 1.6 Cooperate with any investigation being undertaken by the local government or other entity
- 1.7 Ensure that the Councillor's Advisor is aware of their obligations to comply with the standards of behaviour in the Code of Conduct for Councillor Advisors in Queensland.

2. Treat people in a reasonable, just, RESPECTFUL and non-discriminatory way

For example, Councillors will, at a minimum, act in the following ways:

- 2.1 Treat fellow Councillors, Council employees and members of the public with courtesy, honesty and fairness
- 2.2 Not use abusive, obscene or threatening language (either oral or written) or behaviour towards other Councillors, Council employees or members of the public
- 2.3 Have proper regard for other people's rights, obligations, cultural differences, safety, health and welfare.

3. Ensure conduct does not reflect adversely on the REPUTATION of Council

For example, Councillors will, at a minimum, conduct themselves in the following manner:

3.1 When expressing an opinion dissenting with the majority decision of Council, respect the democratic process by acknowledging that the Council decision represents the majority view of the Council

3.2 When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views

3.3 At all times strive to maintain and strengthen the public's trust and confidence in the integrity of Council and avoid any action which may diminish its standing, authority or dignity.

Consequences of Failing to Comply with the Code of Conduct

Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in this code of conduct may give rise to a complaint against a Councillor's conduct and subsequent disciplinary action under the legislation.

A complaint about the conduct of a Councillor must be submitted to the Office of the Independent Assessor (OIA), who will assess the complaint and determine the category of the allegation. In order of least to most serious, the categories of complaint are **unsuitable meeting conduct**, **inappropriate conduct**, **misconduct**, and then **corrupt conduct**.

Unsuitable Meeting Conduct

Under the legislation, any conduct by a Councillor that is contrary to the standards of behaviour in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as **unsuitable meeting conduct**.

Unsuitable meeting conduct by a Councillor is dealt with by the Chairperson of the meeting. It is important that the Chairperson deal with matters of unsuitable meeting conduct locally, and as efficiently and effectively as possible so that Council can continue with their business of making effective decisions in the public interest.

NOTE

Chairpersons of meetings are carrying out a statutory responsibility under the legislation to manage and lead the meeting. As such, where a Chairperson behaves inappropriately in a meeting this involves a serious breach of the

trust placed in them as the Chairperson of the meeting and may be dealt with as misconduct.

Inappropriate Conduct

Under the legislation, any conduct by a Councillor that is contrary to the standards of behaviour in the Code of Conduct or a policy, procedure or resolution of a Council, and is not unsuitable meeting conduct, misconduct or corrupt conduct is dealt with as **inappropriate conduct**.

The conduct of a Councillor is also inappropriate conduct if the conduct contravenes an order by the Chairperson of a meeting of Council for the Councillor to leave the meeting or is a series of conduct at Council meetings that leads to orders for the Councillor's unsuitable meeting conduct being made on three occasions within a period of one year. The local government is not required to notify the OIA and may deal with the conduct under section 150AG of the LGA (including Brisbane City Council).

The OIA is responsible for assessing allegations of suspected inappropriate conduct other than those arising from unsuitable meeting conduct. If the OIA chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

Misconduct

Councillors are required to comply with all laws that apply to local governments, this includes refraining from engaging in **misconduct**.

The OIA is responsible for assessing and investigating instances of suspected

misconduct. The OIA may make an application to the Councillor Conduct Tribunal to be heard and determined.

The conduct of a Councillor is misconduct if the conduct:

- adversely affects, directly or indirectly, the honest and impartial performance of the Councillor's functions or exercise of the Councillor's powers, or
- is, or involves:
 - a breach of trust placed in the Councillor, either knowingly or recklessly
 - misuse of information or material acquired by the Councillor, whether the misuse is for the benefit of the Councillor or for the benefit or to the detriment of another person
 - a Councillor giving a direction to any Council employee (other than the Mayor giving direction to the Chief Executive Officer, or for Brisbane City Council, the Lord Mayor giving direction to the Chief Executive Officer and senior contract officers)
 - a release of confidential information outside of the Council
 - failure to declare a conflict of interest or appropriately deal with a conflict of interest in a meeting
 - attempting to influence a decision maker about a matter in which the Councillor has a conflict of interest
 - failure by a Councillor to report a suspected prescribed conflict of interest of another Councillor
 - failure to submit, update or review your registers of interests, or

- is a failure by the Councillor to comply with:
 - an order made by the Council or the Councillor Conduct Tribunal
 - any acceptable request guidelines of the Council made under the legislation
 - the reimbursement of expenses policy of the Council.

The conduct of a Councillor is also misconduct if the conduct leads to the Councillor being disciplined for inappropriate conduct on three occasions within a period of one year or is conduct that is identified in an order of Council that will be dealt with as misconduct if the Councillor engages in the conduct again.

The conduct of a Councillor may also be misconduct if a Councillor purports to direct the Chief Executive Officer in relation to disciplinary action regarding the conduct of a Councillor Advisor.

Corrupt Conduct

Corrupt conduct is defined by, and dealt with, under the *Crime and Corruption Act 2001*¹ and must be referred to the Crime and Corruption Commission (CCC). For a Councillor, corrupt conduct involves behaviour that:

- adversely affects or could adversely affect the performance of the Councillor's responsibilities, and
- involves the performance of the Councillor's responsibilities in a way that:
 - is not honest or impartial, or
 - involves a breach of the trust placed in the Councillor, or
 - involves the misuse of information acquired by the Councillor, and

¹ Section 15, Crime and Corruption Act 2001

- is engaged in for the purpose of providing a benefit or a detriment to a person, and
- if proven would be a criminal offence.

Councillors are reminded of their obligations under section 38 of the *Crime and Corruption Act 2001* to report suspected corrupt conduct.

The OIA has entered into a section 40² arrangement with the CCC which allows the OIA to commence investigation into some allegations of corrupt conduct and report the matters to the CCC on a monthly basis, to provide the CCC with the opportunity to assume responsibility for or monitor an

investigation, should the CCC consider that appropriate.

Further information about the CCC's jurisdiction and other topics in relation to local government is available at

<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/Corruption-in-focus-Guide-2020.pdf> (Chapter 4).

More Information

For any further enquiries on this matter please contact the department.

² Section 40, Crime and Corruption Act 2001

11.2. DEVELOPMENT SERVICES

11.2.1. DA-2022-226 - MATERIAL CHANGE OF USE - SERVICE STATION - 214 AND 216 NEBO ROAD AND 2 LAGOON STREET, WEST MACKAY

Author	Senior Development Planner (Brogan Jones)
Responsible Officer	Director Development Services (Aletta Nugent)
File Number	DA-2022-226
Attachments	Attachment 1 – Locality and Zoning Plans Attachment 2 – Proposal Plans Attachment 3 – Referral Agency Response Attachment 4 – Planning Scheme Overlay Mapping
Date Received:	23 November 2022
Applicant's Details:	Brisbane Prestige Property Developments Pty Ltd c/- Viva Property Group Pty Ltd PO Box 419 INDOOROOPIILLY QLD 4068
Proposal:	Material Change of Use – Service Station
Site Address:	214 and 216 Nebo Road and 2 Lagoon Street, West Mackay
Property Description:	Lots 1 and 2 on RP715178 and Lot 63 on RP732833
Owner's Details:	Samuel Scriha and Janette Stebbeings
Area:	2,551m ²
Planning Scheme:	Mackay Region Planning Scheme v4.0
Planning Scheme Designations:	
Zone:	Medium density residential
Precinct:	MD3 (Multi-storey medium density precinct)
Assessment Level:	Impact
Submissions:	192 properly made 6 not properly made 7 properly made petitions (219 signatures)
Referral Agencies:	State Assessment Referral Agency
Recommendation:	Refusal

Executive Summary

The Applicant has lodged a Development Application with Council seeking a Development Permit for a Service Station over three parcels of land at the corner of Nebo Road and Lagoon Street, West Mackay (214 and 216 Nebo Road and 2 Lagoon Street, West Mackay). The subject site and surrounds are zoned Medium density residential.

The proposed Service Station is a non-residential land use in a residential zone. The Mackay Region Planning Scheme v4.0 (Planning Scheme) permits non-residential uses in residential zones only where it can be demonstrated that the proposed non-residential use is small scale and low intensity, required to serve the needs of the local area, located on prominent and highly accessible sites, and consistent with the amenity and character of the surrounding urban area. The Applicant has not demonstrated the proposal complies with these requirements and therefore cannot achieve compliance with the Planning Scheme. Further, compliance with the Planning Scheme cannot be achieved by applying development conditions.

The Development Application was referred to the State Assessment Referral Agency (SARA) as the subject site has frontage to two State-controlled roads (Nebo Road and Lagoon Street) and the proposed Service Station proposes access to both. The subject site is also at the intersection of the two State-controlled roads. As part of its referral agency response, SARA approved the application subject to conditions.

The Development Application was publicly notified as required by the *Planning Act 2016*. Council received 192 properly made submissions, 6 not properly made submissions, 7 properly made petitions totalling 219 signatures, and 1 not properly made petition with 22 signatures. No submissions or petitions were in support of the proposed development.

Based on the non-compliance with the Planning Scheme (noting that compliance cannot be achieved by applying development conditions) and the concerns raised by the local community, Council officers are recommending the proposed Development Application for a Service Station be refused.

Related Parties

- Landowners – Samuel Scriha and Janette Stebbeings
- Applicant – Brisbane Prestige Property Developments
- Planning Consultant – Viva Property Group
- Other Consultants – PTT Traffic and Transport Engineering, Projex Partners, Foresight Partners, Verve Building Design Co.
- Referral Agency – State Assessment Referral Agency (SARA)

Corporate Plan Linkage

Live and Visit

Live, Visit and Play - We have a diverse mix of accessible spaces to live, visit and play.

Places and Spaces - We provide well planned and designed places, facilities and infrastructure that meet the needs of our residents and visitors.

Subject Site

The subject site consists of three parcels of land located on the corner of Nebo Road and Lagoon Street, approximately 3km southwest from the Mackay CBD. Each parcel currently contains a Dwelling House. The subject site is zoned Medium density residential, is rectangular in shape, and has an area of 2,551m².

The subject site is surrounded by Dwelling Houses and a Motel to the north, Dwelling Houses and a Motel to the east (across Nebo Road), Dwelling Houses to the south (across Nebo Road), and a Mackay Regional Council

water treatment plant to the west (across Lagoon Street). Like the subject site, the surrounding Dwelling Houses and Motels are within the Medium density residential zone and the water treatment plant is within the Special purpose zone. Other nearby land uses include the region's Botanic Gardens to the northwest and Catherine McAuley College to the southwest. The Blue Water Trail (a bike and pedestrian shared pathway that circles the urban area of Mackay south of the Pioneer River) is also in proximity to the site.

Refer to Attachment 1 – Locality and Zoning Plans.

Background

There is no planning history for the subject site.

Under all previous versions of the Planning Scheme (since its adoption in July 2017) the land has been zoned Medium density residential. Prior to this, under the superseded Mackay City Planning Scheme (in effect from March 2006) the land was zoned Urban residential. Under the historic Transitional Planning Scheme (in effect from May 1999) the land was also zoned Urban residential.

Proposal

The Applicant proposes the development of a Service Station over the three parcels of land comprising the subject site.

Specifically, the proposal includes:

- 24 hour operation
- left-in and left-out vehicle access to both Lagoon Street and Nebo Road
- a 240m² Service Station building
- 3 bowzers with 6 car refuelling positions
- 2,052m² of impervious area
- 10 car parking spaces
- fuel vents on Lagoon St frontage.

Refer to Attachment 2 – Proposal Plans.

Referrals

The Development Application was referred to the State Assessment Referral Agency (SARA) for assessment of the relevant State interests. For this application the State interest is the development's impacts on Nebo Road, Lagoon Street and the intersection of the two roads as these roads and the intersection are State controlled.

On 2 February 2023, SARA provided its referral agency response approving the application subject to conditions. The approved access arrangement is a left-in/left-out to both the Nebo Road and Lagoon Street frontages with a raised median to be constructed and extending along Lagoon Street to prevent right-out movements.

The reasons provided by SARA for its decision are as follows:

- *'The proposal does not create a safety hazard for users of the state-controlled road; and*
- *The proposal does not result in a worsening of the physical condition or operating performance of the state-controlled road.'*

Refer to Attachment 3 - Referral Agency Response.

Planning Assessment

Planning Act 2016 and Planning Regulation 2017

As per s45(5) of the *Planning Act 2016* an impact assessment is an assessment that:

- a) Must be carried out:
 - i) Against the assessment benchmarks in a categorising instrument for the development, and
 - ii) Having regard to any matters prescribed by regulation for this subparagraph, and
- b) May be carried out against, or having regard to, any other relevant matter, other than a person's personal circumstances, financial or otherwise.

Sections 29-31 of the *Planning Regulation 2017* prescribe the assessment benchmarks and matters impact assessment must have regard to which has been upheld during this assessment.

State Planning Policy July 2017 – Water Quality

The Minister has identified that the Planning Scheme appropriately advances the State Planning Policy July 2017, as it applies in the Planning Scheme area other than for water quality. The assessment benchmarks for water quality apply where the development application is for:

- 1) A Material Change of Use for an urban purpose that involves premises 2,500m² or greater in size and:
 - a) Will result in six or more Dwellings, or
 - b) Will result in an impervious area greater than 25% of the net developable area, or
- 2) Reconfiguring a Lot for an urban purpose that involves premises 2,500m² or greater in size and will result in six or more lots, or
- 3) Operational Works for an urban purpose that involves disturbing a land area 2,500m² or greater in size.

Assessment Benchmark	Officer's Assessment
(2) Development achieves the applicable stormwater management design objectives outlined in tables A and B (Appendix 2) of the State Planning Policy July 2017.	Development conditions can be applied to ensure compliance with the development outcomes of the State Planning Policy for the purposes of water quality.

Mackay Isaac Whitsunday Regional Plan 2012

The Minister has identified that the Planning Scheme appropriately advances the Mackay Isaac Whitsunday Regional Plan 2012, as it applies in the Planning Scheme area. As such, an assessment is not required.

Mackay Region Planning Scheme 2017 v4.0 (Planning Scheme)

Assessment of the proposal has been undertaken against the relevant assessment benchmarks within the Planning Scheme. Where the proposal is considered to generally comply, a statement of compliance has been provided. However, where compliance has been unable to be achieved with one or more of the relevant provisions, a more detailed assessment is provided below.

Assessment Benchmark	Code Compliance
Strategic Framework	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Medium Density Residential Zone Code	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Acid Sulfate Soils Overlay Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Bushfire Hazard Overlay Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Flood and Coastal Hazards Overlay Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Landscape Character and Image Corridor Overlay Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Service Station and Car Wash Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
General Development Requirements Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Healthy Waters Code	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Strategic framework

The proposed development conflicts with the policy direction of the Planning Scheme as expressed in Part 3 – Strategic framework.

The policy direction in the Strategic framework encourages higher residential densities in locations adjoining major transport corridors, public transport routes and near to areas of high amenity (e.g. the Mackay Regional Botanic Gardens).

Specifically, the proposal is inconsistent with:

- 3.2.2 – Growth management and urban consolidation
- 3.3.1 – Settlement pattern – (1)(d) and (e)
- 3.3.1 – Settlement pattern – (6)
- 3.3.5.1 – Compact urban form – (4)
- 3.3.7 – Higher density residential development – (1)

The subject site is zoned for higher residential densities as it meets the above policy direction of the Planning Scheme, i.e. the site adjoins a major transport corridor, is located on a public transport route and is near to an area of high amenity (Mackay Regional Botanic Gardens). The proposed Service Station development does not work towards achieving the desired outcome for the land.

Medium density residential zone code

The proposal is inconsistent with the purpose of the zone and the relevant performance outcomes and overall outcomes. Further, compliance with the relevant performance outcomes and overall outcomes cannot be achieved by applying development conditions. A detailed assessment of the proposal against the relevant provisions of the zone code is provided below.

The proposal represents a non-residential use in the Medium density residential zone. The relevant provisions for non-residential uses proposed in the zone are shown below.

<p>Overall outcome 3(a)(iii)</p> <p><i>A limited range of <u>small-scale and low intensity</u> non-residential uses may be appropriate if these uses are:</i></p> <ul style="list-style-type: none"> <i>a) <u>required to serve the needs of the local area</u>; and</i> <i>b) <u>located on prominent, highly accessible sites</u>; and</i> <i>c) <u>consistent with the amenity and character of the surrounding urban area</u>;</i>
<p>Performance outcome 3</p> <p><i>Non-residential activities, such as centre activities and community activities, are:</i></p> <ul style="list-style-type: none"> <i>a) <u>required to serve the needs of the local area</u> and do not compromise the viability of:</i> <ul style="list-style-type: none"> <i>i) <u>existing or intended uses within a multi-purpose centre</u>; and</i> <i>ii) <u>similar existing or approved uses in the local area</u>; and</i> <i>b) <u>of a small scale</u> and are <u>subordinate</u> to the primary residential character of the area; and</i> <i>c) <u>generate minimal impacts</u>.</i> <p><i>*underline added to relevant phrases and terms</i></p>

To achieve compliance with the above provisions, the proposed development must demonstrate the use is small scale and low intensity, that the non-residential use is required to serve the needs of the local area, is located on prominent and highly accessible sites, and is consistent with the amenity and character of the surrounding urban area. The four matters are discussed below.

- a) Small scale, low intensity, subordinate

The proposed Service Station is not considered small scale, low intensity or subordinate to the primary residential character of the area based on the following:

- i) The proposed development takes up three Medium density residential zone lots;
- ii) The proposed development attracts approximately 273 vehicles per day on average (per the applicant's traffic impact assessment); and
- iii) The proposed development attracts heavy vehicles onsite (waste collection, fuel delivery, stock delivery).

b) Serving the needs of the local area

The Applicant submitted a report, prepared by Foresight Partners, assessing the need for a Service Station in this location. The Foresight Partners report concludes there is a need for the Service Station. Council engaged Norling Consulting to conduct a peer review of Foresight Partners report. The peer review concludes that the Foresight Partners report does not demonstrate there is a need in the local area for a Service Station. Based on the two reports, Council officers make the following comments on need:

- i) The Foresight Partners report identified 16 existing Service Stations within the primary trade area (PTA) for the proposed Service Station. There are, in fact, 17 Service Stations, with one under construction at 2-4 Empire Street, Paget, that were not included.
- ii) The PTA has a current population of 26,295 persons and 17 Service Stations, representing a ratio of one Service Station per 1,547 persons. This is a high ratio considering the Australian Petroleum Institute identifies sufficient provision as one Service Station per 4,000 persons. The catchment therefore appears oversupplied.
- iii) Generally, it is difficult to understand how there is latent unsatisfied need for a Service Station in the proposed location given:
 - Within 800m north along Nebo Road there are two Service Stations servicing both northbound and southbound traffic (144 Nebo Rd and 153 & 155 Nebo Rd).
 - Within 1km south along Nebo Road there are two Service Stations servicing both northbound and southbound traffic (324 Nebo Road and 1 Broadsound Road).
 - There are four other proximate Service Stations, each accessible without leaving arterial roads or urban areas (1-3 Empire St, 2-4 Empire St, 67-79 Boundary Rd, and 7 Connors Rd).
 - There are 9 other Service Stations within the PTA.
- iv) The Foresight Partners report concludes the proposed Service Station can operate viably and attain a market share. This is noted, however, demonstrating the proposed Service Station can trade viably is not the same as demonstrating there is a need for a Service Station in this location that is not currently being met.
- v) The Foresight Partners report identifies alternative sites that are appropriately zoned for the proposed development (ie. the District centre zoned land at 107-115 Nebo Road) but discounts the land due to it not being vacant (the land contains dwelling houses) or on the market. It is unclear how this is relevant when the proposal is relying on residential land for commercial development. On this basis the alternative land identified and discounted by the Applicant is considered by Council to be a valid for use as a Service Station.
- vi) The Foresight Partners report makes no mention of the Mackay Ring Road and its implications on the need or demand for the proposed Service Station.

- vii) The Applicant has not provided any evidence of residents needing to queue at existing Service Stations within the PTA to obtain fuel, nor evidence of any inconvenience or lack of choice in accessing fuel for their vehicles.

Based on the above, the Applicant has not demonstrated that there is a need for the proposed Service Station in this location that is not currently being met.

- c) Located on prominent and highly accessible sites

It is acknowledged the proposed Service Station is located on a prominent and accessible site.

- d) Consistency with the amenity and character of the surrounding urban area

The proposal is not considered to be consistent with the amenity and character of the surrounding urban area based on the following observations:

- i) The northern corner of the intersection contains land in the Medium density residential zone and consists of detached residential Dwelling Houses and uses consistent with the Medium density residential zone (ie. accommodation uses, home-based businesses).
- ii) The eastern corner of the intersection contains land in the Medium density residential zone and consists of detached residential Dwelling Houses and uses consistent with the Medium density residential zone (ie. accommodation uses).
- iii) The southern corner of the intersection contains land in the Medium density residential zone and consists of detached residential uses.
- iv) The western corner of the intersection contains land in the Special purpose zone and consists of a water treatment plant. The argument that the surrounding residential area is already compromised by the water treatment plant is not accepted. The existence of the water treatment plant on one corner of the intersection is not justification for new commercial development on the opposite side of an arterial road, in land zoned for residential uses and that is so far uncompromised by uses inconsistent with the zone.

On this basis the proposal is in conflict with the relevant performance outcome and overall outcome. Such an inconsistency required the proposal to be assessed against the purpose of the zone, which is provided in full below.

Purpose
<i>The purpose of the medium density residential zone is to provide for:</i> <ul style="list-style-type: none"><i>a) medium density multiple dwellings; and</i><i>b) community uses, and small-scale services, facilities and infrastructure, to support local residents.</i>

The proposed development does not form medium density multiple dwellings nor does it represent development similar to medium density multiple dwellings. Further, the proposed development is not a community use or small scale.

The discussion above demonstrates the proposal is inconsistent with key development outcomes of the Medium density residential zone code. Further, compliance with the development outcomes cannot be achieved by applying development conditions.

Overlay codes

Development conditions can be applied to ensure the development outcomes of the following overlay code are achieved:

- Acid sulfate soils overlay code
- Bushfire hazard overlay code
- Flood and coastal hazards overlay code
- Landscape character and image corridor overlay code.

Refer to Attachment 4 – Planning Scheme Overlay Mapping.

Service station and car wash code

The proposal is generally compliant with the development outcomes of the code. Where there are non-compliances, development conditions can be applied to achieve compliance.

General development requirements code

The proposal is generally compliant with the development outcomes of the code. Where there are non-compliances, development conditions can be applied to achieve compliance.

Healthy waters code

Development conditions can be applied to ensure the development outcomes of the code are achieved.

Other Relevant Matters

In accordance with s45(5)(b) of the *Planning Act 2016*, Council, in its assessment, may consider other relevant matters.

It is acknowledged that non-compliance with the Planning Scheme does not necessarily result in the refusal of a development. However, in undertaking the necessary balancing exercise in the determination of whether the proposal has merit despite the non-compliance with the Planning Scheme, Council has not identified any relevant matters of support, and nor has the Applicant provided any.

Public Notification and Submissions

The application was publicly notified in accordance with the *Planning Act 2016*. Specifically, a notice was published in a local paper, adjoining landowners were notified directly and a sign was placed on each road frontage of the subject site for a period of 15 business days in February 2023.

Council received the following properly made submissions:

- 7 petitions (totalling 219 signatures)
- 192 submissions

Council received 6 not properly made submissions.

No submissions or petitions were in support of the proposed development.

The table below details the various concerns raised by the submitters.

Matter raised submissions	Officer's comments
Lack of need	The submissions raised concerns regarding a lack of need for a Service Station in this location considering the number of existing Service Stations within a close radius.

	<p>The Planning Scheme requires the Applicant to demonstrate need for the proposed development as one of the criteria required to allow non-residential uses in the Medium density residential zone. As discussed in detail in this report, the applicant has not demonstrated there is a need for the proposed Service Station in this location.</p> <p>This lack of need contributes to the recommended reasons for refusal, detailed below.</p>
Traffic impacts	<p>The submissions raised concerns regarding adverse traffic impacts resulting from the proposed Service Station at this location. Specifically, concerns were raised with the performance of the intersection of Nebo Road and Lagoon Street.</p> <p>Nebo Road, Lagoon Street and the intersection of the two roads are State-controlled. As such, assessment of traffic impacts of the proposed development is under the jurisdiction of the SARA and its assessment benchmarks.</p> <p>The application was referred to SARA as stipulated by the <i>Planning Regulation 2017</i>. SARA provided their formal referral agency response which approved the development, subject to conditions (refer to Attachment 3 – Referral Agency Response).</p>
Pedestrian safety	<p>The submissions raised concerns about the proposed development's impacts on pedestrian safety immediately adjacent the site (ie. the Blue Water Trail) and further surrounds (ie. Catherine McAuley College and Botanic Gardens).</p> <p>The pedestrian movements impacted by the proposed Service Station occur within the bounds of the two State-controlled roads and their intersection. In these areas, SARA's assessment benchmarks apply rather than Council's. SARA provided their formal referral agency response which approved the development, subject to conditions (refer to Attachment 3 – Referral Agency Response).</p>
Inconsistency with zoning	<p>The submissions raised concerns about the proposed Service Station's inconsistency with the zoning of the subject site, stating specifically that <i>'this is a residential suburb of particular character'</i>.</p> <p>Council officers agree with the submissions on this matter and have concluded the proposal is not consistent with the key provisions of the Medium density residential zone code, of which the character of the surrounding area is a consideration. This inconsistency contributes to the recommended reasons for refusal, detailed below.</p> <p>Refer to the detailed assessment against the zone code above.</p>
Impacts on residential amenity (noise, odour, air quality)	<p>The submissions raised concerns about the impacts the proposed Service Station would have on residential amenity.</p> <p>Regarding noise impacts, the Applicant provided an acoustic report prepared by Simpson Engineering Group which concluded noise impacts could be mitigated to acceptable standards by the provision of a 2m acoustic barrier along the northern and eastern</p>

	<p>boundaries of the site, as well as limiting waste collection to between the hours of 7am and 10pm.</p> <p>Regarding air quality and odour impacts, the applicant provided an air quality assessment prepared by Simpson Engineering Group. The report concludes, <i>‘the air quality and odour at the proposed development boundary readily meets all air quality and odour goals’</i>, referring to the use of standard vapour recovery methods to meet air quality objectives in the <i>Environmental Protection (Air) Policy 2019</i>.</p> <p>Compliance with the relevant Queensland standards could be achieved by applying development conditions to ensure impacts on surrounding residents are mitigated.</p>
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Infrastructure Agreement, Trunk Conditions and Offsets

Not applicable.

Levied Charges

Not applicable as the application is recommended for refusal.

Consultation and Communication

Refer to the public notification and submissions section of this report.

Resource Implications

There are no resource implications for Council arising from this proposal.

Risk Management Implications

In the circumstances of refusal, there is a risk that an appeal could be lodged by the Applicant in the Planning and Environment Court against Council’s decision. Alternatively, should the application be approved, there is the risk that an appeal could be initiated by submitters. Either outcome would give rise to costs for Council as it would be required to participate in any appeal proceedings.

Conclusion

Based on the non-compliance with the Planning Scheme (noting that compliance cannot be achieved by applying development conditions) and the concerns raised by submitters, Council officers are recommending the proposed Service Station application be refused.

Officer’s Recommendation

In accordance with s60(3) of the *Planning Act* 2016, it is recommended that Council refuse the Development Application for a Development Permit for a Material Change of Use for a Service Station over land at 214 and 216 Nebo Road, and 2 Lagoon Street West Mackay (formally described as Lots 1 and 2 on RP715178 and Lot 63 on RP732833) based on the following reasons:

1. Non-compliance with the policy direction

The proposal is not compliant with the Strategic framework of the Mackay Region Planning Scheme v4.0.

The policy direction in the Strategic framework encourages higher residential densities in locations adjoining major transport corridors, public transport routes, and near to areas of high amenity (e.g. Mackay Regional Botanic Gardens).

The subject site is zoned for higher residential densities as it meets the above policy direction of the Planning Scheme, i.e. the site adjoins a major transport corridor, is located on a public transport route, and is near to an area of high amenity (Mackay Regional Botanic Gardens). The proposed Service Station development does not work towards achieving the desired outcome for the land.

2. Non-compliance with the zone

The proposal is not compliant with the key development outcomes sought for the land by the Medium density residential zone code of the Planning Scheme.

The proposed Service Station represents a proposal for a non-residential land use in a residential zone. Performance outcome 3 and overall outcome 3(a)(iii) of the zone code permit non-residential uses in the zone only where it can be demonstrated that the proposed non-residential use is small scale and low intensity, required to serve the needs of the local area, located on prominent and highly accessible sites, and consistent with the amenity and character of the surrounding urban area. The Applicant has not demonstrated the proposed Service Station complies with these requirements and therefore cannot achieve compliance with the zone code.

3. Unable to achieve the development outcomes through development conditions

Compliance with the abovementioned development outcomes for the land cannot be achieved by imposing development conditions.

4. Other relevant matters

In undertaking the necessary balancing exercise in the determination of whether the proposal has merit despite the non-compliance with the Planning Scheme, Council has not identified any relevant matters in support of the proposal and nor has the applicant provided any.

Mr Gerry Muscat addressed Council in relation to this matter from the public gallery, listing a number of reasons in objection to the proposal for the development.

Council Resolution ORD-2023-132

In accordance with s60(3) of the *Planning Act* 2016, it is recommended that Council refuse the Development Application for a Development Permit for a Material Change of Use for a Service Station over land at 214 and 216 Nebo Road, and 2 Lagoon Street West Mackay (formally described as Lots 1 and 2 on RP715178 and Lot 63 on RP732833) based on the following reasons:

1. Non-compliance with the policy direction

The proposal is not compliant with the Strategic framework of the Mackay Region Planning Scheme v4.0.

The policy direction in the Strategic framework encourages higher residential densities in locations adjoining major transport corridors, public transport routes, and near to areas of high amenity (e.g. Mackay Regional Botanic Gardens).

