



# Burdekin Shire Council

## **AGENDA**

### **ORDINARY COUNCIL MEETING**

**HELD AT COUNCIL ADMINISTRATION BUILDING,  
145 YOUNG STREET, AYR**

**on 13 December 2022**

**COMMENCING AT 9:00 AM**

At this meeting contributions made by members of the public may be recorded by way of audio recording which will be used for the purpose of developing minutes of the meeting and decision making of Council. Burdekin Shire Council is bound by the *Information Privacy Act 2009* to protect the privacy of personal information.

Under Local Law 1 Section 35(3) a person must not make an audio or video recording of a local government meeting, a standing committee meeting, a special committee meeting or an advisory committee meeting unless the chairperson at the meeting gives consent in writing to the recording of the meeting.

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## **ORDER OF BUSINESS:**

### **ATTENDANCE**

#### **2. PRAYER**

#### **3. DECLARATIONS OF INTEREST**

#### **4. MINUTES AND BUSINESS ARISING**

4.1. Ordinary Council Meeting Minutes - 22 November 2022

4.2. Economic Development Advisory Group Meeting Minutes - 3 November 2022

4.3. Burdekin Shire Youth Council Meeting Minutes - 7 November 2022

4.4. RADF Advisory Group Meeting Minutes - 22 November 2022

4.5. Burdekin Shire Road Safety Advisory Meeting Minutes - 16 November 2022

#### **5. EXECUTIVE**

##### **5.1. CEO**

5.1.1. Council Workshops - November 2022

5.1.2. Appointment of Acting Chief Executive Officer

##### **5.2. ECONOMIC DEVELOPMENT**

5.3. Macro-algae Bioremediation Project – Sole Supplier Arrangement with Pacific Biotechnologies (Australia) Pty Ltd

#### **6. CORPORATE AND COMMUNITY SERVICES**

##### **6.1. CLIENT SERVICES**

##### **6.2. COMMUNITY DEVELOPMENT**

6.2.1. Burdekin Library Collection Development Policy Report

##### **6.3. FINANCIAL AND ADMINISTRATIVE SERVICES**

6.3.1. Monthly Financial Report for Period Ending 30 November 2022

##### **6.4. GOVERNANCE**

6.4.1. Townsville City Council - Houghton Pipeline Project Stage 2 - Request for Support: Priority Purchase Application (Part of Lot 33 on Survey Plan 117630)

#### **7. INFRASTRUCTURE, PLANNING AND ENVIRONMENTAL SERVICES**

##### **7.1. ENVIRONMENTAL AND HEALTH SERVICES**

7.1.1. Adoption of Compliance and Enforcement Policy

7.1.2. Adoption of Revised Environmental Levy Policy

7.1.3. Adoption of Revised Animal Management De-Sexing Policy

7.1.4. Adoption of Revised Fox and Wild Dog Bounty Policy

##### **7.2. OPERATIONS**

7.2.1. 2022 Betterment Submissions

##### **7.3. PLANNING AND DEVELOPMENT**

7.3.1. MCU22/0006 - Development Application Material Change of Use for a Mental Health Hub (Community Facility) at 178-182 Edwards Street, Ayr



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(Lots 97-99 on RP707557)

**7.3.2. MCU22/0010 - Development Application Material Change of Use for a Mechanical Workshop at 13 Ross Street, Ayr (Lot 3 on RP723877)**

**7.3.3. MCU21/0011 - Change Representations on Decision Notice Material Change of Use for an Accommodation Building 9-11 Nelson Street, Clare. (Lot 20 on SP314314)**

**7.4. TECHNICAL SERVICES**

**7.4.1. Burdekin Aquatic Centre Kiosk Construction and Entrance Works Contract Award**

**8. NOTICE OF MOTION**

**9. RECEIPT OF PETITIONS**

**10. CORRESPONDENCE FOR INFORMATION**

**11. GENERAL BUSINESS**

**12. CLOSED BUSINESS ITEMS**

**13. DELEGATION**

**13.1. Presentation of North Queensland Sportstar Awards Team Runner Up - U14 Burdekin Wildcats Girls**

#### **4.1. MINUTES AND BUSINESS ARISING**

##### **Ordinary Council Meeting Minutes - 22 November 2022**

##### **Recommendation**

That the minutes of the Ordinary Council Meeting held on 22 November 2022 be received as a true and correct record.