The subject site is zoned for higher residential densities as it meets the above policy direction of the Planning Scheme, i.e. the site adjoins a major transport corridor, is located on a public transport route, and is near to an area of high amenity (Mackay Regional Botanic Gardens). The proposed Service Station development does not work towards achieving the desired outcome for the land.

2. Non-compliance with the zone

The proposal is not compliant with the key development outcomes sought for the land by the Medium density residential zone code of the Planning Scheme.

The proposed Service Station represents a proposal for a non-residential land use in a residential zone. Performance outcome 3 and overall outcome 3(a)(iii) of the zone code permit non-residential uses in the zone only where it can be demonstrated that the proposed non-residential use is small scale and low intensity, required to serve the needs of the local area, located on prominent and highly accessible sites, and consistent with the amenity and character of the surrounding urban area. The Applicant has not demonstrated the proposed Service Station complies with these requirements and therefore cannot achieve compliance with the zone code.

3. Unable to achieve the development outcomes through development conditions

Compliance with the abovementioned development outcomes for the land cannot be achieved by imposing development conditions.

4. Other relevant matters

In undertaking the necessary balancing exercise in the determination of whether the proposal has merit despite the non-compliance with the Planning Scheme, Council has not identified any relevant matters in support of the proposal and nor has the applicant provided any.

Moved Cr Bella

Seconded Cr Townsend

CARRIED UNANIMOUSLY

Attachment 1 - Locality and Zoning Plans



Legend

- Locality Labels
- Property Boundaries
- Parcel Boundaries
- Road Boundaries



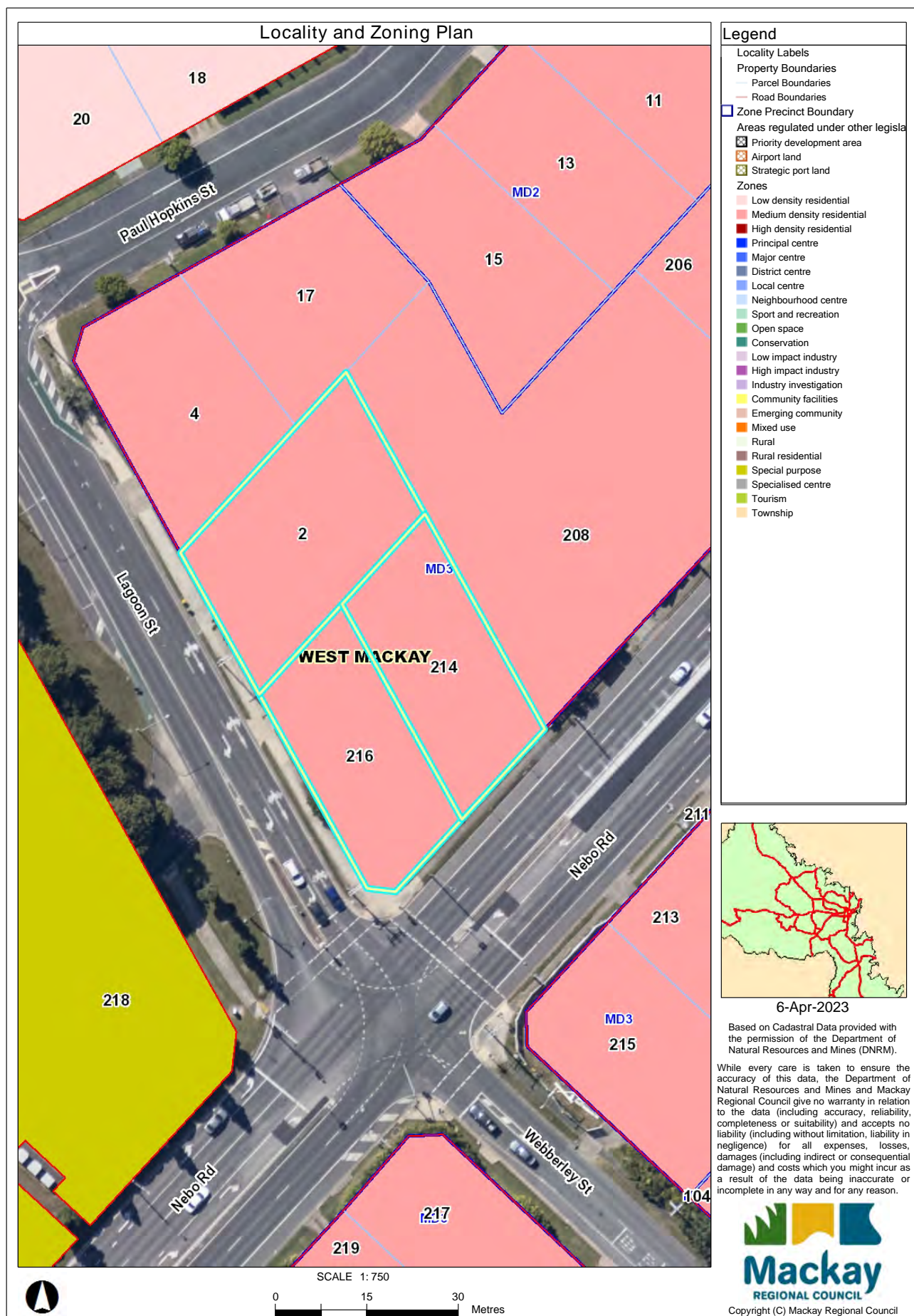
6-Apr-2023

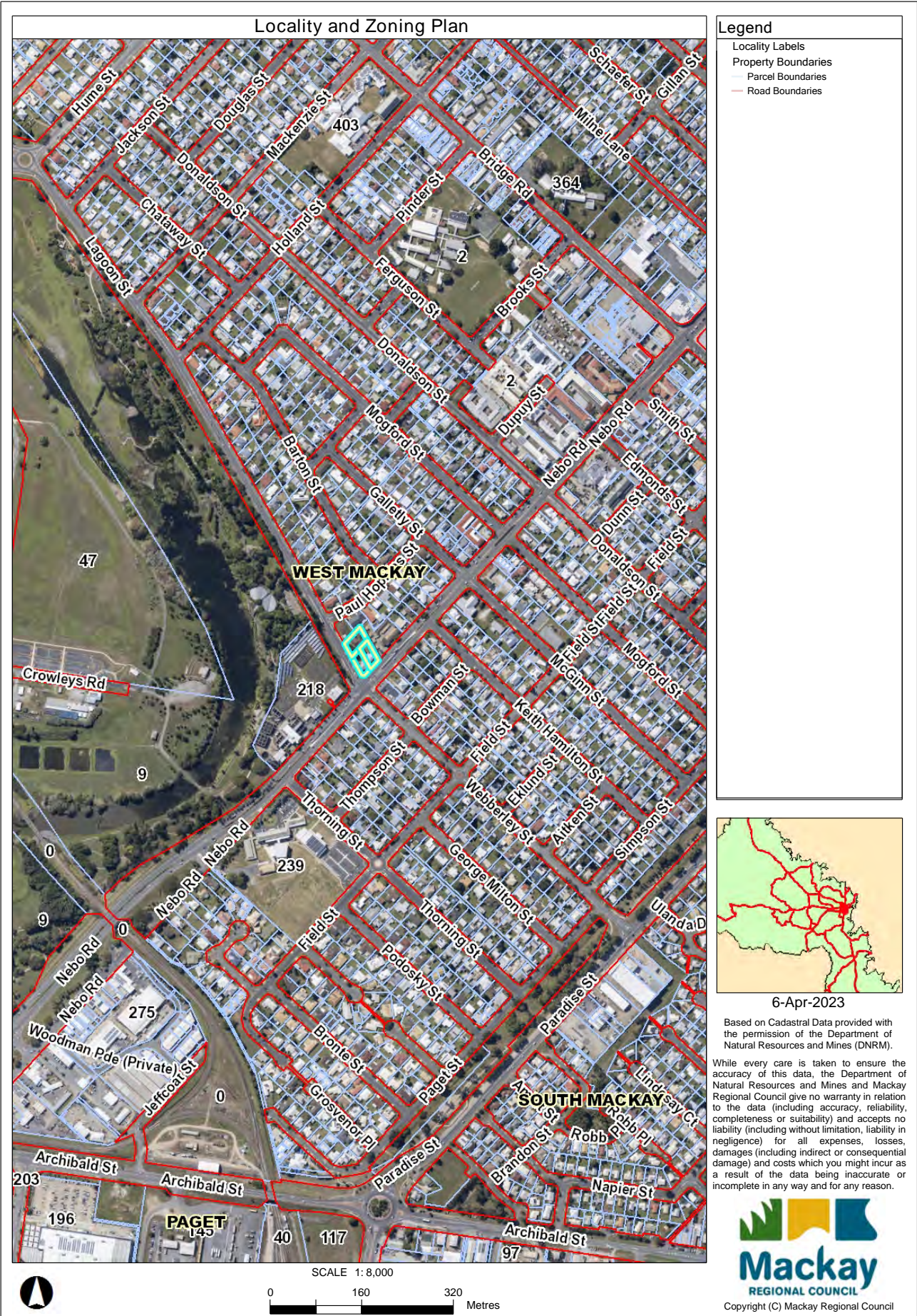
Based on Cadastral Data provided with the permission of the Department of Natural Resources and Mines (DNRM).

While every care is taken to ensure the accuracy of this data, the Department of Natural Resources and Mines and Mackay Regional Council give no warranty in relation to the data (including accuracy, reliability, completeness or suitability) and accepts no liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.



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DEVELOPMENT APPLICATION DRAWINGS

PROPOSED SERVICE STATION DEVELOPMENT

214-216 NEBO ROAD, WEST MACKAY

DA ISSUE
**THIS DRAWING IS NOT
FOR CONSTRUCTION**



3D PERSPECTIVE FOR ILLUSTRATION ONLY

ARCHITECTURAL DRAWINGS	
DWG. No.	DRAWING TITLE
D440	COVER PAGE
D441	EXISTING/PROPOSITION PLAN
D442	PROP. SITE PLAN
D443	PROP. FLOOR PLAN
D444	BUILDING ELEVATIONS
D445	BUILDING ELEVATIONS
D446	BUILDING PERSPECTIVES

[illegible]

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2. ALL DIMENSIONS MEASURED FROM FINISHED GROUND FLOOR LEVEL UNLESS NOTED OTHERWISE
3. ALL STORAGE INCLUDING LOCATIONS AND HEIGHTS ARE SUBJECT TO A SEPARATE STORAGE APPLICATION AND APPROVAL BY LOCAL AUTHORITY
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[illegible]

[illegible]



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Attachment 3 - Referral Agency Response

RA6-N

RECEIVED: 02 Feb, 2023



SARA reference: 2212-32437 SRA
Council reference: DA-2022-226
Applicant reference: 220058

2 February 2023

Chief Executive Officer
Mackay Regional Council
PO Box 41
Mackay QLD 4740
development.services@mackay.qld.gov.au

Attention: Brogan Jones

Dear Brogan

**SARA referral agency response—214 and 216 Nebo Road,
West Mackay; 2 Lagoon Street, West Mackay**

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 22 December 2022.

Response

Outcome:	Referral agency response – with conditions
Date of response:	2 February 2023
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development permit	Material change of use for Service station
SARA role:	Referral agency	
SARA trigger:	10.9.4.2.4.1 Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	

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2212-32437 SRA

Development application for a material change of use within 25m of a state transport corridor.

SARA reference: 2212-32437 SRA

Assessment manager: Mackay Regional Council

Street address: 214 Nebo Road, West Mackay; 216 Nebo Road, West Mackay; 2 Lagoon Street, West Mackay

Real property description: Lot 1 on RP715178; Lot 2 on RP715178; Lot 63 on RP732833

Applicant name: Brisbane Prestige Property Developments Pty Ltd

Applicant contact details: C/- Viva Property Group Pty Ltd
PO Box 419
Indooroopilly QLD 4068
info@vivapropertygroup.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR23-038302
- Date: 31 January 2023

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Mackay.Whitsunday.IDAS@tmr.qld.gov.au

Human Rights Act 2019 considerations: A consideration of the 23 fundamental human rights protected under the Human Right Act 2019 has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

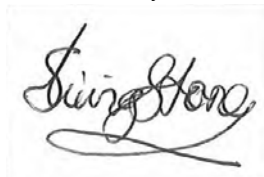
Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Leah Harris, Principal Planning Officer, on 07 3035 2071 or via email MIWSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Duncan Livingstone
A/Manager (Planning)



2212-32437 SRA

cc Brisbane Prestige Property Developments Pty Ltd, info@vivapropertygroup.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

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2212-32437 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material Change of Use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport of Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	The proposed development must be carried out generally in accordance with the following plan: (a) Prop. Site Plan prepared by VERVE, dated 21.11.2022, reference 22147 DA02, revision A, as amended in red by SARA.	Prior to the commencement of use and to be maintained at all times
2.	(a) Stormwater management of the development must not cause worsening to the operating performance of the State-controlled Road network, such that any works on the land must not: (i) create any new discharge points for stormwater runoff onto the State-controlled Road network. (ii) concentrate or increase the velocity of flows to the State-controlled Road network. (iii) interfere with and/or cause damage to the existing stormwater drainage on the State-controlled Road network. (b) Submit RPEQ certification with supporting documentation to the Mackay Office at Mackay.Whitsunday.IDAS@tmr.qld.gov.au of the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.	(a) At all times (b) Within 20 business days of the completion of works
3.	(a) The road access locations are to be restricted to left in left out only and are to be located generally in accordance with the Prop. Site Plan prepared by VERVE, dated 21.11.2022, reference 22147 DA02, revision A, as amended in red by SARA. (b) Road access works comprising an AUL(s) configuration at the Nebo Road access location and a concrete central median in Lagoon Street must be provided generally in accordance with the Prop. Site Plan prepared by VERVE, dated 21.11.2022, reference 22147 DA02, revision A, as amended in red by SARA. (c) The road access works must be designed and constructed in accordance with DTMR's Road Planning and Design Manual and Austroads Guide to Road Design.	(a) At all times (b) and (c) Prior to the commencement of use

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2212-32437 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.
2.	Road Access Works Approval Required – Written approval is required from the Department of Transport and Main Roads to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads at Mackay.Whitsunday.IDAS@tmr.qld.gov.au to make an application.
3.	Any signage proposed as part of the development must be in accordance with the Department of Transport and Main Roads' Roadside Advertising Manual. This referral agency response is not an endorsement or approval of any advertising devices/signage.

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2212-32437 SRA

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA's decision are:

The development, subject to inclusion of conditions, has been found to comply with the State Development Assessment Provisions (SDAP) State code 1 – Development in a state-controlled road environment, v3.0. In particular, the development as conditioned:

- The proposal does not create a safety hazard for users of the state-controlled road; and
- The proposal does not result in a worsening of the physical condition or operating performance of the state-controlled road.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

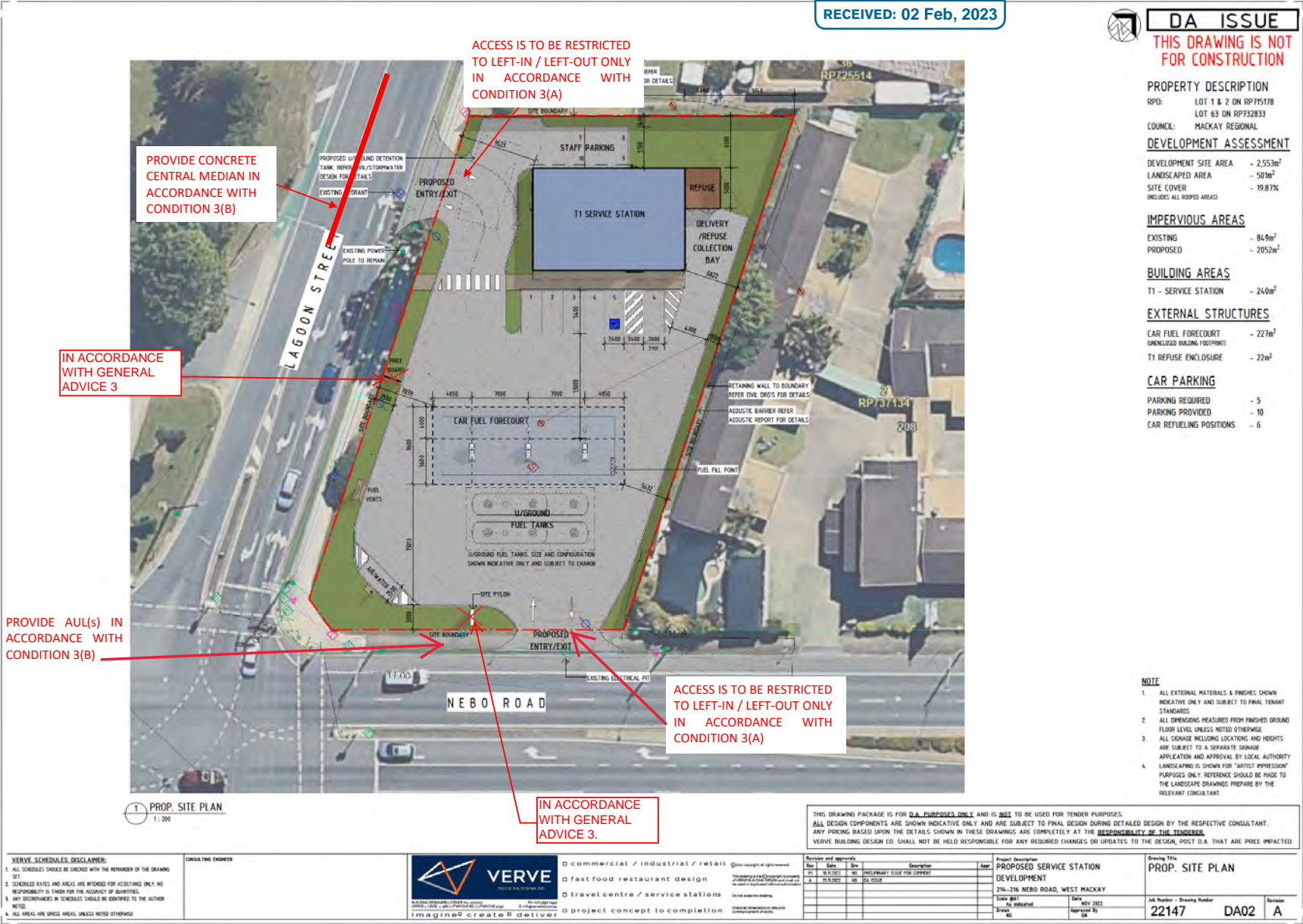
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2212-32437 SRA

Attachment 5—Documents referenced in conditions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

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Part 7: Miscellaneous

30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

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RECEIVED: 02 Feb, 2023

Our ref TMR23-038302
 Your ref 220058
 Enquiries Ross Young



31 January 2023

Department of
Transport and Main Roads

Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number DA-2022-226, lodged with Mackay Regional Council involves constructing or changing a vehicular access between Lot 1RP715178, 2RP715178, 63RP732833, the land the subject of the application, Glenella Connection Road (ID 530) (Lagoon Street) and the Bruce Highway (ID 10G) (Nebo Road), both state-controlled roads.

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address Brisbane Prestige Property Developments Pty Ltd
 PO Box 419
 Indooroopilly QLD 4068

Application Details

Address of Property 214 Nebo Road, West Mackay QLD 4740
 Real Property Description 1RP715178, 2RP715178, 63RP732833
 Aspect/s of Development Development Permit for Material Change of Use for Service Station

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
A. General		
1	The road access locations are to be located generally in accordance with the <i>Proposed Site Plan</i> prepared by <i>VERVE</i> dated 21.11.2022, reference 22147 DA02, revision A, as amended in red, in Attachment D.	At all times.
2	Road access works comprising an AUL(s) configuration at the Nebo Road access location and a concrete central median in Lagoon Street must be provided generally in accordance with the <i>Proposed Site Plan</i>	Prior to commencement of use.

¹ Please refer to the further approvals required under the heading 'Further approvals'

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No.	Conditions of Approval	Condition Timing
	prepared by <i>VERVE</i> dated 21.11.2022, reference 22147 DA02, revision A, as amended in red, in Attachment D.	
3	The road access works must be designed and constructed in accordance with DTMR's <i>Road Planning and Design Manual</i> and Austroads <i>Guide to Road Design</i> .	Prior to commencement of use.

Reasons for the decision

The reasons for this decision are as follows:

- a) To ensure safe access from the State-controlled Road network.
- b) To maintain the safety and efficiency of the State-controlled Road network.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

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1. Road Access Works Approval Required – Written approval is required from the Department of Transport and Main Roads to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads to make an application.

If further information about this approval or any other related query is required, Ross Young, Principal Officer (Corridor & Land Management) should be contacted by email at Mackay.Whitsunday.IDAS@tmr.qld.gov.au or on (07) 4951 8532.

Yours sincerely



for Pat Aprile
District Director

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

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Attachment A**Decision Evidence and Findings**

Findings on material questions of fact:

Access to both Nebo Road and Lagoon Street is proposed to be left-in / left-out only. Nebo Road has a central median that will prohibit right turn movements, but a concrete central median in Lagoon Street will be required to restrict the movements to left-in / left-out only.

Sight distance requirements at the proposed site access have been determined in accordance with Austroads' Guide to Road Design Part 4A: Unsignalised and Signalised Intersections (2017) and the Australian Standard AS2890.1:2004 Parking Facilities Part 1: "Off-Street Car Parking" (AS2890.1). Based on a posted speed limit of 60 km/h, the following sight distance requirements are relevant:

- Austroads: identifies a desirable safe intersection sight distance (SISD) of 123m (based on a two second driver reaction time).
- AS2890.1: a desirable sight distance of 69m and a minimum sight distance of 45m.

It is estimated that the Nebo Road driveway would achieve in excess of 200m available sight distance to the south. There would be around of 40m available sight distance to vehicles turning from Lagoon Street and Webberley Street, which is acceptable given that the speeds for vehicles negotiating these movements are likely to be in the order of 20km/h. There would be in excess of 200m available sight distance to the north at the Lagoon Street driveway.

The site accesses will be restricted to left-in / left-out movements. Accordingly, these accesses will operate well within acceptable limits and no formal analysis of the peak hour operations (ie SIDRA) at the site accesses has been undertaken.

The safety risks inherent on the existing state-controlled road network and associated with the addition of development generated traffic were scored using the risk scoring matrix outlined in TMR's GTIA. The following road safety risks associated with the development were identified –

- more left turns into Nebo Road driveway / increased driver confusion (rear end crash with left turn entry: DCA Code 302).
- more left turns out of Nebo Road driveway (side-swipe crashes with left turn exit: DCA Code 107).
- more left turns into Lagoon Street driveway (rear end crash with left turn entry: DCA Code 302).
- more left turns out of Lagoon Street driveway (side-swipe crashes with left turn exit: DCA Code 107).

The results of the risk assessment indicate no change in the overall risk is expected. Based on the results of the net worsening calculations and the road safety assessment, no additional mitigation measures are required, in accordance with the GTIA.

The Applicant proposes that the left-in / left out Nebo Road driveway would be supported by a 20m long AUL(S) treatment and left-in / left-out operations at the Lagoon Street driveway be enforced by a narrow (say 0.6m wide) raised concrete centre island.

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Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Town Planning Report	VIVA Property Group	November 2022	220058	Final
Traffic Impact Assessment	Pekol Traffic and Transport (PTT)	23 November 2022	23-026	Rev. A
Road Safety Assessment	Pekol Traffic and Transport (PTT)	23 November 2022	23-026	Rev. A
Engineering Services Report	ProjexPartners	November 2022	664-001	Rev. B
Proposed Site Plan	VERVE	21.11.2022	22147 DA02	Rev. A
State Development Assessment Provisions	DSDILGP	18 February 2022	-	Version 3.0
Guide to Traffic Impact Assessment (GTIA)	DTMR	December 2018	-	-
Vehicular access to state-controlled roads policy (version 1.0).	DTMR	July 2019	-	Version 1.0
Digital Video Recording Viewer	DTMR	21/03/2022	-	5.0
eDAM Interactive Map	DTMR	-	-	-

**Attachment B****Section 70 of TIA***Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
 - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

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Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
 - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.



- (5) The court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

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Transport Planning and Coordination Act 1994
Part 5, Division 2 – Review of Original Decisions

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.



(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

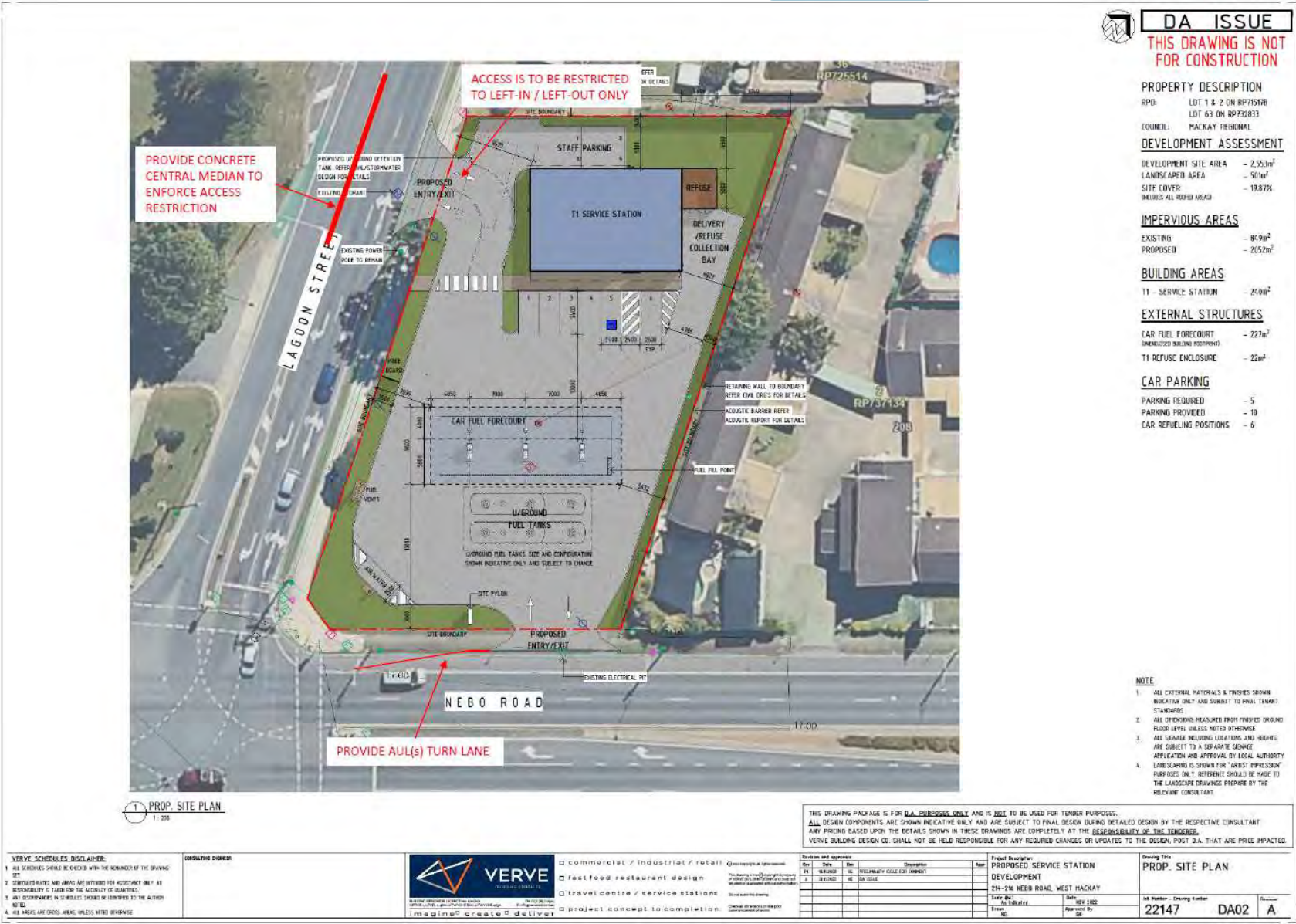
- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

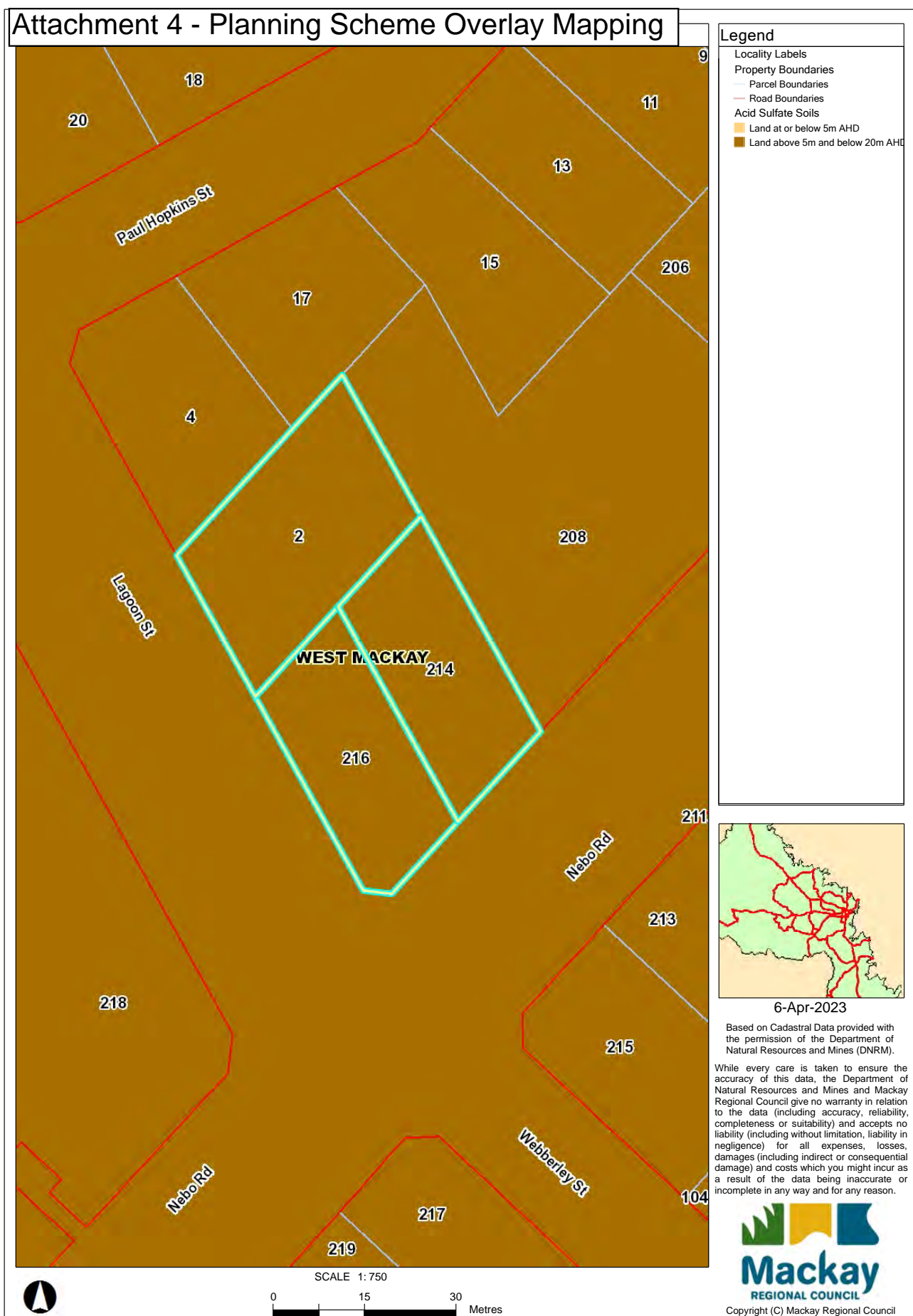
(2) However, if—

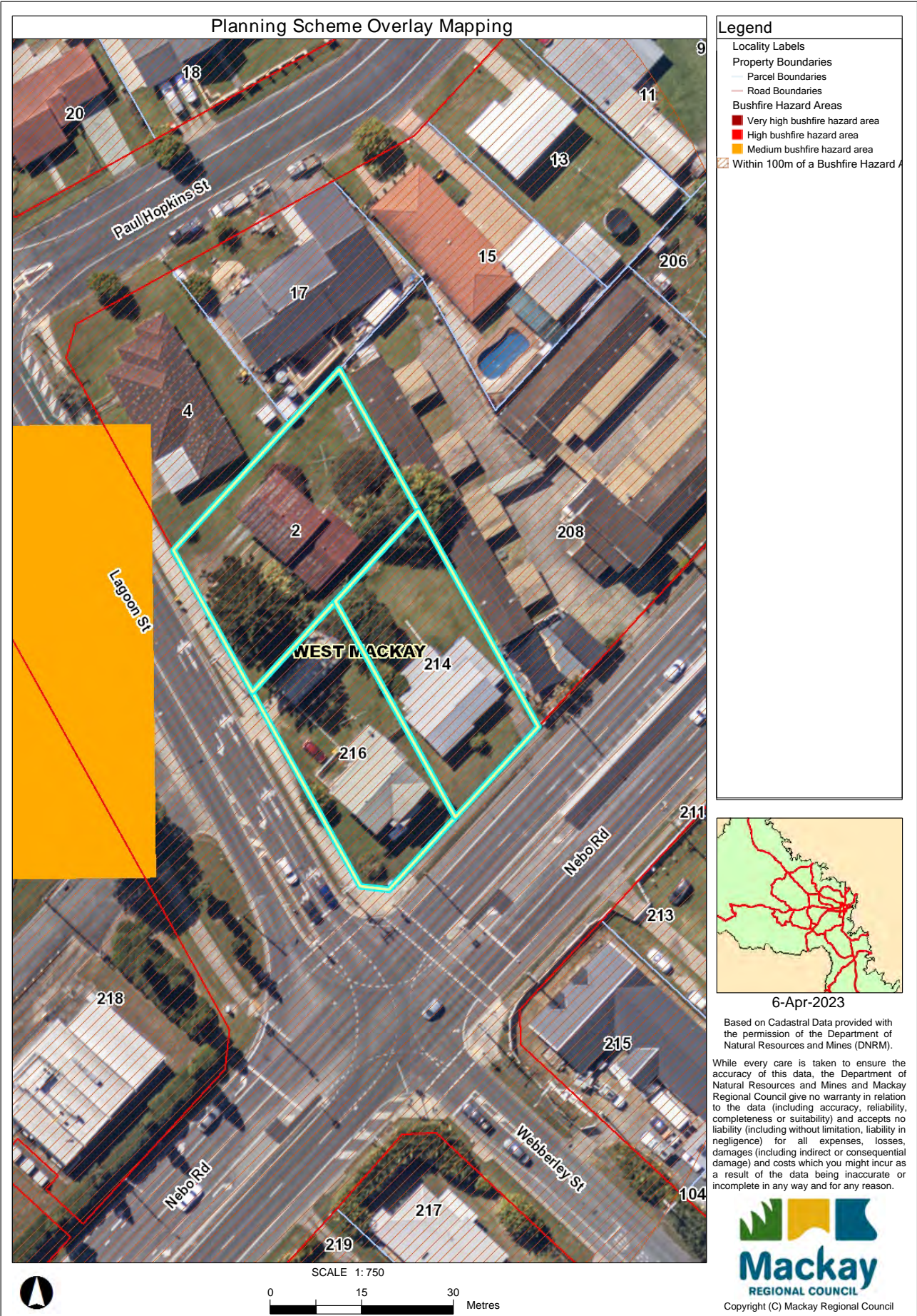
- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

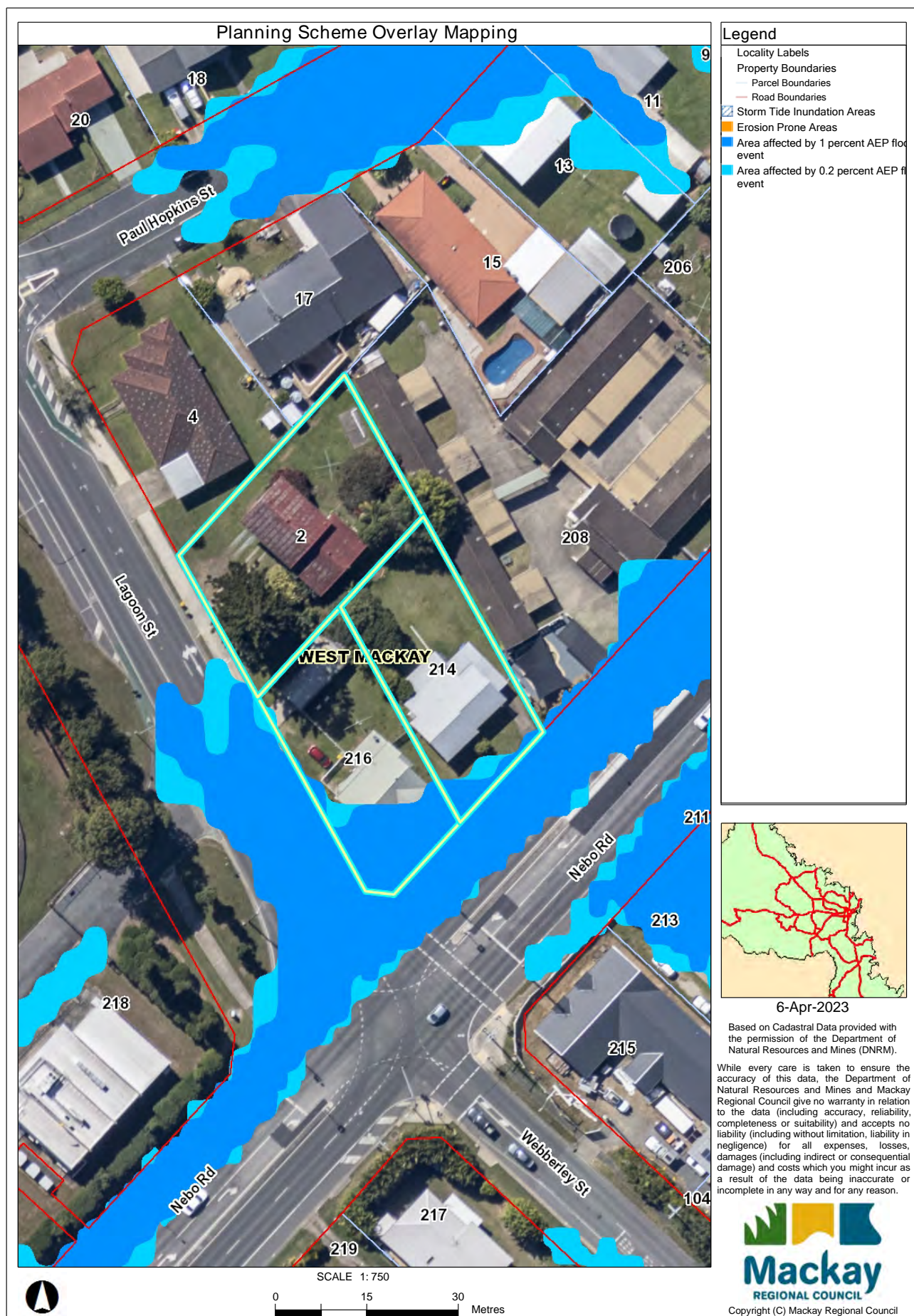
the person may apply within 28 days after the person is given a statement of the reasons.

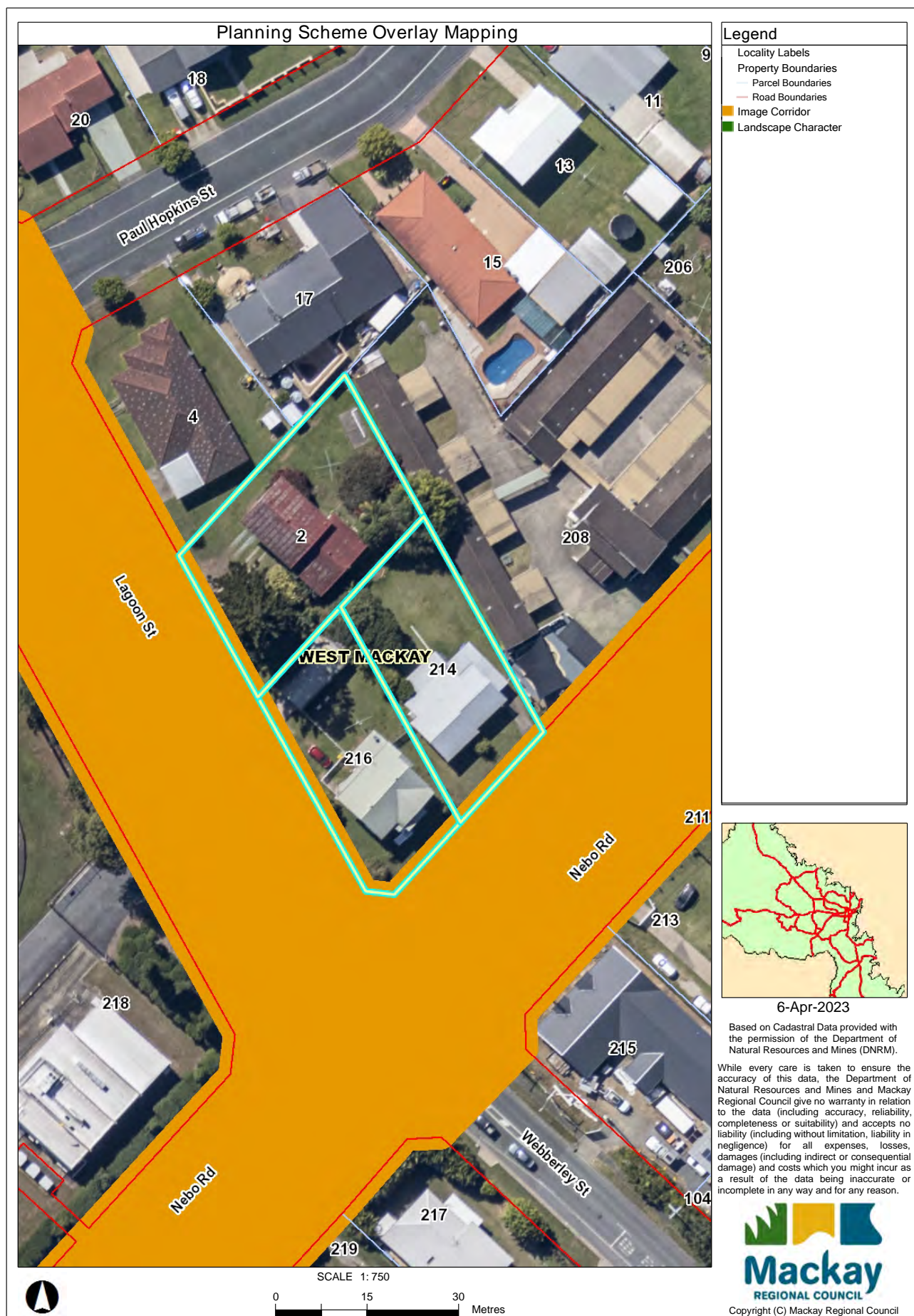
(3) Also, the appeal court may extend the period for appealing.











**11.2.2. FACILITATING DEVELOPMENT IN THE MACKAY REGION POLICY - EXTENSION TO APPROVAL
- ANDERGROVE LAKES PTY LTD - MACKAY ADVENTURE LODGE AND APARTMENTS - LOT
504 MICHIGAN WAY, ANDERGROVE**

Author Principal Economic Development Officer (Nadine Connolly)
Responsible Officer Director Development Services (Aletta Nugent)
File Reference Facilitating Development in the Mackay Region Policy

Attachments

1. Mackay Adventure Lodge and Apartments - Site Plans [11.2.2.1 - 9 pages]

Purpose

To assess a request for the extension of a current approval under the Facilitating Development in the Mackay Region Policy (Policy).

Related Parties

- Andergrove Lakes Pty Ltd
- Wake House Australia
- Mackay Cable Park Pty Ltd
- Kinneally Miley Law
- Mackay Adventure Tours and Transfers
- RPS Group (Town Planning Consultant)

Corporate Plan Linkage

Invest and Work

Diversified Economy - We have a diversified economy that attracts new and emerging industries, such as sport, tertiary education, health, tourism, agribusiness, biofutures industry, and the Mining Equipment Technology and Services (METS) sector.

Industries, Jobs and Growth - Our core industries are growing and prosperous, encouraged to innovate, create jobs, and drive growth.

Region of Choice - We are recognised as Australia's best region for attracting, retaining, and developing a skilled workforce.

Live and Visit

Community Participation and Active Lifestyles - Our region is vibrant and culturally rich, home to a wide variety of events, experiences and attractions.

Eco-Tourism Adventure and Leisure - We are a world-famous tourism destination, providing eco, adventure and water-based sport, recreation, and leisure opportunities.

Enhance Liveability - We have a range of housing and social infrastructure options that supports a great quality of life and wellbeing in our community.

Live, Visit and Play - We have a diverse mix of accessible spaces to live, visit and play.

Places and Spaces - We provide well planned and designed places, facilities and infrastructure that meet the needs of our residents and visitors.

Background/Discussion

Policy incentives were approved for Andergrove Lakes Pty Ltd on 28 April 2021. The development, Mackay Adventure Lodge and Apartments, included a Material Change of Use for Short-term Accommodation (5 dormitories and 16 double rooms) and Multiple Dwelling Units (10 x 2 bedroom). The development is located at Lot 504 Michigan Way, Andergrove (Lot SP271521) and Lot 500 Beaconsfield Road East, Andergrove (SP271521).

The Mackay Adventure Lodge and Apartments is an integrated tourism and residential development aimed to complement the existing cable water ski park facility. It comprises a tourist accommodation lodge and residential apartments in an attached building with shared vehicle access, services, garbage management and landscaping.

Approved incentives are as follows:

- a) Concession of 100% be applied against the net charge amount (calculated following annual adjustments and subtraction of any offsets and credits) on the Material Change of Use for Short-term Accommodation component, identified on the Infrastructure Charges Notice for DA-2020-103/A.
- b) Concession of 25% be applied against the net charge amount (calculated following annual adjustments and the subtraction of any offsets and credits) on the Material Change of Use for Multiple Dwelling component, identified on the Infrastructure Charges Notice for DA-2020-103/A.

AND THAT concessions are dependent on:

- c) The development must be completed and commenced use by 28 April 2023.
- d) No additional infrastructure costs incurred by Council (including establishment and bring forward costs).
- e) The developer utilising local contractors and suppliers.

The applicant formally submitted an extension request to Council on 16 March 2023, when they recognised that the approved incentive timeframe was unable to be met due to unforeseen delays.

Incentive Request

The applicant is requesting a six month extension to the existing approval.

The applicant has provided the following justification for delays resulting in the request for an extension:

- Local contractors experiencing a shortage of workers
- Delays in the supply of building materials.

The development is nearing completion with only minor external work remaining including balustrade, footpaths, screens, gate, signs, line-marking and landscaping. Final certification and council permits will be required prior to the commencement of use.

Investment in the development exceeds \$6 million to date.

Consideration of Request

In accordance with the Policy, Council may consider applications for an extension of up to 12 months for approved incentives, where the applicant can demonstrate that the development will be completed within the extended timeframe. A request for an extension must be made prior to the lapsing of the approved incentives.

General Eligibility Criteria

In response to the applicant's extension request, the application has been reassessed against the Policy. This assessment shows that the development continues to comply with the eligibility criteria in Schedule 4 Tourism Development and Schedule 7 Housing Diversity of the Policy, as demonstrated below:

Criteria	Eligibility
Timing of development	Construction is nearing completion with only minor external works remaining. The applicant anticipates the facility to be fully operational by July 2023.
Non-Government Development	Yes
Infrastructure capacity	The applicant has advised all required urban services are already provided to the site, and no external or trunk infrastructure upgrades will be required to service the proposed development.

Specific Eligibility Criteria

Based on information provided by the applicant, the development still satisfies the requirements under Schedule 4 Tourism Development and Schedule 7 Housing Diversity of the Policy:

Criteria	Eligibility
Economic Investment Schedule 4: There is no minimum capital investment. Schedule 7: The applicant must demonstrate that the minimum capital investment in the development is equal to or greater than \$500,000.	<ul style="list-style-type: none"> Original estimated construction cost of development was \$4.6M, however, the applicant has advised investment to date exceeds \$6million. The applicant continues to utilise local contractors and suppliers during construction of the development.
Employment Generation	<ul style="list-style-type: none"> The applicant's original projection of employment was as follows: <ul style="list-style-type: none"> Approximately 25 FTE workers for the construction period. Post construction, the applicant anticipates new permanent jobs will be created as a result of the additional accommodation facilities (5-13 jobs), requirement for additional seasonal employees at the Cable Ski Park (<25 could increase to 30-40 jobs) and commencement of tour bus operations (starting at 2 employees and growing to 6-8 employees with expansion to a second bus). Based on Council's original economic modelling, the project will generate 6 direct and 17 indirect jobs, totalling 23 jobs during construction.
Applicable Area Schedule 4: In urban areas, appropriately zoned land that supports the development of	The development is on appropriately zoned land in the urban area.

Criteria	Eligibility
<p>tourism uses or accommodation options that principally services short-stay needs.</p> <p>Schedule 7: Appropriately zoned land located within the Priority Infrastructure Area (PIA).</p>	
<p>Applicable Land Uses</p> <p>Schedule 4: The Policy applies to material change of use (MCU) for uses that are consistent with “applicable land uses” in Schedule 4 Tourism Development in urban areas.</p> <p>Schedule 7: The Policy applies to material change of use (MCU) for uses that are consistent with “applicable land uses” in Schedule 7 Housing Diversity.</p>	<p>The development DA-2020-103/A applies to a Material Change of Use for short-term accommodation in an urban area which is consistent with land uses identified under Schedule 4 Tourism Development in the Policy.</p> <p>The development DA-2020-103/A applies to a Material Change of Use for a Multi-dwelling development which is consistent with land uses identified under Schedule 7 Housing Diversity in the Policy.</p>

Business and Regional Benefits

Based on information provided by the applicant, and despite the delayed timeframes, the development will value-add to the regional economy and generate additional employment and business activity.

In reviewing this extension request, consideration has been given to the previous council report where the applicant proposed that the development will deliver the following benefits to the Mackay region:

- The project involves the delivery of 10 new dwelling units to Mackay’s property market, aiming to assist with the current shortage of rental properties.
- The project will provide a new style of accommodation offering to the Mackay market, creating the potential to attract a greater range of tourists. In particular, the Mackay Adventure Lodge component of the project will target the backpacker and adventure tourist market, primarily from Airlie Beach, which expands on the region’s traditional tourism markets, creating new opportunities for growth.
- The project will increase visitors to the existing cable ski park and support café and bar operations, improving the viability of operations.
- The project includes the provision of new and packaged tourism experiences, as well as supporting current tourism assets in the region. By adding to the range of offerings, visitors may increase their time in the region and increase their daily spend.
- The development will result in value-add to the local economy through new dwelling construction.

Consultation and Communication

Concessions for this development were previously considered and approved by Council at its meeting on 28 April 2021.

The applicant has been in regular contact with Council officers to inform on the progress of the development.

The Director Development Services has considered this extension request and provided support for the application to proceed to Council for consideration.

Resource Implications

In accordance with the Infrastructure Charges Notice, the development gives rise to total infrastructure charges of \$485,785.20 (+ annual adjustments), separated as follows:

- Reconfiguration of a Lot = \$30,226.70
- Material Change of Use = \$455,558.50

Concessions under the Policy only apply to the Material Change of Use component (\$455,558.50). Within this component, the applicant has approval for concessions under two different Policy schedules – Schedule 4 Tourism Development and Schedule 7 Housing Diversity. At the time of approval, concession rates under these schedules were as follows:

a) Mackay Adventure Lodge – Schedule 4 Tourism Development

Net Infrastructure Charge – Short-term accommodation	Concession (%)	Concession (\$)	Charges Payable
\$239,653.50	100%	\$239,653.50	\$0

Under Schedule 4 Tourism Development, infrastructure charges for the short-term accommodation component were reduced by 100%, with \$0 payable.

b) Mackay Adventure Apartments – Schedule 7 Housing Diversity

Net Infrastructure Charge – Multi-dwellings	Concession (%)	Concession (\$)	Charges Payable
\$215,905.00	25%	\$53,976.25	\$161,928.75

Under Schedule 7 Housing Diversity, infrastructure charges for the multi-dwelling component were reduced by 25%, with a total of \$161,928.75 (+ annual adjustments) payable.

Risk Management Implications

There is a risk that granting concessions can leave Council exposed to similar claims in the future and that a potential infrastructure funding gap could present. These risks are sufficiently mitigated through the following measures:

- Concessions for this development have been previously approved by Council.
- A development approval is in place and on-site infrastructure requirements have been reviewed as part of the assessment process.
- A condition has been included as part of the officer's recommendation stating that any approved concessions are dependent on Council not incurring any additional infrastructure costs (including 'bring forward costs') to service the development.
- Strict timeframes are placed for claiming approved concessions. If the development is not in use by the extended due date, concessions will no longer apply and 100% of the applicable Infrastructure Charges will be payable.
- Council can review the application of the Policy at any time.

Conclusion

The Policy provides incentives for developments that will deliver economic development and growth outcomes in alignment with Council's policy and planning objectives.

This development continues to support the desired outcomes of Schedule 4 and Schedule 7 of the Policy and as such, it is recommended that a 12 month extension from the date of the original approval be supported to allow the applicant to finalise construction works.

Officer's Recommendation

THAT the following Specific Incentives approved under the Facilitating Development in the Mackay Region Policy for Mackay Adventure Lodge and Apartments, Andergrove Lakes Pty Ltd, located at Lot 504 Michigan Way, Andergrove and Lot 500 Beaconsfield Road East, Andergrove, be amended to:

- a) Concession of 100% be applied against the net charge amount (calculated following annual adjustments and subtraction of any offsets and credits) on the Material Change of Use, Short-term Accommodation component, identified on the Infrastructure Charges Notice for DA-2020-103/A.
- b) Concession of 25% be applied against the net charge amount (calculated following annual adjustments and the subtraction of any offsets and credits) on the Material Change of Use, Multiple Dwelling component, identified on the Infrastructure Charges Notice for DA-2020-103/A.

AND THAT the approval of concessions is dependent on:

- a) The development must be completed and commenced use by 28 April 2024.
- b) No additional infrastructure costs incurred by Council (including establishment and bring forward costs).
- c) The developer utilising local contractors and suppliers.

Council Resolution ORD-2023-133

THAT the following Specific Incentives approved under the Facilitating Development in the Mackay Region Policy for Mackay Adventure Lodge and Apartments, Andergrove Lakes Pty Ltd, located at Lot 504 Michigan Way, Andergrove and Lot 500 Beaconsfield Road East, Andergrove, be amended to:

- a) Concession of 100% be applied against the net charge amount (calculated following annual adjustments and subtraction of any offsets and credits) on the Material Change of Use, Short-term Accommodation component, identified on the Infrastructure Charges Notice for DA-2020-103/A.**
- b) Concession of 25% be applied against the net charge amount (calculated following annual adjustments and the subtraction of any offsets and credits) on the Material Change of Use, Multiple Dwelling component, identified on the Infrastructure Charges Notice for DA-2020-103/A.**

AND THAT the approval of concessions is dependent on:

- a) The development must be completed and commenced use by 28 April 2024.**
- b) No additional infrastructure costs incurred by Council (including establishment and bring forward costs).**
- c) The developer utilising local contractors and suppliers.**

Moved Cr Green

Seconded Cr May

CARRIED UNANIMOUSLY

MACKAY ADVENTURE LODGE AND APARTMENTS.

LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND



DEVELOPMENT SUMMARY	
SITE ADDRESS:	LOT 504 ANDERGROVE LAKES MACKAY, QLD
SITE AREA:	2011m ²
RPD:	LOT 504 SP271521
PROPOSED YIELD LODGE:	30 PEOPLE DORMITORY } 62 PEOPLE 16 DOUBLE BEDROOMS } TOTAL
	10 TWO BEDROOM APARTMENTS
SITE COVER:	1133m ² (56%)
GFA:	GROUND FLOOR: 730m ² LEVEL 01: 802m ² TOTAL: 1532m ²

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NOTES			
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AMENDMENTS			
rev	date	detail	checked
A	05.05.2020	CLIENT ISSUE	TC
B	09.06.2020	CLIENT ISSUE	TC
C	11.06.2020	CLIENT AMENDMENT	TC
D	01.07.2020	CLIENT AMENDMENT	TC
E	02.07.2020	CLIENT AMENDMENT	TC
F	12.03.2021	REDESIGN	TC
G	16.03.2021	REDESIGN UPDATE	TC

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client	ANDERGROVE LAKES PTY LTD
project	MACKAY ADVENTURE LODGE AND APARTMENTS.
locate	LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND
title	SITE PLAN

scale	1 : 400	drawn	DS
date	01.01.2017	checked	TC
job no	1911-1352	dwg no / cadfile	SK_101
		rev	G

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AMENDMENTS

rev	date	detail	checked
B	24.04.2020	CLIENT REVIEW	TC
C	05.05.2020	CLIENT ISSUE	TC
D	09.06.2020	CLIENT ISSUE	TC
E	11.06.2020	CLIENT AMENDMENT	TC
F	01.07.2020	CLIENT AMENDMENT	TC
G	02.07.2020	CLIENT AMENDMENT	TC
H	12.03.2021	REDESIGN	TC
I	16.03.2021	REDESIGN UPDATE	TC

LEGEND

--- LINE OF BUILDING AS SHOWN ON DEVELOPMENT APPROVAL ISSUED 16/10/2020

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client
ANDERGROVE LAKES PTY LTD

project
MACKAY ADVENTURE LODGE AND APARTMENTS.

locate
LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND

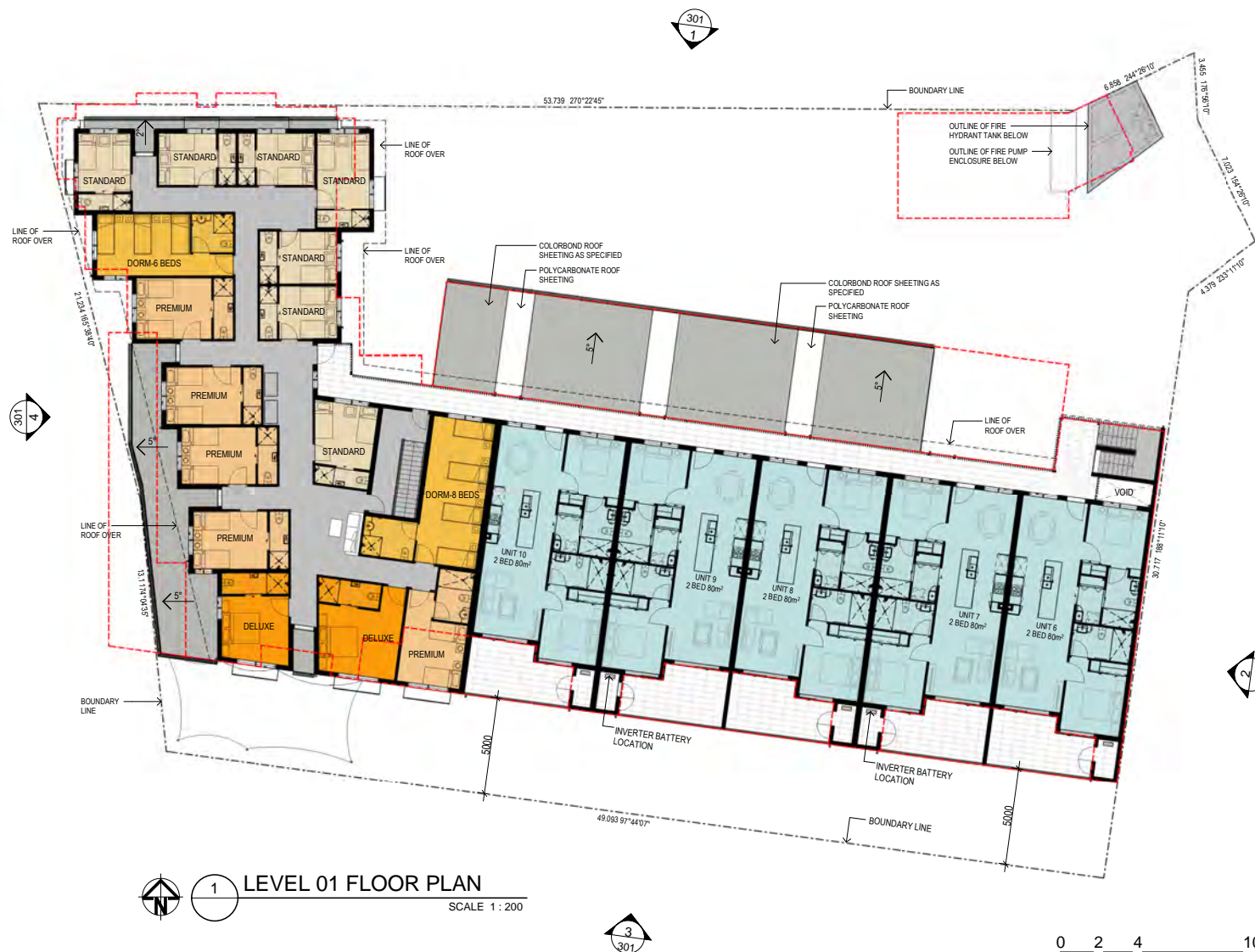
title
GROUND FLOOR PLAN

scale	As indicated	drawn	DS
date	01.01.2017	checked	TC
job no	1911-1352	dwg no / cadfile	rev
		SK_201	I



GROUND FLOOR PLAN
SCALE 1 : 200

PRELIMINARY
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1 LEVEL 01 FLOOR PLAN
SCALE 1 : 200

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 4. All work, materials and construction to comply with the Queensland Building Act 1975-2015 and the Building Code of Australia.

AMENDMENTS			
rev	date	detail	checked
B	24.04.2020	CLIENT REVIEW	TC
C	05.05.2020	CLIENT ISSUE	TC
D	09.06.2020	CLIENT ISSUE	TC
E	11.06.2020	CLIENT AMENDMENT	TC
F	01.07.2020	CLIENT AMENDMENT	TC
G	02.07.2020	CLIENT AMENDMENT	TC
H	12.03.2021	REDESIGN	TC
I	16.03.2021	REDESIGN UPDATE	TC

LEGEND

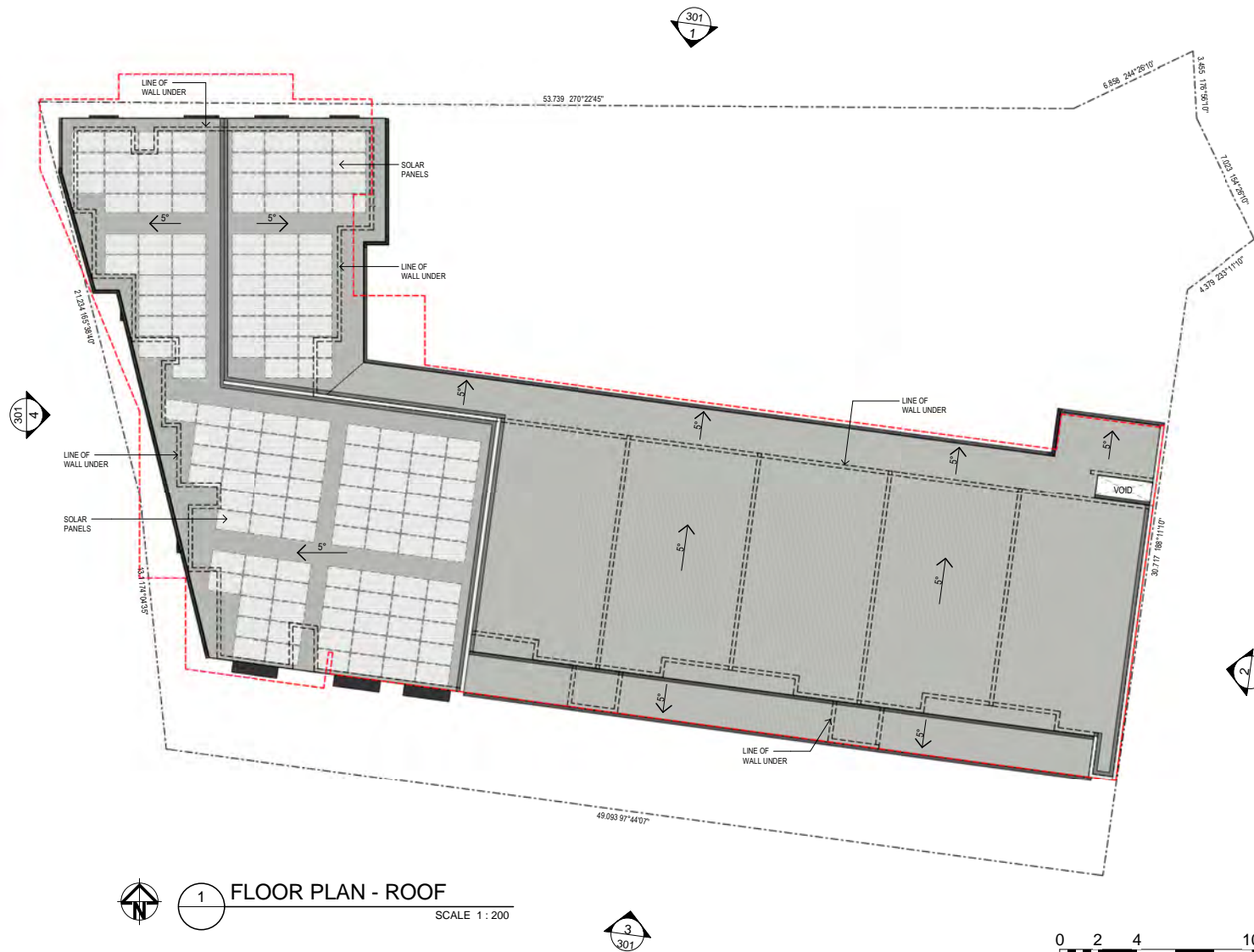
--- LINE OF BUILDING AS SHOWN ON DEVELOPMENT APPROVAL ISSUED 16/10/2020

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client	ANDERGROVE LAKES PTY LTD
project	MACKAY ADVENTURE LODGE AND APARTMENTS.
location	LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND
title	LEVEL 01 FLOOR PLAN

scale	As indicated	drawn	DS
date	01.01.2017	checked	TC
job no	1911-1352	dwg no / cadfile	SK_202
		rev	I



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AMENDMENTS

rev	date	detail	checked
A	19.12.2019	CLIENT REVIEW	TC
B	24.04.2020	CLIENT REVIEW	TC
C	05.06.2020	CLIENT ISSUE	TC
D	09.06.2020	CLIENT ISSUE	TC
E	12.03.2021	REDESIGN	TC
F	16.03.2021	REDESIGN UPDATE	TC

LEGEND

---	LINE OF BUILDING AS SHOWN ON DEVELOPMENT APPROVAL ISSUED 16/10/2020
-----	---

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client	ANDERGROVE LAKES PTY LTD
project	MACKAY ADVENTURE LODGE AND APARTMENTS.
location	LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND
title	ROOF PLAN

scale	As indicated	drawn	DS
date	01.01.2017	checked	TC
job no	1911-1352	dwg no / cadfile	SK_203
		rev	F



1 NORTH ELEVATION
SCALE 1 : 200



2 EAST ELEVATION
SCALE 1 : 200



3 SOUTH ELEVATION
SCALE 1 : 200



4 WEST ELEVATION
SCALE 1 : 200

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AMENDMENTS

rev	date	detail	checked
A	24.04.2020	CLIENT REVIEW	TC
B	05.05.2020	CLIENT ISSUE	TC
C	09.06.2020	CLIENT ISSUE	TC
D	11.06.2020	CLIENT AMENDMENT	TC
E	01.07.2020	CLIENT AMENDMENT	TC
F	02.07.2020	CLIENT AMENDMENT	TC
G	12.03.2021	REDESIGN	TC
H	16.03.2021	REDESIGN UPDATE	TC

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client	ANDERGROVE LAKES PTY LTD
project	MACKAY ADVENTURE LODGE AND APARTMENTS.
location	LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND
title	ELEVATIONS



PRELIMINARY
NOT FOR CONSTRUCTION

scale	1 : 200	drawn	DS
date	01.01.2017	checked	TC
job no	1911-1352	dwg no / cadfile	SK_301
		rev	H



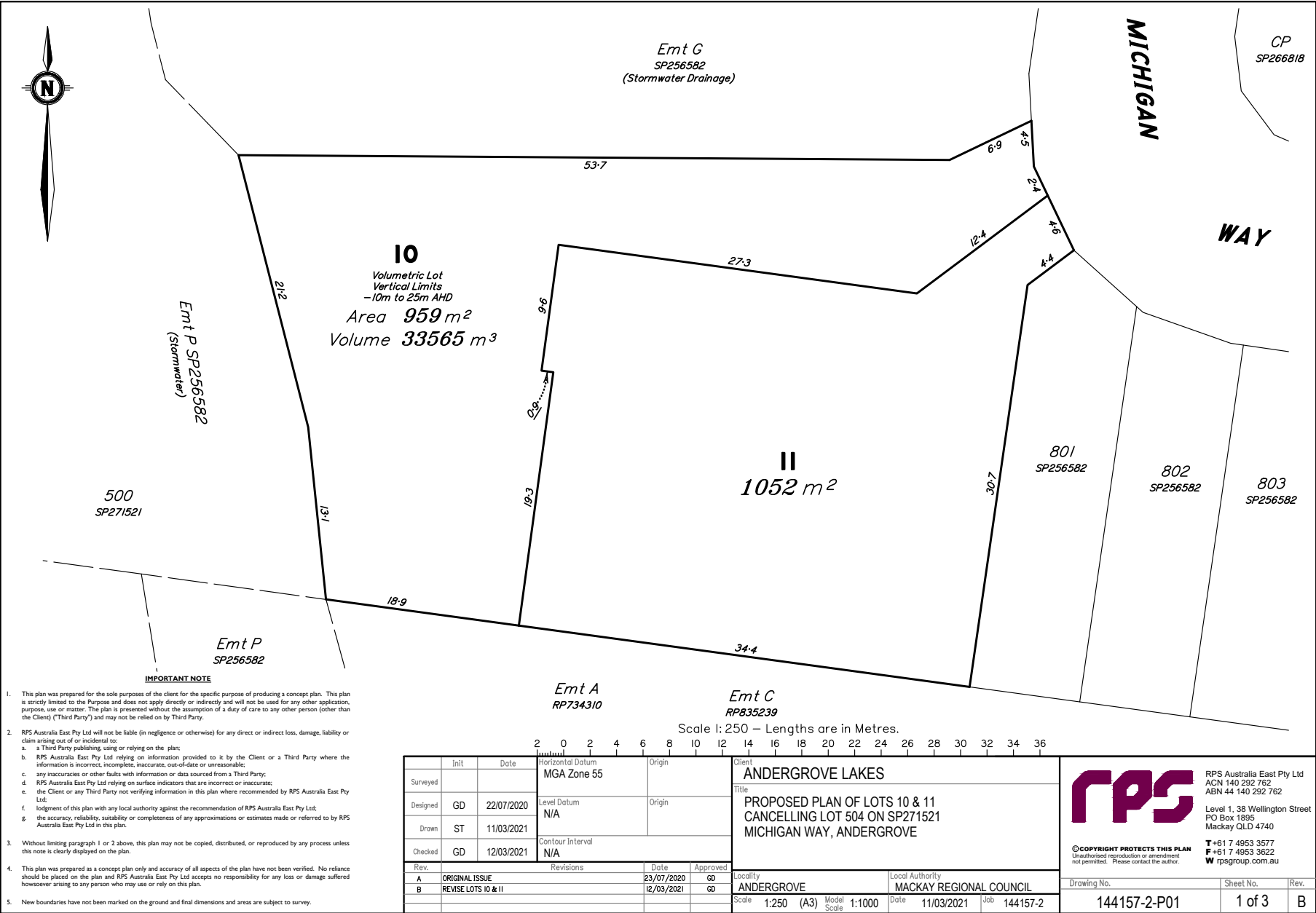
NORTH EASTERN VIEW

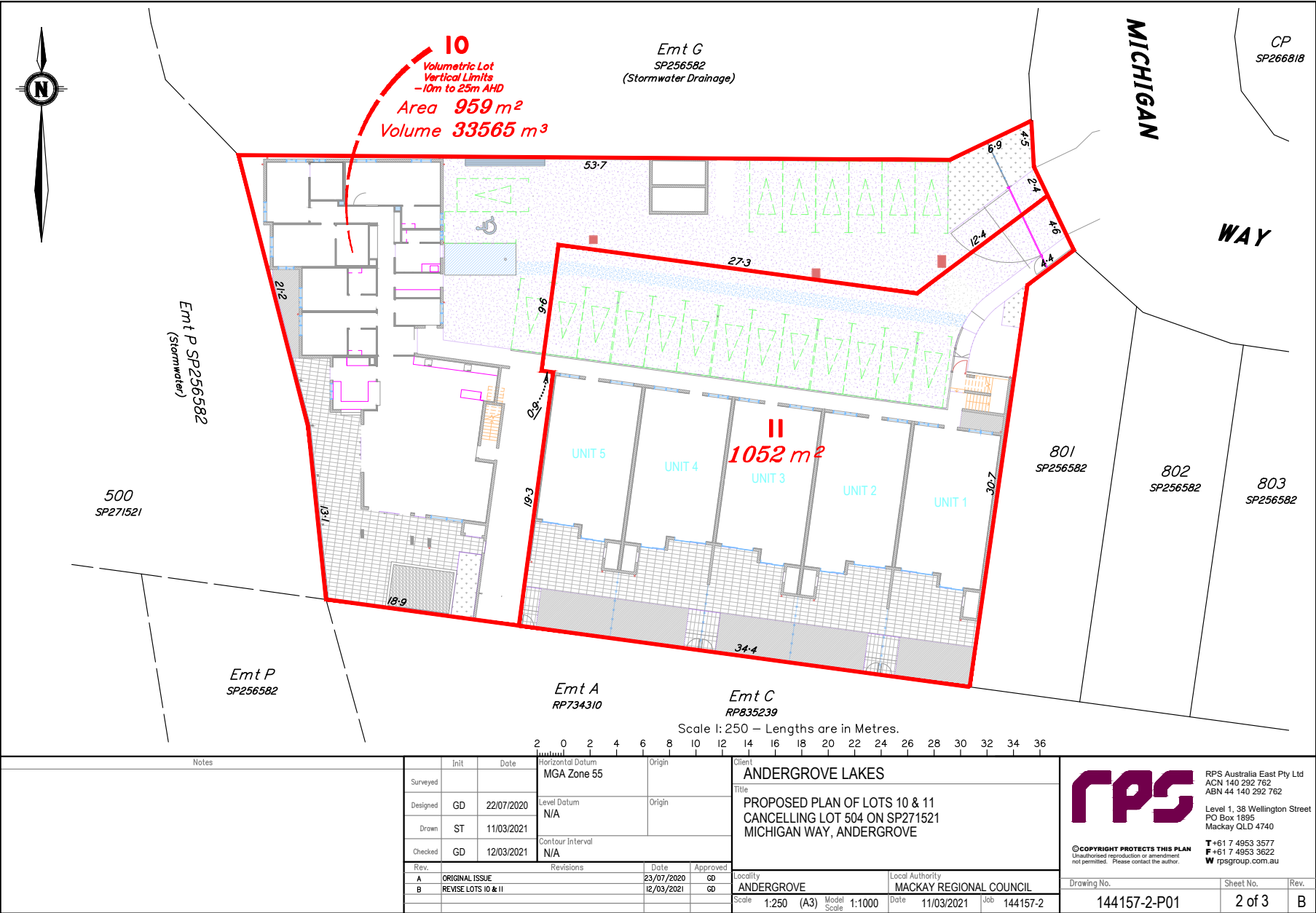


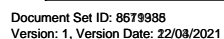
SOUTH WESTERN VIEW

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AMENDMENTS			
rev	date	detail	checked
A	05.05.2020	CLIENT ISSUE	TC
B	09.06.2020	CLIENT ISSUE	TC
C	11.06.2020	CLIENT AMENDMENT	TC
D	01.07.2020	CLIENT AMENDMENT	TC
E	02.07.2020	CLIENT AMENDMENT	TC
F	12.03.2021	REDESIGN	TC
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client	ANDERGROVE LAKES PTY LTD		
project	MACKAY ADVENTURE LODGE AND APARTMENTS.		
locate	LOT 504 ANDERGROVE LAKES MACKAY, QUEENSLAND		
title	3D VIEWS		
scale	NTS	drawn	DS
date	01.01.2017	checked	TC
job no	1911-1352	dwg no / cadfile	rev
		SK_801	G







11.2.3. REQUEST FOR COUNCIL OWNERSHIP OF FISH HABITAT STRUCTURES

Author	Director Development Services (Aletta Nugent)
Responsible Officer	Director Development Services (Aletta Nugent)
File Reference	Parks - General

Attachments

1. Rubble to Reef - Project Brief [**11.2.3.1** - 3 pages]
2. Rubble to Reef - Draft Monitoring Plan [**11.2.3.2** - 2 pages]
3. Letter to Mackay Regional Council - Rubble to Reef Project [**11.2.3.3** - 1 page]
4. Decommissioning Action Plan [**11.2.3.4** - 3 pages]
5. Letters from Reef Catchments and NQBP [**11.2.3.5** - 3 pages]

Purpose

For Council to consider the request from Reef Catchments for Council to accept ownership of Habitat Reef Modules located within Port waters.

Related Parties

- Reef Catchments (Mackay Whitsunday Isaac) Limited
- James Cook University
- North Queensland Bulk Ports

Corporate Plan Linkage

Community and Environment

Sustainable Practices - We are responsible and active custodians of our natural environment, with future targets and commitments aimed at driving us towards a cleaner, greener and more sustainable region. Climate change will continue to be a consideration in forward planning and we will continue to implement sustainability initiatives in council operations.

Live and Visit

Eco-Tourism Adventure and Leisure - We are a world-famous tourism destination, providing eco, adventure and water-based sport, recreation, and leisure opportunities.

Background/Discussion

Reef Catchments has received funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project. This project involves the deployment of 30 Habitat Reef Modules within the inshore marine environment of the Mackay Whitsunday region by June 2023.

Detail on the proposed installation of the Modules is provided in Attachment 1. It is intended that the Modules will provide the conditions conducive to recruitment and regeneration of coral, fish and crustacean communities.

The Modules will be located in Port waters surrounding the Port of Mackay. Reef Catchments cannot own the Habitat Reef Modules and the process for North Queensland Bulk Ports (NQBP) to consider taking ownership was considered too lengthy. Therefore, Reef Catchments requested that Council accept ownership of the Modules.

Councillors were briefed on the proposal on 9 February 2022 and 20 April 2022. Following the briefings, officers negotiated a Memorandum of Understanding (MOU) with Reef Catchments, to provide a framework for Council

and Reef Catchments to work together on the planning of the project. In accordance with the MOU, it was agreed to prepare a report to Council recommending that Council resolve to take ownership of up to 30 Habitat Reef Modules subject to the parties working in good faith to:

- Consider possible sites for the deployment and installation of the Habitat Reef Modules; and
- Develop viable approaches for long term monitoring of Habitat Reef Modules effectiveness at remaining secure and supporting coral reef regeneration.

Reef Catchments is obliged under the MOU to provide evidence that:

- The proposed sites have been included in Maritime Safety Queensland navigational hazard charts;
- The Habitat Reef Modules are RPEQ certified for stability in 1% ARI wave conditions; and
- All permits and approvals of any relevant Authority have been obtained for the deployment and installation of the Habitat Reef Modules for the chosen proposed sites.

In accordance with the MOU, Council and Reef Catchments will enter into an agreement to acquire the Modules upon Council resolving to accept their ownership.

Since the execution of the MOU, Reef Catchments has been progressing the project, with regular project updates and consultation with Council officers. As part of this, the Habitat Reef Modules were RPEQ certified for stability in up to 1% ARI conditions and Reef Catchments has worked with Maritime Safety Queensland regarding the procedure for plotting the Modules on navigational hazard charts.

Throughout all discussions in relation to this project, a reasonable monitoring regime was discussed as being utilising side scanning sonar technology to inspect the Modules following a 1% AEP weather event. This was further refined to include a 1% AEP event resulting in significant wave height of more than 4.6m recorded at proximate buoys. This included the option of securing underwater footage to check the ecological status of the Modules.

Reef Catchments have been working through another significant milestone for the project, which is obtaining a sea dumping permit from the federal Department of Agriculture, Water and the Environment. As part of this, draft monitoring conditions that will attach to the permit have been provided. The draft monitoring conditions are included in Attachment 2. In summary, there will be a requirement to undertake monitoring of the Modules once a year for the first five years of the permit, and then every five years for the life of the permit (30 years). This is in addition to post 1% AEP event monitoring. If there is a build up of marine debris on the Modules posing an entanglement hazard, commercial divers must be deployed to remove the debris. It should be noted that these additional monitoring requirements were not foreseen or expected by Reef Catchments or Council officers at the time the MOU was entered into.

Council officers raised concerns with this requirement for ongoing monitoring. In response to this, Reef Catchments has agreed to take on responsibility for the ongoing monitoring outside post event monitoring and what is agreed for the first 12 months with NQBP. A letter from Reef Catchments confirming this support is shown in Attachment 3.

There is also a decommissioning plan that has been developed by Reef Catchments as part of the permit application, see Attachment 4. The obligations in this plan are broadly consistent with the discussions before and after the MOU was signed, noting that all of the triggers for removal of the Modules are considered unlikely. However, Council officers advised that Council would not agree to a permit condition that required the Modules to be removed at the end of the life of the permit unless one of the other triggers were met. Reef Catchments have advised that they will accept responsibility for this should it become a condition in the permit due to the low likelihood of it being required.

Council officers have concerns overall with the permit and the obligations it potentially places on Council. While Reef Catchments have stated they will take on most of the obligations, they are the Natural Resource Management group for the region, and as such there is no guarantee that they will be in a position to monitor and discharge the obligations outlined in the sea dumping permit for a 30 year period. Council, as joint permit holder, will be left with responsibility if Reef Catchments are unable to perform their obligations.

The current cost of undertaking a monitoring inspection as per the permit is \$5300 (excl. GST). While this is not a significant cost, undertaking this type of activity is not Council core business and there is a real risk that this legal responsibility will be missed over time, putting Council in breach of its legal obligations.

A report on this matter was presented to Council at the Council meeting on 26 April 2023. At this meeting, Council resolved that the report be laid on the table in anticipation of information to be provided by Reef Catchments.

Since the Council meeting on 26 April 2023, the Director Development Services met with representatives from Reef Catchment and NQBP. At that meeting it was discussed and agreed that:

- Reef catchments had secured a reduction in the long term monitoring commitment in the sea dumping permit to 15 years. Monitoring of the Modules by Council following a significant weather event will still be required for the life of the permit (30 years).
- NQBP will provide a letter confirming their intent to enter into an agreement to partner with Council and Reef Catchments to monitor the Modules in accordance with the permit conditions.
- The need for a commercial diver to remove marine debris (if found) from the Modules has been removed from the permit conditions, as there are methods of removing the debris without a diver entering the water.
- Reef Catchments will recognise the liability for monitoring the Modules under the permit in their annual financial statements which are audited externally, to ensure the monitoring obligations remain visible over time.

A letter confirming the above and the letter from NQBP expressing an interest in entering into a partnering arrangement with Council and Reef Catchments are shown in Attachment 5.

The benefits of this project to the marine environment and recreational fishing are recognised. It is noted however that the regulatory requirements sitting with Council in relation to this has grown significantly from what was envisaged when entering into the MOU and when Council was asked to accept ownership of the Modules.

Reef Catchments is progressing quickly with the project, including arranging community engagement events and public interpretation resources to promote the installation of the Modules. While all of the steps in the MOU have not yet been met or fulfilled, these permit conditions represent a significant departure from what was previously discussed and it is considered timely for Council to formally consider whether it is willing to accept these conditions and ownership of the Modules. Therefore, the effect of this report is to bring forward the commitment for Council to formally consider accepting ownership of the Modules as outlined in the MOU.

Should Council not accept ownership of the Modules, the project cannot be completed as Reef Catchments has been unable to secure another organisation that can accept ownership of the Modules. Reef Catchments has expended in the order of \$150,000 on this project, and has advised that they will not be reimbursed from grant funds for any of the costs incurred unless the Modules are deployed. The Modules are in the process of being constructed, and there is nowhere to store them on land should they not be deployed. Reef Catchments has advised that if the project does not proceed, they will consider options to recover the funds expended so far, which may include approaching Council for this funding.

The letters from Reef Catchments and NQBP in Attachment 5 contain confirmation of commitments to accept the additional ongoing monitoring obligations that were never envisaged when the MOU was entered into. This combined with the reduction of the timeframe for the monitoring to occur from 30 years to 15 years does assist with alleviating some of the concerns raised above in relation to Council accepting ownership of the Modules. Despite this, the commitments are not definitive enough to enable officers to make a recommendation to Council to accept the ownership of the Modules. However, it is acknowledged that it is the intention of both Reef Catchments and NQBP to accept the monitoring, and that the letters are as far as they are able to commit at this stage. Therefore, Councillors may be of the view that, to allow the funding to be acquitted, they are willing to agree to the monitoring obligations and accept ownership of the Modules.

Consultation and Communication

There has been ongoing consultation between Reef Catchments and Council officers. Councillors were briefed on the proposal on 9 February 2022 and 20 April 2022.

Reef Catchments have a communications plan for the project.

A report on this matter was presented to Council at the meeting on 26 April 2023. Council resolved that the report be laid on the table in anticipation of further information being provided by Reef Catchments.

Resource Implications

Should the project progress and Reef Catchments perform the additional monitoring obligations under the permit as per their commitment, the resource implications for Council will only arise following a 1% AEP event. Given the current cost of inspecting the Modules is \$5,300 (excl. GST) and the obligation can be built into Council's emergency management planning, this is considered to have a limited impact on Council's operations and resources.

Should Council have to step in as a joint permit holder and perform more of the monitoring over a 30 year period, this will have an impact on resources by necessitating Council as an organisation embed this non-core business activity into its operations so that the legal responsibility does not get missed.

Reef Catchments has indicated that it may seek to recover expenditure already incurred on the project from Council, should Council decline to accept ownership of the Modules and the project not proceed.

Risk Management Implications

A risk assessment relating to Council accepting ownership of the Modules was undertaken early last year, identifying risks including movement of the Modules, unsuitability of the module structures, failure of Reef Catchments to perform their monitoring obligations, colonisation of the structures by invasive species and inadequate management of the Modules as Council assets. The risk level assigned to these risks ranged from medium to high, with a number of controls outlined that would reduce the risk to an acceptable level. It should be noted that this risk assessment was on the basis of the limited monitoring obligations originally discussed, with Reef Catchments/NQBP/JCU identified as doing some initial monitoring of the Modules.

The increased monitoring obligations give rise to a new risk that Reef Catchments and Council will not meet the conditions of the sea dumping permit. The Likelihood of this occurring has been assessed as "Likely" with the Consequences of not meeting this legislative requirement assessed as "Moderate", resulting in a risk level of High.

Conclusion

When first approached about this project by Reef Catchments, Council was asked to accept ownership of the Habitat Reef Modules as Council assets, given their proposed location and the nature of the project proponent. Should Council decline to accept ownership now, with the project scheduled to be completed by June 2023, this could impact the ability of the project to proceed.

The conditions that will attach to the sea dumping permit are such that Council may be required to have a more active role in the ongoing management of the Modules should the commitments made by Reef Catchments and NQBP in the letters in Attachment 5 not be acted upon. It is for this reason that it is recommended that Council not accept ownership of the Habitat Reef Modules and that Reef Catchments be advised accordingly. Despite this, Councillors may be comfortable to agree to ownership of the Modules on the basis that they are willing to accept that further clarification and certainty of commitment from Reef Catchments and NQBP will be forthcoming in the future.

Officer's Recommendation

THAT Council not accept ownership of the Habitat Reef Modules proposed to be deployed by Reef Catchments with funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project.

The Chief Executive Officer provided additional information in relation to possible future costs which may arise if Council takes ownership of the Habitat Reef Modules.

Council Resolution ORD-2023-134

THAT Council not accept ownership of the Habitat Reef Modules proposed to be deployed by Reef Catchments with funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project.

Moved Cr Bella

As there was no Secunder, the Motion lapsed.

Cr Hassan advised that she would like to move an Alternate Motion.

THAT in accordance with section 254H of the Local Government Regulation 2012, the following are recorded as reasons in support of a decision made at a local government meeting inconsistent with a recommendation or advice given to the local government by an advisor of the local government –

The benefits of this project to the marine environment and recreational fishing are recognised by all parties, who remain committed to working closely with all partners to ensure that the installation and monitoring of the artificial reef modules is carried out to the highest standards of environmental sustainability.

Reef Catchments has provided sufficient information to mitigate the risk to Council as much as possible at this time. This has been demonstrated by:

- a) A reduction in the long-term monitoring commitment to 15 years, with advice from the Australian Government's Sea Dumping branch. (Which does not affect the original MoU agreement conditions accepted where Mackay Regional Council made a commitment to monitor the Habitat Reef modules within 6 weeks of an event with significant wave heights (Hs) exceeding 4.6m remains for the life of the permit (30 years))**
- b) North Queensland Bulk Ports has provided Reef Catchments with a letter confirming their intent to enter into a partnering agreement with Mackay Regional Council and Reef Catchments (Mackay Whitsunday Isaac) to install and monitor the Habitat Reef modules in the coastal waters off Mackay.**
- c) Removing all references to requiring a commercial diver for removal of marine debris that has been identified as obstructing or posing a risk to the habitat modules. This will allow for greater flexibility in how we may address perceived marine debris risk to the modules without requiring in-water supervision.**
- d) Reef Catchments will recognise a long-term liability in the balance sheet for the ongoing monitoring expenditure for the life of the sea dumping permit. The annual financial statements of Reef Catchments are audited externally. This will ensure that the monitoring obligations remain visible over time.**

e) Council officers advised that Council would not agree to a permit condition that required the Modules to be removed at the end of the life of the permit unless one of the other triggers were met. Reef Catchments have advised that they will accept responsibility for this should it become a condition in the permit due to the low likelihood of it being required.

FURTHER THAT Council support entering into an agreement to formally accept ownership of the Habitat Reef Modules proposed to be deployed by Reef Catchments with funding from the Australian Government's Fisheries Habitat Restoration Program for the "Rubble to Reef" project.

Moved: Cr Hassan

Seconded: Cr Jones

CARRIED

Cr Bella recorded his vote against the Alternate Motion.

Turning Rubble to Reef in the Mackay Whitsundays

PROJECT OVERVIEW

The Turning Rubble to Reef in the Mackay Whitsundays (Rubble to Reef) project seeks to install 30 concrete Habitat Reef (HR) modules to emulate natural fish habitat in the Mackay offshore marine environment. The installation of HR modules, which offer protection for a variety of marine organisms as well as roughened surfaces for coral growth, will enable the expansion of coral reef habitat into otherwise bare areas of the marine environment.

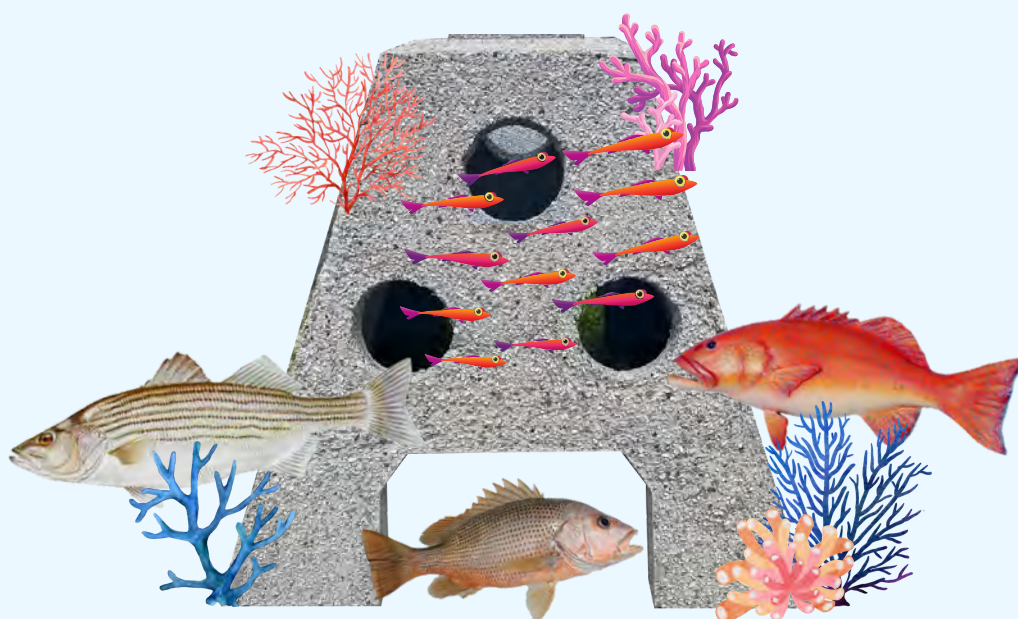
The Rubble to Reef project was designed with the intent of improving Reef resilience by addressing four main threats:

- Loss of natural Reef ecosystems due to strike impacts, cyclones, bleaching, etc.
- Lack of connected vertical relief substrate to facilitate re-colonisation of coral reefs
- Fishing pressure on natural reefs
- Loss of complex juvenile habitat

Therefore, the objectives of the Rubble to Reef project are:

- increase the extent of fish habitat
- increase the extent of available invertebrate settlement surfaces
- increase the diversity and abundance of recreationally important fish species at the deployment sites
- increase the engagement with recreational fishers in activities which promote the long-term sustainability of the industry
- make available data on the design effectiveness of HR modules to assist in upscaling this project

This project is funded by the Australian Government's Fish Habitat Restoration Program and delivered through the Regional Land Partnerships model.



HR Module Concept Design: Fish & Coral Utilisation

SITE SELECTION & DEPLOYMENT

The HR modules are to be deployed across two sites (Site A and Site B) with 15 HR modules at each. It is anticipated the greatest benefit can be achieved by arranging 14 HR modules around a central HR Module in a series of bands, maximising utilisation by fish and coral recruitment. The arrangement is intended to take a broader approach to recreating healthy coral reef habitat rather than just deploying single isolated units in areas where coral reef are unlikely to form naturally.

Considerations for site selection included:

- water depth (LAT)
- maritime safety
- absence/ presence of marine plants and existing habitat
- distance to source reefs
- accessibility
- legislative requirements

HABITAT REEF (HR) MODULE DESIGN

The 'pyramid' HR modules are purpose-built steel-reinforced concrete structures offering hard, vertical relief for fish habitat and opportunities for coral reef growth.

Designed and engineered with deployment and longevity in mind. A large footprint increases stability and reduces subsidence, and they incorporate sufficient weight to withstand 1/100 year Average Recurrence Interval (ARI) events. The use of concrete, polyfibre and super duplex stainless steel maximises durability within the marine environment.

Key design features include:

- Roughened exterior surface for coral attachment
- Provision of separated chambers for fish of different size classes
- Small refuge holes for small and juvenile fish species
- Large cave compartment for adult, predatory fish species



Map of Proposed Deployment Sites

CONTACT

Reef Catchments (Mackay Whitsunday Isaac) Limited

For more information about the Rubble to Reef project:

Kellie Best

Conservation and Communities Project Officer

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E: kellie.best@reefcatchments.com

Kira Andrews

Conservation and Communities Coordinator

P: (07) 4968 4200 | M: +61 439 308 179

E: kira.andrews@reefcatchments.com



Monitoring objective	Description	Responsible party	Timeframe
Ecological performance of HR modules (e.g. fish abundance and species, coral cover and survival rates on the HR modules)	Monitoring will be conducted using underwater video techniques. Cameras will be deployed for 15-minute drops, during daylight hours, approximately every 3-5 months.	North Queensland Bulk Ports and Centre for Tropical Water and Aquatic Ecosystem Research (TropWATER)	A formal baseline will be established pre-deployment, and two monitoring trips will be conducted within 12 months post installation.
	Monitoring will be conducted using underwater video techniques. This will allow for visual observations of the ecological performance of the HR modules.	Reef Catchments	Annually for years 2-5 post installation, then once every 5 years for the life of the permit.
Structural integrity and positional stability, post storm events	Monitoring will be conducted using underwater video techniques. This will allow a visual inspection of the HR modules to document the stability, structural integrity & level of natural decay of the HR modules, and any changes in seabed/ sediment characteristics.	North Queensland Bulk Ports and Centre for Tropical Water and Aquatic Ecosystem Research (TropWATER)	Two monitoring trips will be conducted within 12 months post installation.
		Mackay Regional Council	Within 6 weeks of a storm event with wave heights exceeding 4.6m recorded at the Hay Point waverider buoy. Post storm event monitoring will occur within and outside monitoring periods conducted by other parties.
		Reef Catchments	Annually for years 2-5 post installation, then once every 5 years for the life of the permit.
Invasive species	Monitoring will be conducted using underwater video techniques. This will allow a visual inspection of the HR modules and inform the presence/ absence of invasive marine pests.	North Queensland Bulk Ports and Centre for Tropical Water and Aquatic Ecosystem Research (TropWATER)	Two monitoring trips will be conducted within 12 months post installation.
		Reef Catchments	Annually for years 2-5 post installation, then once every 5 years for the life of the permit.

			Reef Catchments will notify Biosecurity Queensland in the event invasive species are observed on the HR modules.
Marine debris	Monitoring will be conducted using underwater video techniques to observe the presence of marine debris on the HR modules.	North Queensland Bulk Ports and Centre for Tropical Water and Aquatic Ecosystem Research (TropWATER)	Two monitoring trips will be conducted within 12 months post installation.
		Reef Catchments	Annually for years 2-5 post installation, then once every 5 years for the life of the permit.



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11 April 2023

Mackay Regional Council
Sir Albert Administration Building
73 Gordon Street
Mackay QLD 4740

To Whom it may concern,

Reef Catchments is a 20-year-old organisation, and we've had to pivot and reprioritise our efforts a number of times to secure investment. Reef Catchments intends to be in the region, pursuing our vision of *Resilient Ecosystems, Engaged Community* for at least the next 30 years. To do this, the organisation sets a long term Strategic Direction, and this direction includes *Responsibly advancing NRM outcomes*, and we will do this through growing third party investment into NRM planning across the region, and demonstrating NRM leadership which includes a commitment to ESG, and net zero emissions. These are goals of an organisation that will be in existence in decades, not months or years.

The Reef Catchments Board recognises there is a risk for businesses that rely on Government funding, and for this reason, Catchment Solutions exists to provide a commercial return for the purpose of assisting the achievement of Reef Catchments Strategic Plan. We deliver and plan now, for long term and legacy projects.

Reef Catchments, as a joint permit holder with Mackay Regional Council for the Australian Government's Sea Dumping permit, is committed to upholding the responsibilities set out in the Turning Rubble to Reef in the Mackay Whitsundays Long Term Management Plan (version 2).

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Katrina Dent", written in a cursive style.

Katrina Dent
Chief Executive Officer
Reef Catchments Limited

Decommissioning Considerations

Whilst the intention is for the HR modules to remain in the marine environment indefinitely, it is important to consider the circumstances by which decommissioning the HR modules may be deemed necessary and how this process might be undertaken. Reef Catchments and Mackay Regional Council acknowledge removal of the HR modules may be required if mitigative measures are not effective. However, Mackay Regional Council, as owner of the HR modules, will be responsible for actioning the decommissioning of HR modules should it be required.

Table 1: Proposed Decommissioning Action Plan

Scenario	Monitoring/ Assessment Method	Mitigation Measure(s)	When Removal Would be Necessary
HR modules do not retain their structural integrity or become unstable in their placement, becoming a navigational hazard	TropWATER's long-term ecological monitoring of the HR modules will regularly assess the orientation and position of the HR modules using side scanning technology (for investigating fish aggregation). In addition, the Mackay Regional Council have committed to checking the structural integrity and placement of the HR modules following all 1/100-year events or greater using side scanning sonar.	<ul style="list-style-type: none"> HR modules each weigh approximately 1.6 tonnes Design of the HR modules incorporates a large footprint for stability HR modules have been designed & certified as stable in conditions up to 1/100-year events Proposed deployment sites have considered oceanographic & climatic conditions 	<ul style="list-style-type: none"> A HR module is identified as a navigational hazard
HR modules are not achieving their intended purpose as fish habitat	TropWATER's long-term ecological monitoring of the HR modules will regularly assess the performance of the HR modules by monitoring fish stocks and fish aggregation.	<ul style="list-style-type: none"> HR modules have been designed specially to offer refuge habitat to both small- and large-bodied species Co-designed for other marine organisms (corals, sponges, etc.) Comprehensive ongoing monitoring program 	<ul style="list-style-type: none"> HR modules to remain in the marine environment if not causing harm & demonstrating a co-benefit to other marine species

HR modules are having a negative impact on other ecological or biophysical processes	TropWATER's long-term ecological monitoring of the HR modules will regularly assess the performance of the HR modules, as well as a control site nearby. This will offer insight whether the HR modules are having any negative impact in the wider ecosystem.	<ul style="list-style-type: none"> Distance from nearby reefs Utilizing best practice by other artificial reef projects Innovative design – no plastic (reducing possible negative impact) 	<ul style="list-style-type: none"> HR modules are having an irrefutable negative impact to the surrounding marine environment
HR modules are colonised by invasive marine species, becoming an ecological hazard	TropWATER's long-term ecological monitoring of the HR modules will regularly assess for the presence of any invasive marine species. Any observations will be recorded in the report, and action can be swiftly taken for eradication.	<ul style="list-style-type: none"> Regular & comprehensive monitoring program for early detection Encourage recreational fishers to clean their vessel regularly to prevent spread Manual removal of invasive species by divers (biosecurity protocol) 	<ul style="list-style-type: none"> HR modules are solely colonised by marine invasive species
End of the life of the permit	A survey and assessment of the HR modules will be performed within 12 months of the end date of the Sea Dumping Permit. A report will be generated outlining the future intentions of the modules with an assessment of the impact to the species and ecosystem that has formed on the reef and surrounding area should they be removed.	<ul style="list-style-type: none"> In the ownership contract, Mackay Regional Council have accepted responsibility of removing the HR modules should that be required at the end of the Sea Dumping Permit life 	<ul style="list-style-type: none"> HR modules will be removed if required, otherwise will remain in the marine environment to gradually break-down over time

Decommissioning Methodology

Whether the HR modules are removed during or at the end of the life of the Sea Dumping Permit, structural inspections would be undertaken to inform which of the following options for decommissioning would be best:

- Option 1: Provided the structures are structurally sound for removal, the HR modules would be lifted intact by crane to a barge and transported to a waterside location, where the HR modules would be cleaned, dismantled and disposed of at an appropriate land-based facility;
- Option 2: If it is not feasible for the HR modules to be removed intact, then the method of removal of the HR modules would be subject to a tender process to ensure best practice methods for removal were employed at the time. The HR modules would then be transported to a waterside facility where the pieces would be cleaned and disposed of at an appropriate land-based facility;
- Option 3: HR modules would remain in-situ on the sea-bed and be allowed to gradually break-down over time. Monitoring of the structures would continue.

These decommissioning options are currently being utilised by the NSW Department of Primary Industries as set out in their long-term management plan of Batemans offshore artificial reef. These options can be applied at any stage during the operational life of the reef.

It is likely that the main impact of removing the structures (options 1 or 2) would be a significant loss of attached flora and fauna, and a loss of fish habitat. The overall environmental impact, however, would likely depend on the length of time the HR modules had been in place.



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15 May 2023

Aletta Nugent
Director Development Services
Mackay Regional Council
Sir Albert Administration Building
Mackay QLD 4740

Dear Aletta,

Reef Catchments remains excited about the environmental and community benefits expected from the installation of artificial reef modules within our catchment area. We are confident that they will quickly become important foundational supports for an expansion of fish and coral habitat. We remain committed to working in good faith with Mackay Regional Council to develop an agreeable long-term management plan and resolve ownership of the Habitat Reef (HR) modules to be placed in the coastal waters off Mackay.

In recent weeks, Reef Catchments have implemented a range of measures to address the concerns and matters expressed by Mackay Regional Council. These include:

- A reduction in the long-term monitoring commitment to 15 years, with advice from the Australian Government's Sea Dumping branch. This will not affect the original MoU agreement conditions accepted where Mackay Regional Council made a commitment to monitor the Habitat Reef modules within 6 weeks of an event with significant wave heights (Hs) exceeding 4.6m remains for the life of the permit (30 years). We wish to note that the long-term management plan will be a living document; therefore, should a severe weather event occur within the first 15 years, we can submit an updated long-term management plan recommending that monitoring obligation cease, as there will be evidence that the HR modules are stable and will not move.
- In addition, North Queensland Bulk Ports has provided Reef Catchments with a letter confirming their intent to enter into a partnering agreement with Mackay Regional Council and Reef Catchments (Mackay Whitsunday Isaac) to install and monitor the Habitat Reef modules in the coastal waters off Mackay. This letter is attached.
- Removed all references to requiring a commercial diver for removal of marine debris that has been identified as obstructing or posing a risk to the habitat modules. This will allow for greater flexibility in how we may address perceived marine debris risk to the modules without requiring in-water supervision. References to treating marine debris now reads "should debris be identified that poses a risk (to the habitat modules), then the debris is to be removed." Observations of any marine debris will be noted in all monitoring reports, and it will likely be the decision of the permit holders whether any items are deemed to pose a risk and require removal.



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Reef Catchments will recognise a long-term liability in the balance sheet for the ongoing monitoring expenditure for the life of the sea dumping permit. The annual financial statements of Reef Catchments are audited externally. This will ensure that the monitoring obligations remain visible over time.

We have been advised by the Australian Government that they do not provide any follow-up communication when monitoring is due. Rather, it is the responsibility of the permit holders to submit a report within 30 days of the permit approval date in the years stated in the monitoring plan (years 1-5, 10, 15 post-deployment). Reef Catchments is prepared to accept this ongoing monitoring obligation.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Katrina Dent".

Katrina Dent
Chief Executive Officer
Reef Catchments Limited



10th May 2023

Julie Boyd
Chair
Reef Catchments (Mackay Whitsunday Isaac) Limited
PO Box 815
1/85 Gordon St
Mackay QLD 4740

Dear Julie

Partnering Arrangement for Reef Modules

I am writing on behalf of North Queensland Bulk Ports (NQBP) to express our interest in entering into a partnering arrangement with the Mackay Regional Council and Reef Catchments (Mackay Whitsunday Isaac) Limited to install and monitor artificial reef modules in the coastal waters off Mackay.

At NQBP, we believe in the importance of protecting and enhancing the natural environment in which we operate. We understand the value that artificial reef modules can bring to marine ecosystems, including the creation of new habitats for marine life and the potential to increase fish stocks and promote sustainable fishing practices.

We are excited about the opportunity to collaborate with the Mackay Regional Council and Reef Catchments to monitor these modules in the coastal waters off Mackay. We believe that this partnership has the potential to bring a range of benefits to the local community, including the creation of new recreational opportunities and the promotion of eco-tourism.

We are committed to working closely with our partners to ensure that the installation and monitoring of the artificial reef modules is carried out to the highest standards of environmental sustainability. We will work closely with council and Reef Catchments to ensure local stakeholders are kept informed and that that monitoring on an ongoing basis continues into the future to assess the benefits to the local marine ecosystem.

We believe that this partnership has the potential to be a model for other stakeholders in the region and beyond. By working together to protect and enhance the natural environment, we can ensure that our coastal waters remain healthy and vibrant for generations to come.

We look forward to hearing from you soon and exploring the possibilities for collaboration.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Kane', with a stylized flourish at the end.

Kevin Kane
Senior Manager Sustainability and Environment

Enquiries: Kevin Kane
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Level 1, Waterfront Place, Mulherin Drive Mackay Harbour is the Registered Office of
North Queensland Bulk Ports Corporation Limited
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Ports Corporation of Queensland Limited
ACN 126 302 994 | ABN 49 657 447 879
Mackay Ports Limited
ACN 131 965 707 | ABN 69 131 965 707

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11.3. ENGINEERING AND COMMERCIAL INFRASTRUCTURE

11.3.1. PETITION - SEALING OF GRAVINOS ROAD, VICTORIA PLAINS

Author	Executive Assistant (Robyn Smith)
Responsible Officer	Director Engineering & Commercial Infrastructure (Jason Devitt)
File Reference	Petition
Attachments	Nil

Purpose

Council formally received a Petition from residents on 3 April 2023 regarding a request for the bitumen sealing of Gravinosa Road, Victoria Plains.

The Resolution from Council was:

THAT the Petition be received.

FURTHER THAT the outcome of the Petition request be considered in a separate report.
This Report identifies the outcome of the investigations for consideration by the Council.

Related Parties

The parties relating to this report are as follows:

- Council
- Residents

Corporate Plan Linkage

- Optimised Asset Management – Our asset spend is aligned with the optimised maintenance, replacement and renewal of our asset base.
- Planned Capital and Forecasting – Our planned capital and operational projects are delivered with agility in line with business needs.

Background/Discussion

A Petition was received by Council on 19 March 2023 and formally received at its Ordinary Meeting of 3 April 2023.

The basis of the request is that residents have requested the bitumen sealing of Gravinosa Road, Victoria Plains.

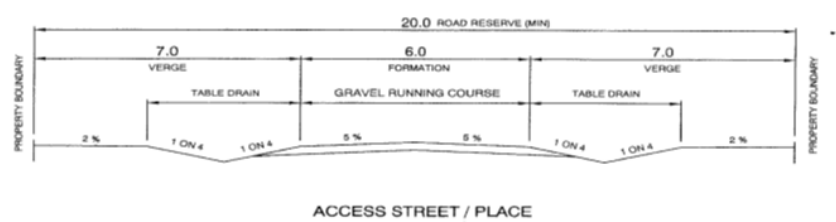
Following receipt of the Petition to Council, investigations into the reported issues have been undertaken.

Road Hierarchy

The road in question has an Access Road function within Council's Road Network and the activity on this road appears to support rural Access Road activity. The road does not support a rural school bus function.



The Hierarchy of Roads and their associated functions is used to inform and determine the functional need of a road. Under Council’s Type Cross Sections for Roads of this hierarchy, the following cross section would be implemented on reconstruction noting 6m traffic lanes to a 6m formation width.



Current Road Geometry

Current road seal and formation widths are as follows:

Section	Chainage	Length	Width	Description
1	0 – 92	92 m	5 m	Bitumen Sealed
2	92 – 1,098	1,006 m	5.5 m	Gravel Running Course

3	1,098 – 1,474	376 m	505 m	Gravel Running Course
---	---------------	-------	-------	-----------------------

Traffic Data

No recent traffic data is available for the site but given 13 lots are serviced by the road in question and applying the Planning Scheme Traffic Generation Rates, a maximum flow rate of 130 vehicles per day (vpd) may be the upper limit of traffic flows which could be expected.

Accident History

During the period 2006 to 2023 no reported crashes have been reported.

Maintenance and Complaint History

Information related to maintenance expenditure and current condition follows:

Gravinos Road - Victoria Plains															
Road No. 10802															
Task	2011 Actuals	2012 Actuals	2013 Actuals	2014 Actuals	2015 Actuals	2016 Actuals	2017 Actuals	2018 Actuals	2019 Actuals	2020 Actuals	2021 Actuals	2022 Actuals	2023 Actuals	Commitments	Total Actuals
1117 - Tim pary Gravel	0.00	0.00	1,050.25	431.32	0.00	0.00	0.00	0.00	0.00	0.00	878.32	0.00	917.87	0.00	2,877.56
1118 - Medium Formatio	3,366.68	0.00	3,724.88	0.00	0.00	2,215.34	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	9,306.90
1119 - Heavy Formation	0.00	0.00	0.00	0.00	0.00	5,975.99	0.00	0.00	1,860.61	11,992.84	0.00	0.00	10,270.43	0.00	30,106.87
1121 - Gravel / Binder	0.00	0.00	0.00	0.00	0.00	3,408.78	0.00	0.00	756.40	7,298.39	0.00	0.00	1,358.85	0.00	12,822.42
1204 - Shoulder gradin	0.00	0.00	0.00	0.00	0.00	0.00	476.50	0.00	0.00	0.00	0.00	905.42	0.00	0.00	581.92
1302 - Clear Open Dral	0.00	0.00	0.00	0.00	0.00	4,954.34	0.00	0.00	1,509.54	0.00	0.00	0.00	0.00	0.00	6,463.88
1407 - Tree and Vegeta	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	24.74	0.00	0.00	0.00	0.00	24.74
1410 - Mowing	0.00	0.00	0.00	0.00	0.00	0.00	475.13	568.64	999.60	416.47	0.00	0.00	0.00	0.00	2,459.84
1610 - NORRA - Sealad	92.37	0.00	7,437.52	(7,437.51)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	92.28
1712 - Submerge CigarU	8,991.82	1,187.84	88.70	256.15	(8,422.11)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1715 - 2011 Cyclone 1a	2,158.96	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,158.96
1716 - MacRNC 1.11 - 10	0.00	0.00	33,426.95	7,043.23	(40,470.18)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	(0.00)
1745 - 2011 Event - DI	0.00	0.00	0.00	0.00	743.78	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	743.78
1752 - Formation Repal	0.00	0.00	0.00	0.00	0.00	0.00	470.00	(470.00)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1774 - Formation Repal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,409.96	0.00	1,409.96
1775 - Road Surface Pa	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	744.82	0.00	744.82
	12,827.83	1,187.84	45,709.30	290.08	(48,148.51)	18,656.46	1,421.83	86.84	5,128.16	20,810.78	0.00	823.09	13,783.18	0.00	88,786.03

SSMMS Road Conditions Score Report - 05-Apr-2023														
RoadID	Road No	Inspector	Gravel Road Classification	Work Area	Road Name	Total Of Distance	Date	Current SSMMS	SSMMS 3 Month	SSMMS 6 Month	SSMMS 12 Month	Last Service	Profile	
61	10302	Charlie Ward - Southern North	3	VICTORIA PLAINS	Gravinos Road	1.487	16-Mar-2023	4.6	6.8	9.0	13.4	13-Mar-2023	1	

With regards to the grading frequency, Class 3 Roads are generally between 2.0 and 2.5 years depending on weather events and usage.

Upgrading Cost Assessment

There is a significant difference in pavement depths for bitumen sealing to that used for maintenance grading so the requested upgrade cost is not limited to just the bitumen seal cost involved.

Similarly, the standard of pavement materials for the MG2 unsealed road pavements would not be suitable for a designed pavement.

As an assumption, not knowing the CBR (California Bearing Ratio) of the underlying subgrade, if we use standard reconstruction rates using 200mm 2.3 and 150mm 2.1 gravel this equates to \$238/m².

As such, for the extent of the road link under Council control, upgrading costs conceptually are estimated at \$1,973,496.

Compliance with Relevant Standards

While Council has established hierarchy standards, relevant reference guidelines should also be considered with these being Austroad's "Guide to Road Design Part 3: Geometric Design" and the Institute Public Works Engineering Australasia's (IPWEA's) "Lower Order Road Design" which established guideline road widths based on traffic volumes.

Austrroads

Table 4.5: Single carriageway rural road widths (m)

Element	Design AADT				
	1–150	150–500	500–1000	1000–3000	> 3000
Traffic lanes ⁽¹⁾	3.7 (1 x 3.7)	6.2 (2 x 3.1)	6.2–7.0 (2 x 3.1/3.5)	7.0 (2 x 3.5)	7.0 (2 x 3.5)
Total shoulder	2.5	1.5	1.5	2.0	2.5
Minimum shoulder seal (2),(3),(4),(5),(6)	0	0.5	0.5	1.0	1.5
Total carriageway	8.7	9.2	9.2–10.0	11.0	12.0

Institute Public Workings Engineering Australasia (IPWEA) Lower Order Road Design

Table 4 – Road Asset Classification: Desirable Characteristics, Features and Values

Asset Classification Characteristic	Minor Road	Local Access	Formed Track
Vehicles per Day	50-150	10-50	0-10
Design Speed (km/hr)	100-60	70-40	50-30
Road Type	Sealed or unsealed	Sealed or unsealed	Formed
Formation Width (metres) (minimum)	7.0m	6.5m	4.0m
Seal Width (minimum)	4.0m	3.5m	n/a
Pavement Width (metres) (minimum)	6.0m	3.5m	n/a
Minimum Crossfall	Sealed 3% Gravelled 4%	Sealed 3% Gravelled 4%	Formed No Gravel 4%
Maximum Superelevation (Depending on the nature of truck traffic)	10% sealed 7% unsealed	10% sealed 9% unsealed	n/a
Gradient (maximum)	16% Sealed 10% Unsealed	16% Sealed 10% Unsealed	n/a

Given the above, it appears the Council Road Hierarchy Cross Sectional Standards is relevant for all the road sections requested for upgrading.

Noting the dimensions and volumes expected and the level of maintenance activity, there does not appear to be a specific driver for the requested upgrading as the road is not unlike a significant number of other like roads within the Local Government Area.

Consultation and Communication

Consultation has been held with the Director Engineering & Commercial Infrastructure and Manager Civil Operations on this matter and general agreement was reached that this is not a current option considering current priorities for capital expenditure proposed in the Long-Term Financial Forecast (LTFF) by Council.

Resource Implications

No funding allocations exist within the LTFF for the requested upgrade. Maintenance works will continue to be undertaken through allocated funds for Unsealed Road Maintenance.

Risk Management Implications

The risk of not funding the proposed project may be restricted to adverse local community reaction from the residents on Gravinos Road.

Conclusion

While understandable from a local level, traffic volumes are relatively low and the current and expected accident history does not appear to generate unexpected levels of risk residual. From the maintenance history of the site, ongoing maintenance costs are not significant in comparison with expected construction investments.

Based on Council's current hierarchy and priorities, the requirements for this project do not mandate the extent of the level of construction requested.

Construction based on this request may generate a precedent resulting in further requests for construction within rural areas not normally supported or funded by Council.

As such, there appears to be no driver or priority for this project apart from local convenience for residents.

Officer's Recommendation

THAT the Council note the outcomes of the investigation into the Petition and approve the following actions:

- Advise Petitioners that Council considers the road formation trafficable for all residents and that ongoing maintenance, in alignment with Council's normal intervention level, will continue to be undertaken; and
- That the Principal Petitioner be advised of these outcomes.

Council Resolution ORD-2023-135

THAT the Council note the outcomes of the investigation into the Petition and approve the following actions:

- **Advise Petitioners that Council considers the road formation trafficable for all residents and that ongoing maintenance, in alignment with Council's normal intervention level, will continue to be undertaken; and**
- **That the Principal Petitioner be advised of these outcomes.**

Moved Cr Jones

Seconded Cr Townsend

CARRIED UNANIMOUSLY

11.4. ORGANISATIONAL SERVICES

11.4.1. INTERIM MANAGEMENT REPORT

Author	Acting Manager Financial Services (Christopher Ruggeri)
Responsible Officer	Director Organisational Services (Angela Hays)
File Number	External Audit
Attachments	1. Interim Report To Management - Final [11.4.1.1 - 6 pages]

Purpose

The purpose of this report is to table, for Council's information, the 2023 Interim Report to the Mayor completed by Council's external auditors on behalf of the Queensland Audit Office.

Related Parties

Nil.

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

The interim audit for the 2022/23 financial year has now concluded. As part of this process the audit team assessed the design and implementation of internal controls and whether they are operating effectively. The attached report provides details of audit matters and other information relating to the audit of Council's financial statements.

Audit processes completed to 28 February 2023 identified the following deficiencies:

- 2 raised in the current year, relating to general journal control activities and payroll system updates
- 1 unresolved from prior years, relating to the ageing of completed projects

Consultation and Communication

In accordance with section 213 of the *Local Government Regulation 2012*, an auditor-general's observation report must be presented to the next ordinary meeting of the local government.

Resource Implications

Nil

Risk Management Implications

Remedial action by Management to resolve all identified deficiencies is currently underway, with all work on track for completion by agreed resolution dates.

Conclusion

It is recommended that Council receive the report.

Officer's Recommendation

THAT Council receives the Interim Report for Mackay Regional Council, for the financial year ending 30 June 2023.

Council Resolution ORD-2023-136

THAT Council receives the Interim Report for Mackay Regional Council, for the financial year ending 30 June 2023.

Moved Cr May

Seconded Cr Green

CARRIED UNANIMOUSLY



2023 INTERIM REPORT

Mackay Regional Council

21 April 2023



Councillor Greg Williamson
Mayor
Mackay Regional Council
PO Box 41
MACKAY QLD 4740

Dear Councillor Williamson

2023 Interim report

We present our interim report for Mackay Regional Council for the financial year ending 30 June 2023. This report details the results of our interim work performed to 28 February 2023. Under section 213 of the Local Government Regulation 2012, you must present a copy of this report at your council's next ordinary meeting.

Results of our interim audit

In this phase, we assessed the design and implementation of your internal controls relevant to the financial report, and whether they are operating effectively. We assessed the key controls we intend to rely on in auditing your financial statements. Our audit does not assess all controls that management has implemented across the organisation.

Deficiencies:

- 2 raised in the current year, relating to general journal control activities and payroll system updates.
- 1 unresolved from prior years.

Based on the results of our testing completed to date and the resolution of prior year issues, we have determined your internal control environment does support an audit strategy where we can continue to rely upon your entity's controls.

Areas of audit focus

We have also performed work over the areas of audit focus we identified in our external audit plan. Significant audit work has been undertaken in the procurement and contract management area of focus during our interim audit, however this audit work is still to be finalised. No significant issues have been identified to date however we do not expect finalisation of our testing in this area until the end of May. Any deficiencies identified by audit in finalising our work program in this area will be reported in our final audit management report.

Audit review of property, plant and equipment values and restoration provision liabilities has commenced and will be completed during year-end visit in early September.

If you have any questions or would like to discuss the audit report, please contact me on 07 4951 1455.

Yours sincerely

Paul Hinton CA
Engagement Partner

Enc.

cc. Mr T Cronin, Audit Committee Chair
Mr S Owen, Chief Executive Officer

Queensland Audit Office
Level 13, 53 Albert Street, Brisbane Qld 4000
PO Box 15396, City East Qld 4002

Phone 07 3149 6000
Email gao@gao.qld.gov.au
Web www.gao.qld.gov.au
 Queensland Audit Office (QAO)

1. Status of issues

Internal control issues

The following table identifies the number of deficiencies in internal controls and other matters we have identified. Details of the deficiencies we identified during our interim audit are outlined further in this section.

Refer to [section 2](#) *Matters previously reported* for the status of previously raised issues.

Issues	Significant deficiencies	Deficiencies	Other matters*
Current year issues	-	2	-
Prior year issues – unresolved	-	1	-
Total issues	-	3	-

*Queensland Audit Office only tracks resolution of other matters where management has committed to implementing action.

The following section details control deficiencies and other matters identified as at March 2023. It includes a response from management

Our ratings are as follows. For more information and detail on our rating definitions, please see the webpage here: www.qao.qld.gov.au/information-internal-controls or scan the QR code.



D Deficiency

23-IR1 No documented formal policy for general journal control activities

Observation

Currently no comprehensive written documentation exists to detail management’s current control activities in the area of journals. We identified no consolidating document exists detailing what controls are actually in place in respect of:

- creation and authorisation processes
- exception reporting
- dollar value threshold limits and the roles they are attached to
- nature or circumstances that would require journals to be reviewed by the MRC Finance Manager / Director level of management.

Audit also identified that the dollar threshold before a journal was identified as being significant enough to require review by the Finance Manager is high at \$200 million.

2023 Interim report

Implication

Without a comprehensive documented policy detailing general journal control processes, there is increased risk of undetected fraud or error. Especially if the organisational knowledge of key journal controls and processes are centralised in "one or two" key finance employees.

Having a \$200m journal threshold criteria, before journals are required to be reviewed by senior management, results in the only journals being flagged for Finance Manager review are the once-a-year asset revaluation journals.

QAO recommendation

We recommend management document its current journal control activities. This process should include a significant reduction in the current \$200m review threshold before review by the Finance Manager. Other areas to consider include:

- staff who are authorised to be able to access journal functions and create and authorise journals.
- what system control / exception reports (ETLs) exist and are utilised. The objective of each report (for example if creator and authoriser are same) including detail of whether automatically produced or manually run and reviewed as needed.
- regular review of audit trail reports identifying any changes made to current ETL control / exception reports and changes to staff details and journal authorisation thresholds. These reports should be signed and dated as evidence of review.
- details of registers in place to allow the checking of sequential numbering of both unique journal number identifiers and batch / document number identifiers.

Management response

Agree with the recommendation.

Responsible officer: Manager of Finance

Status: Work in progress

Action date: 30/06/2023

**Deficiency****23-IR2 Lack of review of payroll system Masterfile data updates****Observation**

It has been identified that 72 employees were paid employer superannuation contributions +0.5% over the maximum prescribed rate of 12%. The overpayments, totalling approximately \$18,950, took place from 1 July 2022, in line with the commensurate +0.5% change in the superannuation guarantee rate, suggesting the above award contribution rate for these 72 employees was not updated at this time. The rate was corrected on 17 March 2023, upon identification of the error.

Implication

Lack of controls in place in respect of independent review of payroll system updates resulted in the overpayment of staff. This could have been potentially material if undetected.

QAO recommendation

We recommend council review the adequacy of its control activities and checking processes in place for major Masterfile data changes (such as employee superannuation rates).

2023 Interim report

Management response

Agree with the recommendation. Internal audit has been requested to review this area.

Responsible officer: Acting Manager Shared Services

Status: Work in progress


Action date: 30/06/2023

Financial reporting issues

There are no current or prior year financial reporting issues reported.

2. Matters previously reported

The following table summarises the status of deficiencies, financial reporting issues, and other matters previously reported to you.

Ref.	Rating	Issue	Status
21CR1		<p>Capital Work in Progress – Ageing of completed projects</p> <p>Audit identified a significant number of completed capital works projects that have been completed and in use but had not progressed through Capital Work in Progress ledgers to be recognised as a completed “in use” asset for inclusion in Council’s asset depreciation registers as at 30 June.</p>	<p>Work in progress</p> <p>Responsible officer: Director of Organisational Services</p> <p>Action date: 30 July 2023</p> <p>Total completed projects remaining in WIP as at 20 March 2023 is \$54.7M. Audit identified \$45.6M completed projects for greater than 90 days and 72 completed projects dating 30 June 2022 or earlier totalling \$16.06M remaining in WIP. This is further broken down to consisting of 2 projects from the 2020 year; 9 completed in the 2021 year and 61 remaining from the 2022 financial year.</p>



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11.4.2. STRATEGIC FINANCIAL REPORT - APRIL 2023

Author	Acting Manager Financial Services (Chris Ruggeri)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	Strategic Financial Report

Attachments	1. April 2023 Strategic Financial Report [11.4.2.1 - 22 pages]
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Purpose

To adopt Mackay Regional Council's (MRC) Strategic Financial Report for the month of April 2023.

Related Parties

Nil.

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

Under Part 9, section 204 of the *Local Government Regulation 2012*, the local government is required to prepare a financial report which the Chief Executive Officer presents at a meeting of the local government once a month.

The financial report must state the progress that has been made in relation to the local government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

Consultation and Communication

Chief Executive Officer, Directors, Manager Financial Services.

Resource Implications

MRC is forecasting an operating surplus of \$0.5M for the 2022/23 financial year following adoption of the March budget review by Council on 26 April 2023. The actual operating result for March 2023 is reporting a favourable variance of \$1.0M against YTD budget.

Risk Management Implications

Variances will be closely reviewed and considered in future budget processes if required.

Conclusion

For the period ending April 2023, MRC reported a favourable operating variance of \$1.0M against YTD budget. Operating expenditure is reporting under YTD budget, primarily in materials and services (\$1.6M) and is largely attributable to delays in recognition of forecast expenditure for consultants. Revenue is reporting slightly lower than current month forecast for the reporting period.

To date, \$80.3M has been expended in the delivery of Council Projects; \$78.6M capital expenditure and \$1.7M operational expenditure. Council projects includes accrued expenditure for works in progress and associated operational costs expended in the delivery of these works.

Officer's Recommendation

THAT the Strategic Financial Report for April 2023 be received.

Council Resolution ORD-2023-137

THAT the Strategic Financial Report for April 2023 be received.

Moved Cr May

Seconded Cr Jones

CARRIED UNANIMOUSLY



Strategic Financial Report

> April 2023

Executive summary

Council is forecasting an operating surplus of \$0.5M for the 2022/23 financial year following the adoption of the March budget review by Council on 26th April 2023, to reflect anticipated end of year result.

	Annual Original Budget \$000	Annual Revised Budget \$000	YTD Budget \$000	YTD Actual \$000	YTD Variance \$000
Total operating revenue	278,056	283,167	268,539	268,271	(267)
Total operating expenses	277,327	282,674	229,918	228,696	(1,222)
Operating surplus / (deficit)	729	493	38,621	39,575	954

% YTD Variance from YTD Budget (KPI)

YTD Variance between 0% and $\pm 2.99\%$

YTD Variance between $\pm 3\%$ and $\pm 4.99\%$

YTD Variance equal to or greater than $\pm 5\%$

For the month ended 30 April, a favourable operating variance of \$1.0M against YTD budget is reported.

Total operating revenue is reporting an unfavourable variance of \$0.3M against YTD budget, as a decrease in fees and charges continues to be observed as a result of decreased waste disposal activities. Operating expenditure is reporting \$1.2M below YTD budget, where delay in the delivery and recognition of forecast expenditure for contractors and consultants has been experienced offset by employee benefits.

To date, \$80.3M has been expended on council projects, including associated operational expenditure in the delivery of these projects; representing 77.1% of the annual revised budget. Ongoing risk in project delivery remains present with tightened local labour market conditions and elevated lead times for some critical components being experienced.

Justin Rule

Manager Financial Services

Angela Hays

Director Organisational Services

Figures provided are accurate as at the date of publication and are cumulative year to date. Amounts disclosed are rounded to the nearest thousand (\$000) unless otherwise stated. Consequently, rounded balances in the categories may not exactly add to the reported totals.



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1 Significant risks

Risk	Likelihood	Consequence	Treatment	Financial impact
Nil to report				

2 Areas of concern for noting

Area/issue of Concern	Comment
COVID-19	Council continues to monitor the impacts of COVID-19 on business operations, recognising any financial impacts via budget review processes.
Asset data cleansing	MRC continues to undertake significant multi-year asset data improvement initiatives, intended to validate, standardise and enhance the classification and attribute accurate of assets recorded on corporate asset registers. Any resulting financial impacts will be recognised once known.
Council projects expenditure	Product and service price increases are being observed due to tightened market conditions. This reflects resource shortages across local building and civil construction firms and difficulties in sourcing some construction material and equipment due to supply chain issues. This is likely to negatively impact delivery of the capital program and may create variances in future forecast expenditure.
Australian inflation rate	Australia's inflation rate forecast is noted for consideration in ongoing budget review processes, due to its direct impact on MRC expenditure.
Operational expenditure	Market influences within the Mackay region are negatively impacting MRC's employee retention. Employee benefits and materials and services (including consultants and contractors) will continue to be monitored. Variance is likely to be observed as the financial year continues.

3 Budget analysis – Consolidated

3.1 Income Statement

Income Statement For the period ending 30 April 2023

	Annual Original Budget \$000	Annual Revised Budget \$000	YTD Budget \$000	YTD Actual \$000	YTD Variance \$000
Rates and charges	232,683	232,663	231,912	231,875	(37)
Fees and charges	19,555	18,357	16,501	15,891	(609)
Rental income	1,436	1,220	1,003	1,042	39
Interest income	1,992	5,736	4,432	4,391	(41)
Sales contracts and recoverable works	7,948	8,626	5,081	5,182	101
Other recurrent income	4,462	5,581	4,332	4,630	299
Grants, subsidies, contributions and donations	9,980	10,984	5,279	5,260	(19)
Total operating revenue	278,056	283,167	268,539	268,271	(267)
Employee benefits	94,563	89,789	74,242	74,957	715
Materials and services	98,742	105,661	84,304	82,729	(1,575)
Finance costs	4,520	4,493	3,114	3,191	76
Depreciation and amortisation	79,502	82,730	68,257	67,819	(438)
Total operating expenses	277,327	282,674	229,918	228,696	(1,222)
Operating surplus / (deficit)	729	493	38,621	39,575	954
Grants, subsidies, contributions and donations	40,512	33,507	20,216	20,173	(43)
Other capital revenue	0	0	0	47	46
Capital expenses	2,740	2,740	924	3,518	(2,594)
Total capital revenue and expenses	37,772	30,767	19,292	16,702	2,591
Net result	38,501	31,260	57,913	56,277	(1,636)

% YTD Variance from YTD Budget (KPI)

YTD Variance between 0% and ± 2.99%

YTD Variance between ± 3% and ± 4.99%

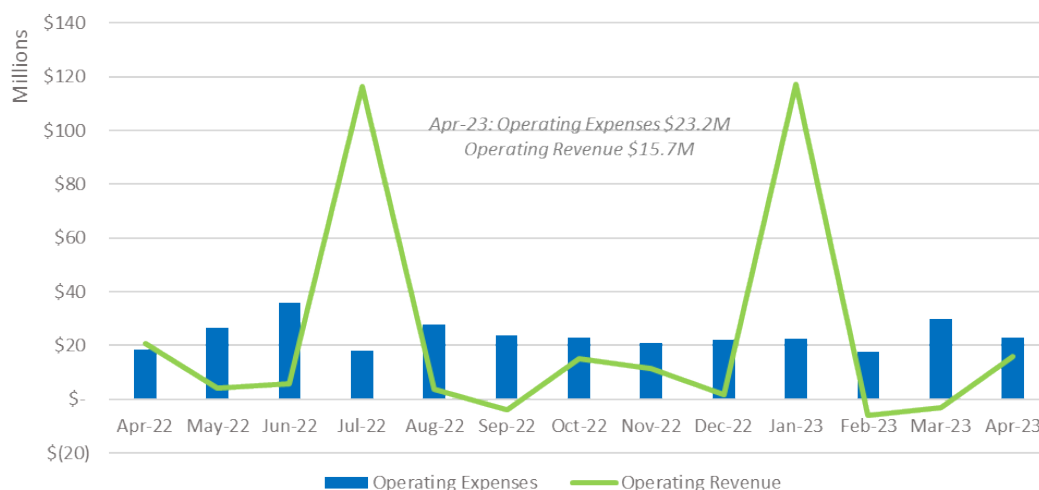
YTD Variance equal to or greater than ± 5%

3.2 Revenue and expenditure

MRC is currently reporting a favourable operating variance of \$1.0M against YTD budget for the period ending April 2023. The outcomes of the March budget review are reflected within this report, presenting the estimated closing position for the 2022/23 financial year.

Top 5 revenue and expenditure variances	YTD Comment
	Variance
	\$000
Materials and services	(1,575) Delays in recognition of consultants fees and contract payments
Employee benefits	715 Overspend in overtime to compensate for current vacancies
Fees and charges	(609) Decreased activity at waste disposal facilities
Other recurrent income	299 Increase in MECC ticket sales
Capital expenses	(2,594) Recognition of non-current asset disposals and write offs

Trend revenue and expenditure



3.3 Council projects expenditure

MRC is responsible for the provision of a diverse range of services to meet community needs and expectations. A significant number of these services are provided through infrastructure assets and other property, plant and equipment. Council manages the construction, upgrade and renewal of community assets as part of its capital works program.



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	Annual Original Budget \$000	Annual Revised Budget \$000	YTD Budget \$000	YTD Actual \$000	YTD Variance \$000
Capital expenditure ^	104,649	101,222	78,366	78,568	203
Operational expenditure	2,117	2,913	1,847	1,712	(136)
Total council projects expenditure	106,766	104,135	80,213	80,280	67

^ as depicted in the below graph

% YTD Variance from YTD Budget (KPI)

YTD Variance between 0% and ± 2.99%

YTD Variance between ± 3% and ± 4.99%

YTD Variance equal to or greater than ± 5%

Total council projects expenditure is currently tracking \$0.1M above YTD forecast, with \$80.3M expended to date in the delivery of these projects, representing 77.1% of the annual revised budget including remediation expenditure.

Ongoing risk in project delivery is still present with tightened local labour market conditions and the elevated lead times of some critical components.

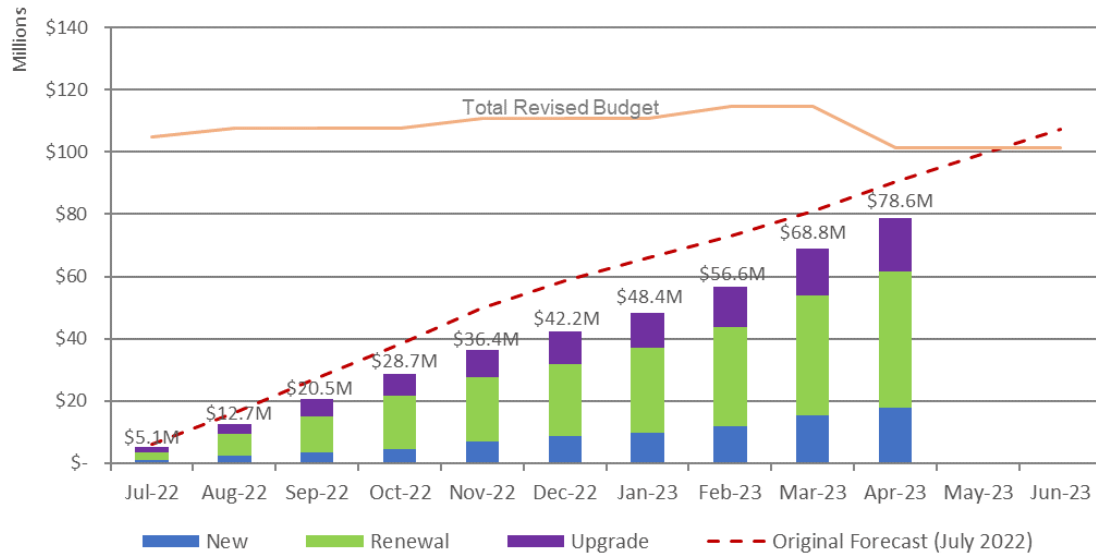
Project delivery has been reviewed and considered as part of the March budget review. The outcomes of this review have been included within this report as part of the annual revised budget and detailed below.

Movement between original budget and annual revised budget

	Carryover \$000	Project Adjustments \$000	New Works \$000	Deferred Works \$000	Total Budget Movement \$000
Budget adjustments adopted 24th August	14,076	10,637	-	(21,113)	3,600
Budget adjustments adopted 9th November	-	6,859	1,681	(5,051)	3,488
Budget adjustments adopted 25th January	-	14,484	282	(10,757)	4,009
Budget adjustments adopted 26th April	-	4,533	1,341	(19,602)	(13,728)
Total budget adjustments adopted	14,076	36,512	3,305	(56,523)	(2,630)

3.3.1 Capital Expenditure

Capital expenditure is currently tracking \$0.2M above YTD forecasts and includes accrued expenditure for work completed during the month.

Cumulative capital expenditure

4 Balance Sheet

4.1 Statement of financial position

Statement of Financial Position For the period ending 30 April 2023

	Annual Original Budget \$000	Annual Revised Budget \$000	Actual \$000
Current assets			
Cash and cash equivalents	117,698	146,631	142,918
Investments	0	0	40,000
Trade and other receivables	20,421	20,491	35,992
Contract Assets	3,500	3,500	173
Other assets	2,710	3,216	1,339
Inventories	2,745	2,988	470
Non-current assets classified as held for sale	79	79	79
Total current assets	147,153	176,905	220,972
Non-current assets			
Investments	5,102	5,277	5,277
Trade and other receivables	0	0	1,676
Property, plant and equipment	3,471,822	3,690,867	3,684,153 ^Λ
Right of use assets	741	1,223	1,236
Intangible assets	4,202	3,927	3,982
Total non-current assets	3,481,867	3,701,294	3,696,325
Total assets	3,629,020	3,878,199	3,917,297
Current liabilities			
Trade and other payables	10,002	8,755	13,287
Employee entitlements	11,572	1,722	22,309
Borrowings	14,049	14,048	3,509
Lease liabilities	25	66	23
Provisions	50,886	62,641	51,203
Contract Liabilities	3,500	3,500	7,691
Other liabilities	12,654	19,570	8,404
Total current liabilities	102,688	110,302	106,426

Non-current liabilities			
Employee entitlements	1,775	1,699	1,699
Borrowings	38,848	38,848	52,770
Lease liabilities	750	1,258	1,298
Provisions	14,971	13,269	13,268
Other liabilities	1,163	11,691	11,691
Total non-current liabilities	57,507	66,765	80,728
Total liabilities	160,195	177,067	187,153
Net community assets	3,468,825	3,701,132	3,730,143
Community equity			
Retained surplus	2,299,637	2,311,716	2,340,859
Asset revaluation surplus	1,169,188	1,389,416	1,389,284
Total community equity	3,468,825	3,701,132	3,730,143

^ refer section 4.4 for breakdown

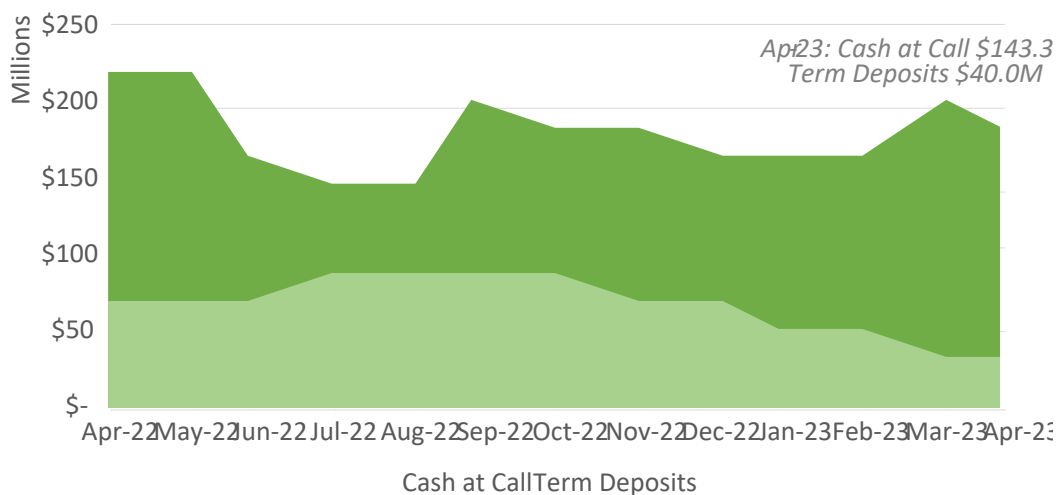
4.2 Cash and Investment Portfolio

4.2.1 Total Cash and Investment Portfolio

The total balance of MRC's cash at call and investments, at the end of the reporting period, is shown in the graph below. The balance of cash at call will vary from the reported balance of cash and cash equivalents on the statement of financial position due to unbanked cheques and other uncleared amounts.

76% of the total investment portfolio is currently deposited with Queensland Treasury Corporation (QTC), in accordance with MRC's Investment Policy. Cash held at call with QTC continues to be reviewed for yield and liquidity requirements. The market is monitored during the month for investment opportunities that will deliver comparable or better than what can be achieved via the QTC at call account.

Closing portfolio balance



Portfolio diversification

	Actual \$000	Percentage of Portfolio	Weighted Average Rate of Return
A1	15,000	8%	
A2	25,000	14%	
Total investments in term deposits	40,000	22%	4.24%
QTC	139,961	76%	
Other financial institution	3,294	2%	
Total cash at call	143,255	78%	4.02%
Total investment portfolio	183,255	100%	

Note: All investment categories referenced are in accordance with Mackay Regional Council's adopted investment policy. This is available for viewing via the Mackay Regional Council website.

4.2.2 Cash and cash equivalents

MRC's cash and cash equivalents are subject to internal and external restrictions that limit amounts available for discretionary or future use.

A significant amount of the reserve balances relates to funds received as contributions for future capital trunk infrastructure. MRC regularly conducts reviews on reserve balances to confirm the validity of restrictions.

4.2.3 Investments

MRC maintains an investment portfolio diversified across various institutions and terms to maturity, which is reviewed regularly to maximise performance and minimise risk. MRC currently has \$40M invested with financial institutions other than QTC. Maturity of these investments is scheduled between June 2023 and January 2024.

The MRC portfolio return continues to exceed the benchmark of Ausbond Bank Bill Index. Financial indicators and other available data suggests an ongoing increase in interest rate yields is possible. MRC will continue to investigate investment opportunities to maximise returns where possible.

	April	12 Month Comparative
MRC Portfolio	4.24%	2.63%
AusBond Bank Bill Index	2.04%	0.83%

4.3 Current Receivables

Revenue is recognised at the amounts due at the time of sale or service delivery. MRC's standard settlement terms for trade receivables are 30 days from invoice date.

	Actual \$000	Actual %
Trade and other receivables		
Rates and utility charges	24,556	68%
Development contributions	6,351	18%
Other debtors	5,085	14%
Total	35,992	100%

4.3.1 Rates Receivables

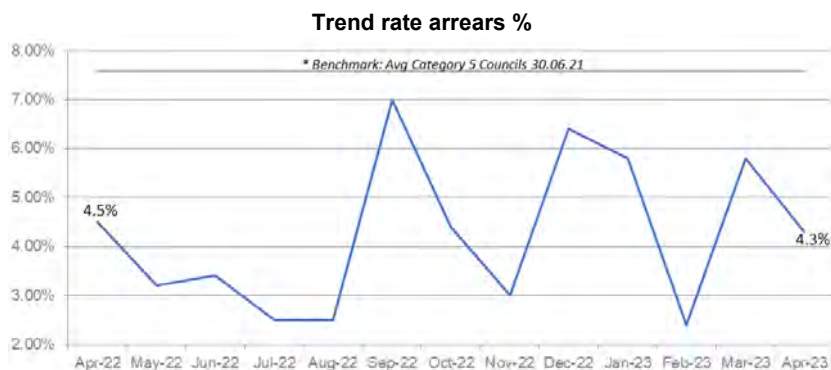
Rates and charges revenue represent ~82% of MRC's original operating revenue budget for the financial year.

MRC frequently reviews its collection process to ensure rates are collected efficiently and effectively, whilst being cognisant of individual circumstances. Collection action is continuing, both with our external collection agency and monitoring of in-house payment schedules. In-house collection methods include the use of SMS reminders for ratepayers. When arrears balances exceed three years aging, Council reviews parcels for inclusion in sale of land process. The most recent public auction of these properties occurred 7 February 2023.

	Total Overdue \$000	Current year 2022/2023 \$000	1 year 2021/2022 \$000	2 years 2020/2021 \$000	> 3 years \$000
Total rate arrears	10,038	7,405	1,329	747	557

	Issue date of notice	Due date for payment
Rates notice	13/02/2023	15/03/2023
Pensioner rates notice	13/02/2023	01/06/2023
Rates reminder notice	10/04/2023	24/04/2023

Rates arrears as depicted in the trend rate arrears % graph remains consistent with the previous reporting period, noting rates notices are issued twice per financial year. The current arrears balance is anticipated to decrease as collection action continues, noting pensioners have until June to make payment and receive discount.



* Each year the Department of State Development, Infrastructure, Local Government and Planning collects information from local governments about the key services they provide and publishes it in the Queensland local government comparative information report. The report includes a suite of efficiency, effectiveness and quality-of-service indicators covering key functional and financial areas of local government, including rates arrears performance indicators. The benchmark reported above represents the average rates arrears of like councils (category 5) for comparative years 30 June 2021 – 7.58%.

4.4 Property, plant and equipment

	Annual Original Budget \$000	Annual Revised Budget \$000	Actual \$000
Opening balance as at 1 July	3,444,352	3,669,813	3,669,726
Opening balance adjustment	0	0	4,126
Net additions (including WIP) and contributed assets	107,995	106,098	83,054
Depreciation	(78,395)	(82,648)	(67,757)
Write off / disposed	(1,997)	(2,349)	(4,864)
Transfers to other asset classes	(133)	(47)	0
Property, plant and equipment closing balance	3,471,822	3,690,867	3,684,153

A majority of MRC's assets are in the form of infrastructure, such as roads, drainage, water, sewerage and waste assets. Significant parts of MRC's long-term financial forecast are focused on the construction, upgrade and renewal of these assets, with the associated capital expenditure recognised as work in progress (WIP) until projects are complete and assets are ready for their intended use.

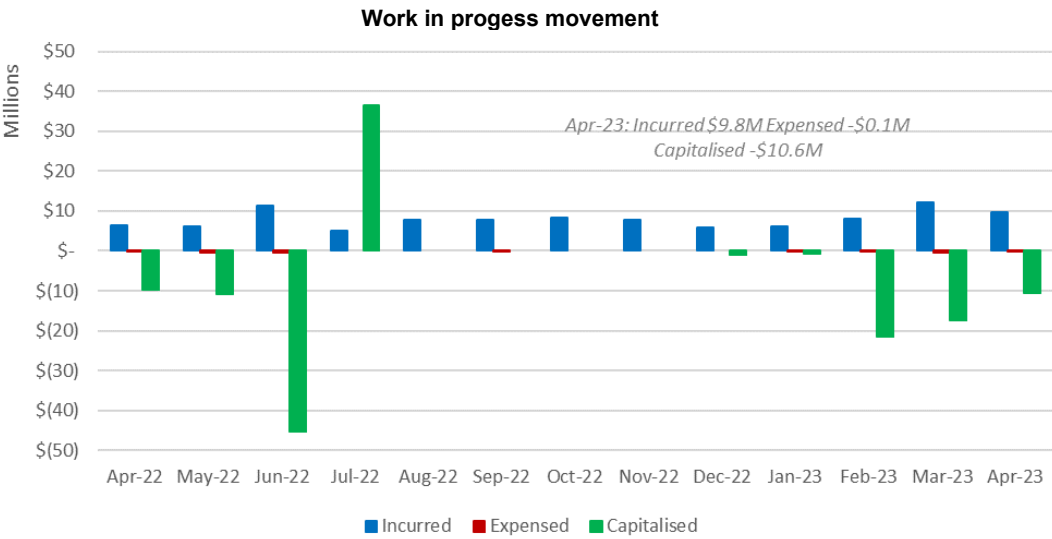
Refer to section 3.3 Council Projects Expenditure for current year budget estimates.

Total WIP as at the end of April represents \$164.8M, inclusive of current year additions and accruals. Of this, \$44.2M relates to projects complete, with assets in use. MRC employs a 90-day target from project completion through to capitalisation of detailed assets within the corporate asset register.

Project Phase	Actual \$000
Business case	3,509
Design	23,671
Construction	93,412
Projects Complete	44,218
Total WIP	164,810

Total Projects Complete \$000	Aged			
	> 90 days \$000	> 60 days \$000	> 30 days \$000	< 30 days \$000
44,218	36,668	5,322	2,046	182

Where required, accounting adjustments are performed at 30 June to ensure that assets in use at the end of the reporting period are recognised in the correct financial year. These adjustments are subsequently reversed on 1 July, and true asset capitalisation follows. The below graph detailing movement in WIP by period is inclusive of these adjustments.



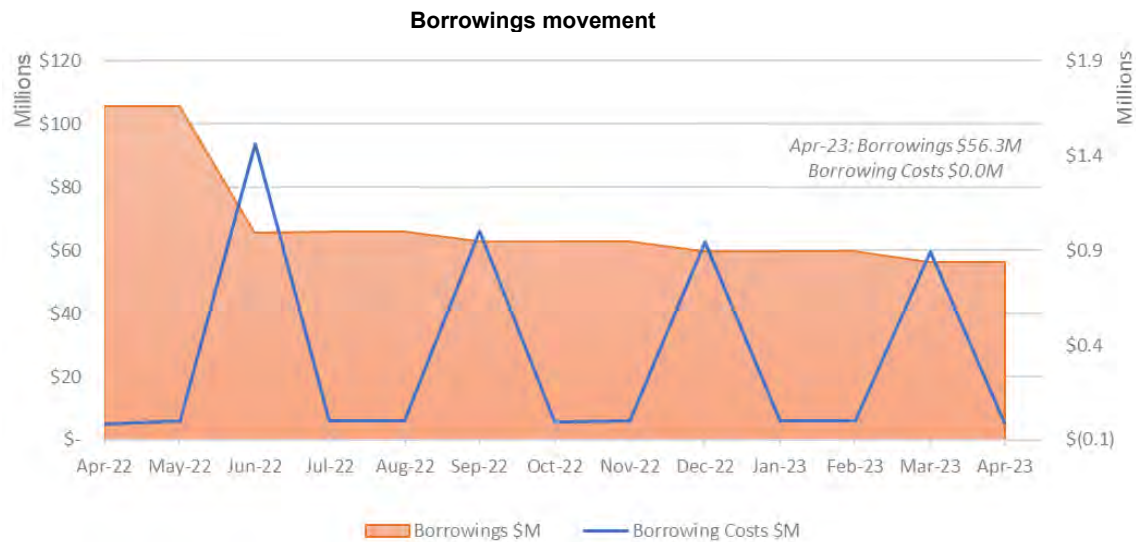
*Note: **Incurred**; represents capital expenditure for the construction or acquisition of assets. These assets are incomplete and are non-depreciating. **Capitalised**; refers to the recognition of property, plant and equipment in Mackay Regional Council's asset register. **Expensed**; relates to costs transferred from WIP that will not be capitalised, with expenditure recognised in the Income Statement.*

4.5 Borrowings

Loan borrowings are an important funding source for local government; reflecting that the full cost of infrastructure should not be borne entirely by present-day ratepayers alone, rather by all those who benefit from the infrastructure over its lifetime.

Borrowing costs associated with the debt balance are recognised when the principal repayments are made, on a quarterly basis. At the end of April, MRC had \$56.3M in total loan borrowings outstanding. In line with the MRC’s Debt Policy, no new borrowings are forecast in the current financial year.

The June 2022 movement in the graph below includes early repayment of a sewerage loan, to realise a significant financial benefit for the community.



5 Cash Flow

5.1 Statement of cash flows

Statement of Cash Flows For the period ending 30 April 2023

	Annual Original Budget \$000	Annual Revised Budget \$000	Actual \$000
Cash flows from operating activities			
Receipts from customers	265,823	269,733	235,138
Payments to suppliers and employees	(195,026)	(213,155)	(156,808)
Interest income	1,992	5,736	4,391
Non-capital grants, subsidies, contributions and donations	9,981	10,862	5,260
Borrowing costs	(3,640)	(3,641)	(2,823)
Net cash inflow from operating activities	79,130	69,535	85,158
Cash flows from investing activities			
Payments for property, plant and equipment	(103,996)	(100,427)	(77,953)
Payments for intangibles	0	(8)	(9)
Payments for investments	0	0	30,000
Other capital income	0	1,676	47
Other capital expenses	(2,000)	(2,000)	(366)
Proceeds from sale of property, plant and equipment	1,257	1,296	1,712
Capital grants, subsidies, contributions and donations	36,512	20,663	15,071
Net cash outflow from investing activities	(68,227)	(78,800)	(31,498)
Cash flows from financing activities			
Repayment of borrowings	(13,168)	(13,167)	(9,783)
Repayments made on leases (principal only)	(41)	(41)	(64)
New cash outflow form financing activities	(13,209)	(13,208)	(9,847)
Net increase / (decrease) in cash and cash equivalents	(2,306)	(22,473)	43,813
Cash and cash equivalents at beginning of the period	120,004	169,104	99,104
Cash and cash equivalents at end of the period	117,698	146,631	142,918

6 Financial analysis

6.1 Key performance indicators

Ratio	Description	Target	FY2021	FY2022	Amended Budget FY2023	April FY2023
Operating surplus ratio (%)	Extent to which operating revenues covers operating expenses (excludes capital items)	0% - 10%	2.2%	0.2%	0.2%	14.8%
Interest coverage ratio (%)	Extent to which operating revenues cover net interest expense	0% - 5%	2.4%	3.4%	(0.4%)	(0.4%)
Net financial liabilities ratio (%)	Extent to which net financial liabilities can be serviced by operating revenues	< 60%	6.1%	4.3%	0.1%	(12.6%)
Current ratio	Extent to which current assets cover current liabilities	Between 1 and 4	1.8	1.5	1.6	2.1
Asset sustainability ratio (%)	Extent to which the infrastructure assets are being replaced/renewed	> 90%	82.2%	65.4%	68.5%	64.4%
Capital expenditure ratio (times)	Extent to which capital expenditure exceeds depreciation.	> 1.1 times	1.2	1.3	1.3	1.2

Year to date results are largely indicative of current timing in the delivery of the annual budget. It should be considered that some targets are set to be achieved on average over the longer term and therefore not expected to be met on a monthly basis. It is anticipated that these ratios align with budget at year end.

The actual asset sustainability ratio is consistently below target as MRC boasts a relatively new asset base. Significant investment in new assets over prior years has reduced the immediate need for renewal of those assets. MRC continues to invest adequately in asset renewals to ensure continued services to the community over the long-term as well optimising operating and maintenance costs of the assets over their useful life.

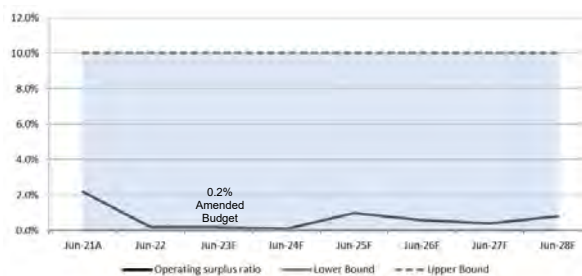
The key performance indicator trends are observed in the following graphs. Historical financial years are represented on the axis using actual (a) results, with revised budget forecasts (f) applied in future financial periods.



Strategic Financial Report > April 2023

Operating surplus ratio %

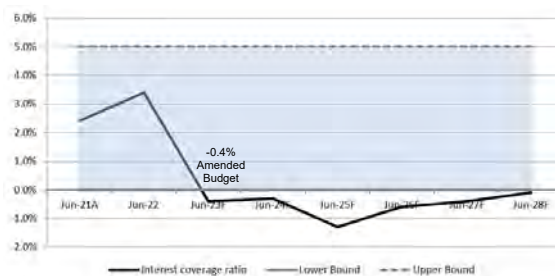
A percentage between 0% and 10% over the long term means Council is expecting to generate healthy levels of revenue with an ability to fund proposed capital expenditure and / or debt repayments.



Interest coverage ratio %

This ratio measures the extent to which operating revenues are committed to funding net interest expense.

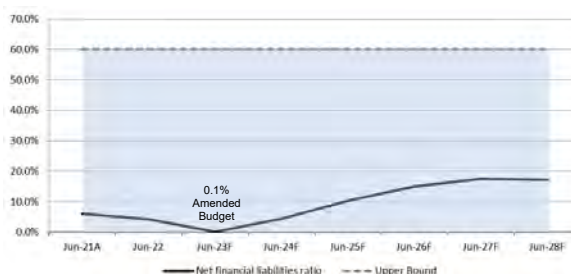
The interest coverage ratio is negative in years where interest revenue exceeds interest expense. MRC remains confident that financial risk is being effectively managed throughout the life of the forecast.



Net financial liabilities ratio %

This ratio measures Council's ability to fund its net financial liabilities from recurrent revenue.

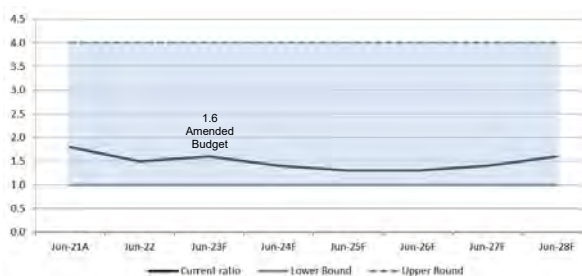
It is noted that Mackay Regional Council is expected to remain within target bounds indicative that the financial risk is being effectively managed.



Current ratio

The current ratio is a good indicator of Council's liquidity and ability to meet short term obligations.

If the current ratio is too high over a sustained period, this may indicate that council may not be efficiently using its current assets or its short-term financing facilities and may also indicate problems in working capital management.

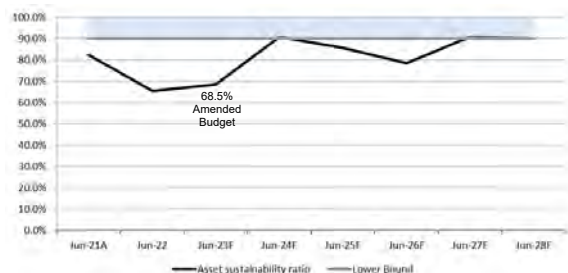


Asset sustainability ratio %

This ratio is calculated based on the planned capital expenditure on the renewal of assets.

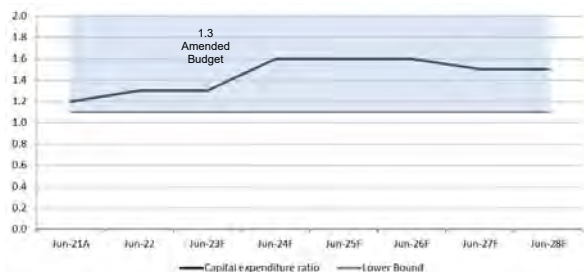
MRC is confident that although it does not reach the set target in the first few years of the Long Term Financial Forecast, it does contribute to sustainable asset replacement over the long term.

This ratio is also reflective of the relative new age of MRC's asset base following a period of high growth and investment in new assets. This means the requirement to spend significant funds on renewals at this stage is relatively low but will be monitored to ensure future spend is sufficient.

**Capital expenditure ratio (times)**

This ratio measures the extent to which annual capital expenditure is covered by annual depreciation. A ratio above 1.1 indicates investment in long term asset growth beyond current existing levels.

This ratio indicates that council is willing to invest more than depreciation into expanding its assets base for the life of the adopted Long Term Financial Forecast.



7 Budget analysis - Commercial businesses

7.1 Mackay Water Services

Income Statement For the period ending 30 April 2023

	Annual Original Budget \$000	Annual Revised Budget \$000	YTD Budget \$000	YTD Actual \$000	YTD Variance \$000
Operating revenue	100,670	101,540	99,430	99,523	93
Operating expenses	40,587	40,233	32,499	32,493	(6)
Earnings before interest, depreciation, dividend and tax	60,083	61,307	66,931	67,030	99
Finance costs	1,459	1,459	1,072	1,071	(1)
Depreciation	28,417	31,036	25,342	25,488	146
Earnings before dividend and tax	30,207	28,812	40,517	40,471	(46)
Dividend and tax	25,266	25,267	21,055	21,055	0
Operating surplus / (deficit)	4,941	3,545	19,462	19,416	(46)
Total capital revenue	3,950	3,950	2,098	1,759	(339)
Total capital expenses	600	600	550	1,474	924
Net result	8,291	6,895	21,010	19,701	(1,309)

% YTD Variance from YTD Budget (KPI)

YTD Variance between ± 0% and ± 2.99%	
YTD Variance between ± 3% and ± 4.99%	
YTD Variance equal to or greater than ± 5%	

Mackay Water Services is reporting an operating surplus of \$19.4M for the month of April, which is a \$0.05M unfavourable variance against YTD budget.

Operating revenue is \$0.1M above YTD budget at period end. All revenue streams remain closely aligned to YTD budget apart from fees and charges and rental income which are reporting unfavourable variances.

Total expenses (operating expenses, finance costs and depreciation) are reporting a favourable variance of \$0.1M against YTD budget at period end. Unfavourable variances in employee benefits and depreciation are offset by favourable variances in materials and services.

Total capital revenue and expenses is reporting an unfavourable variance against YTD budget due to higher than anticipated non-current asset disposals and recognition of waived infrastructure charges.

7.2 Mackay Waste Services

Income Statement For the period ending 30 April 2023

	Annual Original Budget \$000	Annual Revised Budget \$000	YTD Budget \$000	YTD Actual \$000	YTD Variance \$000
Operating revenue	30,943	30,933	30,141	29,769	(372)
Operating expenses	19,861	20,456	16,119	16,323	204
Earnings before interest, depreciation, dividend and tax	11,082	10,477	14,022	13,446	(576)
Finance costs	816	816	465	477	12
Depreciation	2,435	2,168	1,823	1,556	(267)
Earnings before dividend and tax	7,831	7,493	11,734	11,413	(321)
Dividend and tax	4,887	4,887	4,072	4,072	0
Operating surplus / (deficit)	2,944	2,606	7,662	7,341	(321)
Total capital revenue	0	0	0	0	0
Total capital expenses	100	100	83	0	(83)
Net result	2,844	2,506	7,579	7,341	(238)

% YTD Variance from YTD Budget (KPI)

YTD Variance between 0% and ± 2.99%

YTD Variance between ± 3% and ± 4.99%

YTD Variance equal to or greater than ± 5%
--

Mackay Waste Services is reporting an operating surplus of \$7.3M for the month of April, which is a \$0.3M unfavourable variance against YTD budget.

Operating revenue is \$0.4M under YTD budget at period end. All revenue categories are reporting below YTD budget with exception of interest income. Lower than anticipated waste disposal fees are observed as well as a decline in revenue share with Mackay Materials Recovery Facility.

Total expenses (operating expenses, finance costs and depreciation) is reporting a favourable variance of \$0.05M against YTD budget at period end. Unfavourable variances in materials and services and finance costs are offset by favourable variances in employee benefits and depreciation.

Total capital revenue and expenses has seen no activity, while a non-current asset disposal budget of \$83K was allocated. It is expected that this expense will be realised in a future period.

11.4.3. LEASE OF LAND - TELSTRA CORPORATION LIMITED - MACKAY HARBOUR

Author	Supervisor Land Operations (Jane Gosper)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	Current L1 Ron Searle Drive, MACKAY HARBOUR QLD 4740

Attachments

1. Att 1 Lease for Land - Telstra Corporation Ltd - Mackay Harbour - Previous meeting minutes [**11.4.3.1** - 3 pages]

Purpose

To approve the consecutive lease to Telstra Limited ("Telstra") over an approximate area of 52 square metres on part of Lot 1 on RP743428 ("the Land"), known as Lot 1 Ron Searle Drive, Mackay Harbour.

Related Parties

Telstra Limited

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Resilient and Agile Economy - Our long-term vision guides our planning for present and future needs, understanding the future implications of decisions made today.

Background/Discussion

In November 2021, Council approved a ten (10) year lease to be granted to Telstra Corporation Limited for telecommunication purposes which is due to expire 7 October 2030 (the 'First Lease'). A copy of the minutes and resolution is attached. Pursuant to this lease, Telstra will install its ground equipment in the new lease area.

At the time of resolution for the First Lease, the proposed consecutive ten-year lease was not included in the resolution, therefore, it is required that Council approve a further lease for the period of 8 October 2030 to 7 October 2040. This was omitted due to a misinterpretation of the Heads of Agreement provided by Telstra at the time.

Pursuant to a scheme of arrangement under court orders there has been a restructure of the Telstra Group which has resulted in the Lessee now being "Telstra Limited", and not "Telstra Corporation Limited".

According to Section 236(1)(c)(vi) of the *Local Government Regulation 2012*, "a local government may dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of a lease for a telecommunications tower." This is subject to a resolution of Council and an independent valuation confirming market value.

Consultation and Communication

Legal Services, Executive Officer, Director Organisational Services, Manager Property Services and Supervisor Land Operations.

Resource Implications

The rent under the consecutive lease will commence at \$20,876.37 per annum (being a 3% fixed increase on the rent at the expiry of the First Lease). The consecutive lease will have fixed annual rental increases of 3% (being the same method of rent review as the First Lease). The term of the lease will be ten (10) years.

The commencing rent under the First Lease was confirmed by a registered Valuer as being representative of the market.

Risk Management Implications

Council has already passed the resolution for the First Lease.

Conclusion

Approval of the consecutive ten-year lease to Telstra is the most advantageous outcome for the Mackay region.

Officer's Recommendation

THAT Council resolves to apply the exemption under Section 236(1)(c)(vi) of the *Local Government Regulation 2012*, to “dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of a lease for a telecommunications tower” in respect of the proposed ten year lease to Telstra Limited, being a lease for a telecommunications tower; and

AND THAT Council approve the consecutive lease to Telstra Limited for a period of ten (10) years from 8 October 2030 to 7 October 2040 for an approximate area of 52 square metres on part of Lot 1 on RP743428, Lot 1 Ron Searle Drive, Mackay Harbour for the purpose of a telecommunications ground equipment.

Council Resolution ORD-2023-138

THAT Council resolves to apply the exemption under Section 236(1)(c)(vi) of the *Local Government Regulation 2012*, to “dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of a lease for a telecommunications tower” in respect of the proposed ten year lease to Telstra Limited, being a lease for a telecommunications tower; and

AND THAT Council approve the consecutive lease to Telstra Limited for a period of ten (10) years from 8 October 2030 to 7 October 2040 for an approximate area of 52 square metres on part of Lot 1 on RP743428, Lot 1 Ron Searle Drive, Mackay Harbour for the purpose of a telecommunications ground equipment.

Moved Cr Jones

Seconded Cr Green

CARRIED UNANIMOUSLY

ORDINARY MEETING - 10 NOVEMBER 2021

11.6.2. LEASE OF LAND - TELSTRA CORPORATION LIMITED - MACKAY HARBOUR

Author Acting Manager Property Services (David Cowley)
Responsible Officer Director Organisational Services (Kylie Lamb)
File Reference 743428-001-RP

Attachments

1. MADl and Plan showing lease area [1LN0] [11.6.2.1 - 1 page]
2. Proposed Plans [11.6.2.2 - 4 pages]

Purpose

To approve a new lease agreement with Telstra Corporation Limited ("Telstra") over an approximate area of 52 square metres on part of Lot 1 on RP743428 ("the Land"), known as Lot 1 Ron Searle Drive, Mackay Harbour. Telstra will be co-locating on an Optus tower in the adjoining lease area and will locate their telecommunications ground equipment in the new lease area.

Related Parties

Telstra Corporation Limited
 Kordia Solutions Pty Ltd

Corporate Plan Linkage

Priority: Organisational Performance

Strategy: Safety in the workplace - Practise a "safety first" attitude to ensure the safety and wellbeing of council employees, contractors and volunteers.

Background/Discussion

Mackay Regional Council (Council) is the freehold land owner of Lot 1 on RP743428 ("the Land"), known as Lot 1 Ron Searle Drive, Mackay Harbour, which accommodates the Mount Bassett Reservoir. The parcel has a total area of 6,965 square metres.

Telstra currently occupy a part of this lot with the existing infrastructure located within Council's reservoir compound. This lease expires on the 30 April 2023 however will be surrendered when the new lease commences, and the construction of the new infrastructure is complete. The existing infrastructure will be removed by Telstra.

Council have elected to have all telecommunication infrastructure removed from water infrastructure as leases expire to improve staff safety. It is therefore proposed to lease a new area, a regular shaped parcel of land located external to the fenced compound area for the water reservoir to Telstra. Access to the area is via Ron Searle Drive. The site has been inspected by representatives of Kordia Solutions Pty Ltd (Kordia) for Telstra and access to the site is easy and direct.

The Lessee intends to install its ground equipment in this new lease area and will sub-lease space on the existing Optus tower in the adjoining lease area.

According to Section 236(1)(c)(vi) of the *Local Government Regulation 2012*, "a local government may dispose of a valuable non-current asset other than by tender or auction if - the disposal is for the purpose of a lease for a telecommunications tower." This is subject to a resolution of Council and an independent valuation confirming market value.

Consultation and Communication

MACKAY REGIONAL COUNCIL

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ORDINARY MEETING - 10 NOVEMBER 2021

Senior Property Consultants from Telstra, Kordia and relevant internal departments of Council including Water & Waste Services, Legal Services, Development Assessment and Property Services.

Resource Implications

Rental income will commence at \$16,000.00 per annum net with fixed annual rental increases of 3%. The term of the lease will be ten (10) years. The proposed rent has been confirmed by a registered Valuer as being representative of market. The Lessee is responsible for removing their existing equipment from within the reservoir compound.

Risk Management Implications

Removing existing telecommunications infrastructure from within Council's compound will improve safety for Council employees. The new lease area will be fenced and secured.

Conclusion

Approval of a new lease to Telstra will remove telecommunication infrastructure from Council's reservoir compound which will provide a safer working environment for Council employees. This move will also provide an opportunity to enhance mobile telephone coverage on a shared tower facility in the Mackay Harbour and surrounding areas. This represents the most advantageous outcome to Council and the regional community.

The lease will be signed under delegation once finalised.

Officer's Recommendation

A. THAT the Council resolves that an exemption applies under Section 236(1)(c)(vi) of the Local Government Regulation 2012, "a local government may dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of a lease for a telecommunications tower."

B. AND THAT the Council approve a new lease agreement to Telstra Corporation Limited for a period of ten (10) years with for an approximate area of 52 square metres on part of Lot 1 on RP743428, Lot 1 Ron Searle Drive, Mackay Harbour for the purposes of a telecommunications ground equipment for the rental consideration of \$16,000.00 per annum net plus GST subject to Telstra meeting the conditions of a Development Application.

Cr Jones noted that the report states that there should be enhanced mobile telephone coverage in the Mackay Harbour and surrounding areas, and queried what the surrounding areas included, noting that mobile coverage in Slade Point is quite poor.

The Director advised that she would take the question on notice and provide a response.

Council Resolution ORD-2021-312

A. THAT the Council resolves that an exemption applies under Section 236(1)(c)(vi) of the Local Government Regulation 2012, "a local government may dispose of a valuable non-current asset other than by tender or auction if – the disposal is for the purpose of a lease for a telecommunications tower."

B. AND THAT the Council approve a new lease agreement to Telstra Corporation Limited for a period of ten (10) years with for an approximate area of 52 square metres on part of Lot 1 on

ORDINARY MEETING - 10 NOVEMBER 2021

RP743428, Lot 1 Ron Searle Drive, Mackay Harbour for the purposes of a telecommunications ground equipment for the rental consideration of \$16,000.00 per annum net plus GST subject to Telstra meeting the conditions of a Development Application.

Moved Cr Jones

Seconded Cr Green

CARRIED

11.4.4. REQUEST EOI FOR HRIS

Author	Strategic Project Manager (Christina Petriwskyj)
Responsible Officer	Director Organisational Services (Angela Hays)
File Reference	MRC 2023-046

Purpose

To present to Council for approval a request to call for Expressions of Interest (EOI) for supply of a fit-for-purpose Human Resources Information System (HRIS), as per section 228 (3) of the *Local Government Regulation*.

Corporate Plan Linkage

Key initiative contributing to the Operational Excellence pillar – Processes and Systems – develop and continually improve and innovate to create efficient processes that deliver value for our community, and endeavour to make service levels more transparent and harness opportunities for existing and emerging technologies to aid this delivery.

Background/Discussion

Mackay Regional Council's (MRC) current primary HRIS (iChris provided by Frontier) in its existing form, does not support many of Council's Human Resource (HR) processes, with many activities managed via spreadsheet or alternate application with limited integration.

The HRIS Project is tasked with sourcing and implementing a technological solution that enables optimised end-to-end HR management via a minimal number of applications that are interoperable. This will provide a single source of truth for HR data, enable access to live HR data to inform decision-making, automate and uplift HR processes, facilitate self-service and increase capacity of HR personnel to contribute to value-add activities.

MRC's business requirements for its HRIS have been workshoped with representatives from across the business and documented, ensuring these are well-understood. Aligned with the Determination 2022, the requirements are relatively complex in some respects (particularly roster and payment options), limiting the number of products able to meet these requirements.

In order to test the market and identify the range of market offerings available, an EOI process is proposed.

The EOI process, as prescribed under the Local Government Regulation 2012 (Regulation), provides Council with the opportunity to call an EOI and then to invite tenders to be submitted from the shortlisted EOI respondents. This enables a very high level and broad consideration to be given to all options, which would then be narrowed following a review of the EOI submissions based upon EOI assessment criteria such as;

1. Appropriateness of proposal to meet Mackay Regional Council requirements

- a. Respondent's response to Project Brief

2. Capacities and capabilities of the Respondent to deliver

- a. Past experience and proven track record with similar projects for local government, supported by end user feedback report
- b. Reasonableness and robustness of implementation plans and project expected timeframe

3. Financial sustainability of the development proposal or business model

- a. Approximate set-up and implementation costs
- b. Approximate ongoing operating costs for Council

There is no requirement or commitment for Council to continue to the tender phase. If Council chooses to proceed, the details for the tender phase will be well considered with specific detail dependent on the submission proposals.

With regard to timing, it is intended that the EOI will be advertised by the end of May 2023, with shortlisting and a recommendation report provided to Council for consideration in August 2023.

The calling of EOIs would be in the public interest as it is considered the most cost-effective way to identify the most appropriate options for a human resources information system that meets Council's requirements, without major resource implications for both the Council and the respondents, while meeting legislative requirements.

The Regulation requires Council to decide by resolution that it is in the public interest to invite EOI's before subsequently inviting written tenders, and also to record the reasons why the EOI process has been endorsed.

Consultation and Communication

- Consultation was conducted with representatives from People and Culture, Shared Services and Information Services, as well as with Procurement and Plant prior to the EOI being released.

Resource Implications

There are no material resource implications for the EOI phase (excluding minor advertising and document development costs).

Calling of the EOI itself, and the assessment of submissions, will be undertaken in-house.

Should Council decide, following assessment of the EOI submissions, to progress to the tender stage, there may be a requirement to allow for costs within future budgets associated with legal and other reviews.

Risk Management Implications

The EOI process in itself poses no financial risk to Council as it does not commit the Council to any future funding, nor a commitment to proceed with any proposal.

The issuing of the EOI will assist Council in ensuring only those respondents who have the experience and capacity to deliver will be shortlisted.

Conclusion

The calling of EOIs would be in the public interest as it is considered the most cost-effective way to identify the appropriate options for a human resources information system that meets Council's requirements. An EOI enables this to be completed in a clear and transparent manner without major resources implications for Council or the respondents.

Officer's Recommendation

THAT Expressions of Interest are called for EOI – MRC 2023-046 Human Resources Information System as per section 228 (3) of the *Local Government Regulation 2012*, noting that doing so is considered to be in the public interest as it is able to be undertaken with minimal resource implications for both the Council and the respondents, and is considered the most cost-effective way to identify the appropriate options for a human resources information system that meets Council's requirements.

Council Resolution ORD-2023-139

THAT Expressions of Interest are called for EOI – MRC 2023-046 Human Resources Information System as per section 228 (3) of the *Local Government Regulation 2012*, noting that doing so is considered to be in the public interest as it is able to be undertaken with minimal resource implications for both the Council and the respondents, and is considered the most cost-effective way to identify the appropriate options for a human resources information system that meets Council’s requirements.

Moved Cr Jones

Seconded Cr Townsend

CARRIED UNANIMOUSLY

12. RECEIPT OF PETITIONS

Nil

13. TENDERS

13.1. MRC 2023-031 DESIGN AND CONSTRUCT PIONEER RIVER FLOATING PONTOON BLUEWATER QUAY, MACKAY

Author	Manager Major Projects (Michael Zimmerle)
Responsible Officer	Director Capital Works (Jim Carless)
File Number	MRC 2023-031
Attachments	Nil

Purpose

To present to Council for approval for MRC 2023-031 Design and Construct Pioneer River Floating Pontoon Bluewater Quay, Mackay.

Related Parties

The parties relating to this report are as follows:

- Bellingham Marine Australia Pty Ltd
- SMC Marine Pty Ltd
- The Marina Specialist Pty Ltd T/A The Jetty Specialist

Corporate Plan Linkage

Invest and Work

Diversified Economy - We have a diversified economy that attracts new and emerging industries, such as sport, tertiary education, health, tourism, agribusiness, biofutures industry, and the Mining Equipment Technology and Services (METS) sector.

Live and Visit

Eco-Tourism Adventure and Leisure - We are a world-famous tourism destination, providing eco, adventure and water-based sport, recreation, and leisure opportunities.

Live, Visit and Play - We have a diverse mix of accessible spaces to live, visit and play.

Background/Discussion

Mackay Regional Council (Council) issued Tender documents seeking an experienced contractor to design and construct Pioneer River Floating Pontoon Bluewater Quay, Mackay

Tenders were invited via Mackay Regional Council's website and on the Queensland Government's QTenders website on the 1st of February 2023.

The submissions were received by the closing time of 10.00am, 07 March 2023.

The weighting attributed to each qualitative criteria was:

Criterion	Weighting %
Value for money	10%
Relevant Experience, Innovation and Value Adding	40%
Key Personnel and Tenderers Resources	25%
Demonstrated Understanding	25%

The tender price of the preferred tender is \$2,449,709.00.

Resource Implications

The current funding allocation within the Capital Works budget is \$ 2,045,887.68 for these project works. With the tendered price and other costs associated with the delivery of this project a shortfall of \$ 1,000,000.00 has been identified.

Description	Amount	Notes
MRC 2023-031 Design and Construct Pioneer River Floating Pontoon Bluewater Quay, Mackay		
Expenditure to Date	\$ 42,678.33	2022-2023 actuals only
Tender Amount	\$ 2,449,709.00	SMC Marine Pty Ltd
Project risks	\$ 244,970.90	10 % Contingency allowed
Council's costs	\$ 308,529.45	Below the line costs for council – overheads, statutory fees, project management and supervision
Estimated Cost of Project	\$ 3,045,887.68	
BUDGET		
Budget for 2022/2023	\$ 61,859.47	
Budget for 2023/2024	\$ 1,984,028.21	
Budget Total	\$ 2,045,887.68	
BALANCE	- \$1,000,000.00	Additional funding requested

Additional funding required for completion of this project is proposed to be allocated in the 2023/2024 financial year Capital Works budget to cover the total project spend, this additional funding is depicted in the table above.

Risk Management Implications

The conditions of contract provide sufficient remedies and warranties to Council based on the risk profile of the services being provided.

Risks to council for this project include the design and construction of a pontoon within the Pioneer River, environmental and safety risks. These risks have been mitigated by:

- Engagement of a qualified and experienced contractor.
- Council providing sufficient project management supervision of safety, environmental and quality controls are administered throughout the delivery of the project.

Conclusion

On the recommendation of the evaluation panel, and their assessment against the qualitative criteria, awarding the contract to SMC Marine Pty Ltd represents the most advantageous outcome to Mackay Regional Council

based on their relevant experience, capacity, and highly skilled resources to complete the works to the quantity and quality as specified in the RFT. Furthermore, that support be given to awarding of this contract as part of a critical Council project, noting the requirement to allocate additional funding as part of the upcoming 2023/24 budget.

Officer's Recommendation

THAT Council award contract MRC 2023-031 Design and Construct Pioneer River Floating Pontoon Bluewater Quay, Mackay to SMC Marine Pty Ltd for the total tendered price of \$2,449,709.00 (Ex GST) including a provisional sum for 6-months maintenance program.

Mayor Williamson declared a Declared conflict of interest in this matter and in Item 13.2, refer Item 6 (as per Chapter 5B of the Local Government Act 2009) and left the meeting at 10.59 am.

Cr May assumed the role of Acting Chair.

Council Resolution ORD-2023-140

THAT Council award contract MRC 2023-031 Design and Construct Pioneer River Floating Pontoon Bluewater Quay, Mackay to SMC Marine Pty Ltd for the total tendered price of \$2,449,709.00 (Ex GST) including a provisional sum for 6-months maintenance program.

Moved Cr Jones

Seconded Cr Englert

CARRIED UNANIMOUSLY

13.2. MRC 2023-030 DESIGN AND CONSTRUCT BUILDING REFURBISHMENT - 8 RIVER STREET, MACKAY

Author	Manager Major Projects (Michael Zimmerle)
Responsible Officer	Director Capital Works (Jim Carless)
File Number	MRC 2023-030
Attachments	Nil

Purpose

To present to Council for approval MRC 2023-030 Design and Construct Building Refurbishment - 8 River Street, Mackay.

Related Parties

The parties relating to this report are as follows:

- TF Woollam & Son Pty Ltd

Corporate Plan Linkage

Invest and Work

Diversified Economy - We have a diversified economy that attracts new and emerging industries, such as sport, tertiary education, health, tourism, agribusiness, biofutures industry, and the Mining Equipment Technology and Services (METS) sector.

Industries, Jobs and Growth - Our core industries are growing and prosperous, encouraged to innovate, create jobs, and drive growth.

Technologically Advanced Region - We harness technology to support business and the economy.

Background/Discussion

Mackay Regional Council (Council) issued Tender documents seeking an experienced contractor to design and construct 8 River Street, part of the Mackay Waterfront Priority Development Area (Mackay Waterfront PDA).

Tenders were invited via Mackay Regional Council's website and on the Queensland Government's QTenders website on the 19th of December 2022.

The submission was received by the closing time of 10:00am 7 February 2023:

The weighting attributed to each qualitative criteria was:

Criterion	Weighting %
Value for Money	10%
Demonstrated Understanding and Program	50%
Relevant Experience	20%
Key Personnel	20%

The tender price of the preferred tender is \$3,750,492.00.

Resource Implications

The current funding allocation within the Capital Works budget is \$ 2,443,407.54 (includes current and future years as well as other identified variances) for these project works. With the tendered price and other costs associated with the delivery of this project a shortfall of \$ 2,100,000.00 has been identified.

Description	Amount	Notes
MRC 2023-030 92115 Design and Construct Building Refurbishment - 8 River Street, Mackay		
Expenditure to Date	\$ 40,076.04	22/23 actuals up to 10/05/2023
Contract Price	\$ 3,750,492.00	TF Woollam & Son Pty Ltd
Project risks	\$ 375,049.20	10% Contingency allowed
Council's costs	\$ 377,790.30	Below the line costs for council – Overheads, statutory fees, project management and supervision
Estimated Cost of Project	\$ 4,543,407.54	
BUDGET		
Budget for 2022/2023	\$ 66,406.54	
Budget for 2023/2024	\$ 2,377,001.00	Includes previous additional budget identified and included in LTFF calculations
Budget Total	\$ 2,443,407.54	
BALANCE	- \$ 2,100,000.00	Additional funding requested

Additional funding required for completion of this project is proposed to be allocated in the 2023/2024 financial year Capital Works budget to cover the total project spend, this additional funding is depicted in the table above.

Risk Management Implications

The conditions of contract provide sufficient remedies and warranties to Council based on the risk profile of the services being provided. Many tasks within the schedule have been allocated as Provisional Sum items so as these items can be managed between council and the contractor to be carried out within the project budget.

The project team will work with the contractor to ensure that all relevant building and construction approvals are sourced and complied with. This will ensure construction will be carried out in a safe and environmentally friendly manner and also that the quality of the works will meet current standards.

The current state of the building is of concern to council and the project team and contractor will review the construction methodology to ensure that works are carried out in a safe manner to protect both the asset and the workers undertaking the works.

Conclusion

On the recommendation of the evaluation panel, and their assessment against the qualitative criteria, awarding the contract to TF Woollam & Son Pty Ltd represents the most advantageous outcome to Mackay Regional Council as they have the experience, capacity and resources to complete the works to the quantity and quality as required by Council. Further, that support be given to awarding of this contract as part of a critical Council project, noting the requirement to allocate additional funding as part of the upcoming 2023/24 budget.

Officer's Recommendation

THAT Council award contract MRC 2023-030 Design and Construct Building Refurbishment - 8 River Street, Mackay to TF Woollam & Son Pty Ltd for the total tendered price of \$3,750,492.00 (excl GST).

Cr Bonaventura queried if Councillors would have the opportunity, once the staging was complete, to be provided with detailed designs.

The Director advised that there would be an opportunity to provide a briefing as the project proceeds.

Council Resolution ORD-2023-141

THAT Council award contract MRC 2023-030 Design and Construct Building Refurbishment - 8 River Street, Mackay to TF Woollam & Son Pty Ltd for the total tendered price of \$3,750,492.00 (excl GST).

Moved Cr Seymour

Seconded Cr Englert

CARRIED UNANIMOUSLY

Mayor Williamson returned to the meeting at 11.06 am and reassumed the role of Chair.

14. CONSIDERATION OF NOTIFIED MOTIONS

14.1. CONSIDERATION OF DECLARABLE CONFLICT OF INTEREST BY CR SEYMOUR AND A REQUEST TO SUPPORT HIS CONTINUED INVOLVEMENT IN THE PIONEER VALLEY MOUNTAIN BIKE PROJECT IN THE PUBLIC INTEREST DESPITE THIS IDENTIFIED CONFLICT

Author	Executive Officer (David McKendry)
Responsible Officer	Chief Executive Officer (Scott Owen)
File Number	Councillors General

Purpose

To present a Notified Motion by Cr Russell Seymour related to consideration of a Declarable Conflict of Interest, and a request for approvals that it is in the public interest for Cr Seymour to still be involved in future discussions, engagement, and decisions related to the Pioneer Valley Mountain Bike project.

Related Parties

- Cr Russell Seymour
- Michael Seymour

Corporate Plan Linkage

Financial Strength

Ethical Decision-Making and Good Governance - We are committed to keeping our community informed about our activities and performance and employing robust governance policies and procedures to ensure legislative compliance and organisational integrity.

Background/Discussion

Under clause 6.3 of Council's Standing Orders, any Councillor can request that a matter be included on a Council meeting agenda.

Cr Seymour has requested that a Notified Motion as below be presented to Council allowing his continued involvement in the Pioneer Valley Mountain Bike project:

THAT Council acknowledges the Declarable Conflict of Interest by Cr Seymour, the particulars of which are –

- a) The name of the related party is Michael G Seymour***
- b) The nature of Cr Seymour's relationship with the related party is that of Brother.***
- c) The nature of the conflict is that the properties owned by Michael Seymour, being Lot 1 and 6373 Mackay Eungella Road Netherdale, are considered to be within the area potentially benefited by the Pioneer Valley Mountain Bike project***

FURTHER THAT it is in the public interest that Cr Russell Seymour participate –

- a) in any community engagement about the matter of the Pioneer Valley Mountain Bike project,***
- b) as a member of any advisory committees formed to discuss the matter of the Pioneer Valley Mountain Bike project.***

- c) in any internal or external briefings convened to discuss the matter of the Pioneer Valley.***
- d) in the decision-making process about the matter, including by voting on the matter of the Pioneer Valley Mountain Bike related projects.***

ALSO THAT the decision is made –

- a) as it is not considered a reasonable person could have a perception of bias that Cr Seymour's brothers property located approximately 11Km from the Finch Hatton trail head site could be advantaged above other properties in the vicinity***
- b) as a reasonable person would trust that any decisions or involvement in the matter of the Pioneer Valley Mountain bike project by Cr Seymour could be successfully made in the public interest***
- c) noting Cr Seymour's extensive local knowledge of the flora, fauna, and surrounding landscape, would be of value to the project***

On advice, Cr Seymour has identified a Declarable Conflict of Interest due to this relationship and potential benefit to properties from the Pioneer Valley Mountain Bike project, and has excluded himself from any involvement with the project including making the associated declarations for Council meeting decisions.

Cr Seymour advises that he has extensive local knowledge of the flora, fauna, and surrounding landscape, and that his experience would be of value to the project.

Further, that in his opinion he does not believe a reasonable person could have a perception of bias that his brothers property located approximately 11Km from the Finch Hatton trail head could be advantaged above other properties in the vicinity, and therefore would be able to continue involvement in the project and successfully make decisions in the public interest.

As a Declarable Conflict of Interest, as well as the option of removal from all involvement is also the possibility for Council under section 150ES(3) of the *Local Government Act 2009 (Act)* to resolve that a Councillor may still participate in decisions despite the conflict of interest. Such consent can include conditions if necessary.

Consultation and Communication

Cr Seymour

Resource Implications

N/a

Risk Management Implications

Conflict of Interest provisions are enacted to ensure public confidence in decision making. However, there is an option for Council to approve continued involvement, and as this is required to be made in a public meeting is considered a transparent decision.

Conclusion

This report is simply providing the information as advised by Cr Seymour and as allowed under both Council's Standing Orders, and the *Regulation*. The Officers Recommendation for this Notified Motion report is simply that Cr Seymour's Notified Motion be considered.

Officer's Recommendation

In accordance with the provisions of both Council's Standing Orders, and the Local Government Regulation 2012, the following advised Notified Motion be considered –

THAT Council acknowledges the Declarable Conflict of Interest by Cr Seymour, the particulars of which are –

- a) The name of the related party is Michael G Seymour***
- b) The nature of Cr Seymour's relationship with the related party is that of Brother.***
- c) The nature of the conflict is that the properties owned by Michael Seymour, being Lot 1 and 6373 Mackay Eungella Road Netherdale, are considered to be within the area potentially benefited by the Pioneer Valley Mountain Bike project***

FURTHER THAT it is in the public interest that Cr Russell Seymour participate –

- a) in any community engagement about the matter of the Pioneer Valley Mountain Bike project,***
- b) as a member of any advisory committees formed to discuss the matter of the Pioneer Valley Mountain Bike project.***
- c) in any internal or external briefings convened to discuss the matter of the Pioneer Valley.***
- d) in the decision-making process about the matter, including by voting on the matter of the Pioneer Valley Mountain Bike related projects.***

ALSO THAT the decision is made –

- a) as it is not considered a reasonable person could have a perception of bias that Cr Seymour's brothers property located approximately 11Km from the Finch Hatton trail head site could be advantaged above other properties in the vicinity***
- b) as a reasonable person would trust that any decisions or involvement in the matter of the Pioneer Valley Mountain bike project by Cr Seymour could be successfully made in the public interest***
- c) noting Cr Seymour's extensive local knowledge of the flora, fauna, and surrounding landscape, would be of value to the project***

Council Resolution ORD-2023-142

In accordance with the provisions of both Council's Standing Orders, and the Local Government Regulation 2012, the following advised Notified Motion be considered –

THAT Council acknowledges the Declarable Conflict of Interest by Cr Seymour, the particulars of which are –

- a) The name of the related party is Michael G Seymour***

- b) *The nature of Cr Seymour's relationship with the related party is that of Brother.***
- c) *The nature of the conflict is that the properties owned by Michael Seymour, being Lot 1 and 6373 Mackay Eungella Road Netherdale, are considered to be within the area potentially benefited by the Pioneer Valley Mountain Bike project***

FURTHER THAT it is in the public interest that Cr Russell Seymour participate –

- a) in any community engagement about the matter of the Pioneer Valley Mountain Bike project,***
- b) as a member of any advisory committees formed to discuss the matter of the Pioneer Valley Mountain Bike project.***
- c) in any internal or external briefings convened to discuss the matter of the Pioneer Valley.***
- d) in the decision-making process about the matter, including by voting on the matter of the Pioneer Valley Mountain Bike related projects.***

ALSO THAT the decision is made –

- a) as it is not considered a reasonable person could have a perception of bias that Cr Seymour's brothers property located approximately 11Km from the Finch Hatton trail head site could be advantaged above other properties in the vicinity***
- b) as a reasonable person would trust that any decisions or involvement in the matter of the Pioneer Valley Mountain bike project by Cr Seymour could be successfully made in the public interest***
- c) noting Cr Seymour's extensive local knowledge of the flora, fauna, and surrounding landscape, would be of value to the project***

Moved Cr Seymour

Seconded Cr Englert

CARRIED

Cr May and Cr Green recorded their vote against the motion.

15. PUBLIC PARTICIPATION

16. LATE BUSINESS

Nil

17. CONFIDENTIAL REPORTS

**17.1. DRAFT MINUTES - INVEST MACKAY EVENTS AND CONFERENCE ATTRACTION PROGRAM
ADVISORY COMMITTEE - 17 APRIL 2023**

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to Council's budget**.

Council Resolution ORD-2023-143

THAT the draft minutes of the Invest Mackay Events and Conference Attraction Program Advisory Committee meeting dated 17 April 2023 be received.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 4.1 be approved.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 5.1 be approved.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 6.1 be approved.

Moved Cr Hassan

Seconded Cr May

CARRIED UNANIMOUSLY

**17.2. APPROVED CONCESSIONS UNDER THE FACILITATING DEVELOPMENT IN THE MACKAY
REGION POLICY - APRIL 2023**

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to Council's budget**.

Council Resolution ORD-2023-144

THAT the concessions approved under the Facilitating Development in the Mackay Region Policy are noted.

Moved Cr Townsend

Seconded Cr Mann

CARRIED UNANIMOUSLY

17.3. APPROVED SPONSORSHIP UNDER THE INVEST MACKAY EVENTS AND CONFERENCE ATTRACTION PROGRAM - APRIL 2023

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to Council's budget**.

Council Resolution ORD-2023-145

THAT the sponsorship approved under the Invest Mackay Events and Conference Attraction Program are noted.

Moved Cr Green

Seconded Cr Englert

CARRIED UNANIMOUSLY

17.4. DRAFT MINUTES - INVEST MACKAY EVENTS AND CONFERENCE ATTRACTION PROGRAM ADVISORY COMMITTEE - 8 MAY 2023

Confidential

Confidential Report to be forwarded separately.

This report is **CONFIDENTIAL** in accordance with the Section 254J (3) (c) of the *Local Government Regulation 2012* which permits the meeting to be closed to the public to discuss a matter **relating to Council's budget**.

Cr Mann declared a Declared conflict of interest in this matter (as per Chapter 5B of the Local Government Act 2009) and left the meeting at 11.22 am.

Council Resolution ORD-2023-146

THAT the draft minutes of the Invest Mackay Events and Conference Attraction Program Advisory Committee meeting dated 8 May 2023 be received.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 4.1 be approved.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 4.2 be approved.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 5.1 be approved.

AND THAT funding as recommended by the Invest Mackay Events and Conference Attraction Program Advisory Committee for Item 5.2 be approved.

Moved Cr May

Seconded Cr Englert

CARRIED UNANIMOUSLY

Cr Mann returned to the meeting at 11:23 am.

18. MEETING CLOSURE

Meeting closed at 11:23 am.

19. FOR INFORMATION ONLY

19.1. DEVELOPMENT APPLICATIONS - APRIL 2023

Development Applications Received

App No.	Code / Impact	Address	Applicant	Description	Officer
DA-2010-192/F	Impact	247 Anzac Avenue MARIAN	Woolworths Group Limited	Generally in Accordance Preliminary Approval to vary the effect of the Planning Scheme under s242 of the Sustainable Planning Act 2009 (to facilitate development in accordance with the Commercial and Residential Zone as shown on Plan of Development 10NQ044 and amend the levels of assessment to reflect Table 3.1) and Material Change of Use Development Permit for Shops/Shopping Centre and Health Care Centre (comprising a 3,200m2 Supermarket and 1,500m2 Shops/Health Care Centre)	Lachlan Deon
DA-2010-319/F	Code	Lot 710 Cutler Drive ANDERGROVE	Halfback Pty Ltd	Change Application (Minor)Material Change of Use for a Tourist Facility and Commercial Premises & Reconfiguration of a Lot from 2 lots to 2 lots by boundary realignment and 2 lots into 75 Urban Residential lots, 4 Commercial lots, 6 Medium and Higher Density Residential lots, 1 Child Care Centre lot, and one Tourism and Lake lot totalling 87 new lots plus balance land.	Brogan Jones
DA-2010-319/G	Code	Lot 506 Beaconsfield Road East ANDERGROVE	Andergrove Lakes Pty Ltd	Generally in Accordance Material Change of Use - Development Permit for Tourist Facility and Reconfiguring a Lot - Development Permit for 4 lots into 87 lots	Rachel O'Brien
DA-2018-110/A	Impact	Lot 599 Bruce Highway BAKERS CREEK	Cougar Developments Pty Ltd	Change Application (Minor)Reconfiguration of a Lot - 1 Emerging Community Lot into 1 Commercial Lot and 1 Balance Lot Material Change of Use - Variation Request to assess development as if the land were included in the Local Centre Zone (Strategic Local Centre)	Lachlan Deon
DA-2022-83/A	Code	3 Napier Street SOUTH MACKAY	Zandabay Pty Ltd	Change Application (Minor)Material Change of Use - Childcare Centre	Lachlan Deon
DA-2023-51	Code	74 Grovely Road SARINA	Wayne E Scott and Sheree M Scott	Material Change of Use - Development Permit for Dwelling House (Secondary Dwelling - Bushfire Hazard Overlay)	Teagan Darvill
DA-2023-52	Code	114 Lindeman Drive BLOOMSBURY	AAA Building Consultants	Material Change of Use - Development Permit for Dwelling House (Shed within Rural Residential Zone)	Lachlan Deon
DA-2023-54	Code	532 Kinchant Dam Road KINCHANT DAM	Victor C Deguara	Reconfiguring a Lot - Development Permit for Subdivision (2 Lots into 19 Lots in 2 Stages)	Patrick Hobson
DA-2023-55	Impact	1 Archibald Street PAGET	Gregory J Ellis	Material Change of Use – Development Permit for Medium Impact Industry (Contractors Depot)	Renee Andrea
DA-2023-56	Code	3932 Mackay-Eungella Road GARGETT	Patrick M Christie and Alyson Hanly	Material Change of Use - Development Permit for Dwelling House, Secondary Dwelling & Shed (Bushfire Hazard Overlay)	Teagan Darvill
DA-2023-58	Code	25 Connors Road PAGET	RZJ Pty Ltd	Material Change of Use - Development Permit for Warehouse	Lachlan Deon
DA-2023-60	Code	12 Balnagowan Mandarana Road THE LEAP	Rondell M Vella and Johannes J Schwinn	Material Change of Use - Development Permit for Dwelling House (bushfire hazard overlay & extractive resources and high impact activities overlay)	Teagan Darvill

DA-2023-61	Code	790 Marlborough-Sarina Road SARINA	Ross N Bailey and Angela K Bailey	Material Change of Use - Development Permit for Dwelling House (Bushfire Hazard Overlay)	Patrick Hobson
DA-2023-62	Code	Lot 4 Eungella Dam Road BROKEN RIVER	AAA Building Consultants	Material Change of Use - Development Permit for Dwelling House (Bushfire Hazard Overlay)	Teagan Darvill

Development Applications Entering Decision Making Period

App No.	Code / Impact	Address	Applicant	Description	Officer
DA-2020-92	Impact	225 Harbour Road MACKAY HARBOUR	Kevin I Rebgetz and Robert F Rebgetz	Preliminary Approval involving a Variation Request under (s50 - PA) - Material Change of Use of use rights in accordance with the Low Impact Industry	Dennis O'Riely
DA-2022-224	Code	54A Phillip Street MOUNT PLEASANT	Fawkner Property Ltd	Reconfiguration of Lot - 1 Major Centre Lot into 3 Lots	Lachlan Deon
DA-2023-30	Code	Lot 710 Cutler Drive ANDERGROVE	Ink Developments Pty Ltd	Material Change of Use - Childcare Centre	Brogan Jones
DA-2023-32	Code	27 Paradise Street SOUTH MACKAY	Kelvyn L Curtis	Development Permit for Material Change of Use (Home Based Business & Dwelling House)	Renee Andrea
DA-2023-33	Code	391 Gorge Road FINCH HATTON	Gary J Ware and Helen S Ware	Development Permit for Material Change (Dwelling House - Domestic Outbuilding)	Renee Andrea
DA-2023-41	Code	46 Brisbane Street MACKAY	Ezra Family Holdings Pty Ltd	Material Change of Use - Childcare Centre	Patrick Hobson
DA-2023-43	Code	183 Bergmans Road GREENMOUNT	Matthew Grima Family Trust	Boundary Realignment (2 Lots into 2 Lots)	Rachel O'Brien
DA-2023-44	Code	32 Hermosa Circuit BEACONSFIELD	Geoffrey Moohin and Terry Moohin	Material Change of Use - Development Permit for Dual Occupancy	Renee Andrea
DA-2023-46	Code	Lot 41 Bruce Highway BLOOMSBURY	Mt Tyson Holdings Pty Ltd	Reconfiguration of a Lot - Development Permit - Boundary Realignment – 2 Lots into 2 Lots	Lachlan Deon
DA-2023-57	Low Risk	15 Gibsons Road RACECOURSE	AAA Building Consultants	Material Change of Use - Development Permit - Dwelling House (Outbuilding - Class 10a) - Siting	Rachel O'Brien

Development Applications Finalised

App No.	Code / Impact	Address	Applicant	Description	Officer
Generally in Accordance With					
DA-2010-341/D	Code	15/146 Shoal Point Road SHOAL POINT	Acquilla Investments Pty Ltd	Generally in Accordance - Combined Application - Material Change of Use - Dwelling House (19 Houses) and Reconfiguration of a Lot - 1 High Density Residential Lot into 19 Lots	Darryl Bibay
DA-2015-150/C	Code	48-52 Carlyle Street MACKAY	Mason Kidman	Generally in Accordance - Child Care Centre	Lachlan Deon
Approved Subject to Conditions					
DA-2012-48/B	Code	56 Michigan Way ANDERGROVE	Andergrove Lakes Pty Ltd	Generally in Accordance Reconfiguring a Lot - Development Permit for Subdivision (4 into 24 Lots)	Rachel O'Brien

DA-2020-210/A	Code	Lot 923 Boveys Road RICHMOND	Richmond Hills Estate Pty Ltd	Change Application (Minor) - Reconfiguration of 1 Lot into 75 Lots - Richmond Hills Stage 8 and 11 - 14 (Development Permit) and Stages 9 and 10 (Preliminary Approval)	Matthew Kelly
DA-2021-154/A	Code	29 Arana Drive RURAL VIEW	Stockwell Development Group Pty Ltd	Change Application (Other) –Material Change of Use – Development Permit for Healthcare Services, Showroom, Indoor Sport and Recreation and Warehouse	Dennis O’Riely
DA-2022-187	Impact	217 Shakespeare Street MACKAY	JA & JB Boyle Pty Ltd	Material Change of Use - Crematorium	Lachlan Deon
DA-2022-193	Code	Lot 2 Glendaragh Road GLENELLA	Lc Quarry Materials Pty Ltd	Material Change of Use – Extractive Industry	Darryl Bibay
DA-2022-209	Code	175 Stony Creek Road ETON	Bradley J Cameron	Reconfiguration of Lot - Boundary Alignment - 3 Rural Lots into 3 Lots and Access Easement	Lachlan Deon
DA-2022-228	Code	27 Hackett Court CAMPWIN BEACH	Christin M Plint	Reconfiguration of Lot - Boundary Realignment (2 Lots into 2 Lots)	Patrick Hobson
DA-2023-10	Code	762 Mackay-Eungella Road PLEYSTOWE	Austin W Evans	Material Change of Use – Development Permit for Dwelling House (Outbuilding) – Siting	Patrick Hobson
DA-2023-11	Code	226 Miran Khan Drive ARMSTRONG BEACH	AAA Building Consultants	Material Change of Use Development Permit for a Dwelling House (Outbuilding – Site Cover) in the Flood and Coastal Hazard Overlay	Renee Andrea
DA-2023-12	Code	1039 Gargett-Mia Mia Road SEPTIMUS	John W, Mavis E Head and Maxwell G Head	Reconfiguring a Lot - Boundary Realignment – 2 Lots into 2 Lots	Patrick Hobson
DA-2023-14	Code	2 Harvison Street EAST MACKAY	AAA Building Consultants	Material Change of Use – Development Permit for Dwelling House within the Neighbourhood Character Overlay	Teagan Darvill
DA-2023-15	Code	Lot 9 Courtney Gap Road SARINA	AAA Building Consultants	Material Change of Use - Dwelling (Bushfire Hazard Overlay - Very High Area)	Lachlan Deon
DA-2023-17	Code	18 Drew Street FINCH HATTON	Fishing Pty Ltd	Material Change of Use - Short-Term Accommodation	Lachlan Deon
DA-2023-18	Code	18 Andrew Fordyce Road MOUNT JUKES	Robert J Prins and Victoria J Prins	Reconfiguration of a Lot - Tradeable Development Rights Boundary Realignment - 4 Lots into 4 Lots	Patrick Hobson
DA-2023-24	Code	18A Manaways Road FARLEIGH	Peter P Haber	Reconfiguration of a Lot - Proposed Easement	Rachel O'Brien
DA-2023-45	Low Risk	26 Rural View Drive RURAL VIEW	AAA Building Consultants	Material Change of Use - Dwelling House (Outbuilding)	Emma Langford
DA-2023-5	Code	207 Mackay-Eungella Road WALKERSTON	Andrew Barfield	Reconfiguring a Lot - Development Permit for Boundary Realignment (2 Lots into 2 Lots)	Teagan Darvill
PDA-2023-2	Code	10C River Street MACKAY	Mackay Regional Council	Request for Exemption Certificate - Reconfiguration by Lease	Teagan Darvill
Negotiated Decision					
DA-2022-4	Code	Lot 12 Alan Naish Court EIMEO	Corey Egan	Reconfiguring a Lot - Development Permit for Subdivision (2 Rural Residential Lots into 3 Lots)	Lee Griffith
Application Withdrawn					
DA-2023-37	Code	7 Wattle Court HAY POINT	Peter G Clark	Development Permit for Material Change of Use - Dwelling House (Domestic Outbuilding)	Renee Andrea

Confirmed on Wednesday 21 June 2023.

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MAYOR