##### **Attachments**

1. Minutes - Ordinary Council Meeting 22 November 2022



**Burdekin Shire Council**

# **MINUTES**

## **ORDINARY COUNCIL MEETING**

**HELD AT COUNCIL ADMINISTRATION BUILDING,  
145 YOUNG STREET, AYR**

**on 22 November 2022**

**COMMENCING AT 9:00 AM**

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## **ORDER OF BUSINESS:**

### **1. ATTENDANCE**

Councillor Lyn McLaughlin, Councillor Sue Perry, Councillor Kaylee Boccalatte, Councillor John Bonanno, Councillor Michael Detenon, Councillor John Furnell, Councillor Max Musumeci.

Mr. T. Brennan - Chief Executive Officer  
Mr. N. O'Connor – Director Corporate and Community Services  
Mr. N. Wellwood – Director of Infrastructure, Planning and Environmental Services (Part)  
Mr. T. Blackwell - Manager Community Services (Part)  
Mrs. K. Galletta - Manager Planning and Development (Part)  
Mr. D. Mulcahy - Manager Environmental and Health Services (Part)  
Mrs. K. Olsen - Manager Financial and Administrative Services (Part)  
Mrs. T. Quagliata - Community Development Office (Part)  
Mr. G. Arboit - Cultural Venues Manager (Part)

Minutes Clerk - Ms. G. Biffanti

### **2. PRAYER**

The meeting prayer was delivered by Pastor Ray Hobbs of the Seventh Day Adventist Church.

### **3. DECLARATIONS OF INTEREST**

The Mayor called for declarations of interest.

Mr. Terry Brennan advised he had a Declarable Conflict of Interest in relation to Item 7.1.1 TBSC/22/016 Management - Burdekin Aquatic Centre as his wife Mrs. Vicky Brennan conducts water aerobics classes at the Ayr Pool in conjunction with the current lessee. Mr. Brennan advised of his intention to leave the meeting during this discussion.

Councillor Boccalatte advised she had a Declarable Conflict of Interest in relation to Item 8 Burdekin Community Advisory Network - Townsville Hospital and Health in the Correspondence of Information as she is a member of of the Burdekin Community Advisory Network and has written the letter requesting a letter of support from Council as Chair. Councillor Boccalatte advised of her intention to leave the meeting during this discussion.

*9.04am - Mr. Blackwell and Mrs. Quagliata entered the meeting.*

### **4. MINUTES AND BUSINESS ARISING**

#### **4.1. Ordinary Council Meeting Minutes - 8 November 2022**

##### **Recommendation**

That the minutes of the Ordinary Council Meeting held on 8 November 2022 be received as a true and correct record.

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## Resolution

Moved Councillor Musumeci, seconded Councillor Perry that the recommendation be adopted.

CARRIED

## 4.2. Community Grants Panel Meeting Minutes - Round 2 - 1 November 2022

### Recommendation

#### Item 1 – Consideration of Grants Applications Round 2 – 2022/2023 Financial Year

No.	Applicant	Recommended Cash Funding	Recommended In-kind Support
1.1	Ayr Surf Life Saving Club	\$3466.00	
1.2	FNQ Regional Committee of Highland Dancing (For a state event to be held in the Burdekin)	\$5,000.00	
1.3	Burdekin Race Club Inc (Country Racing Awards)	\$2,180.00	
1.4	Burdekin Race Club Inc (Burdekin Growers Race Day)	\$2,820.00	\$5200.00
1.5	Qld Police Citizens Youth Welfare Assoc.	NIL	
1.6	Rotary Club of Ayr		\$610.00

That:

1. the minutes of the Community Grants Panel Meeting held on 1 November 2022 be noted, and;
2. it be noted that the remaining cash funds for Community Grants Panel for the 2022/2023 Financial Year prior to Round 2 is \$22,928.00 and;
3. the recommended funding as detailed in the minutes and noted in Item 1.1 – 1.6 be adopted and;
4. it be noted that the remaining funds available for the 2022/2023 Financial Year after the allocation from Round 2 will be \$9,462.00.

## Resolution

Moved Councillor Musumeci, seconded Councillor Detenon that the recommendation be adopted.

CARRIED

*9.11am - Mr. Blackwell and Mrs. Quagliata left the meeting.*

## 5. EXECUTIVE

### 5.1. CEO

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## **5.2. ECONOMIC DEVELOPMENT**

## **6. CORPORATE AND COMMUNITY SERVICES**

### **6.1. CLIENT SERVICES**

### **6.2. COMMUNITY DEVELOPMENT**

### **6.3. FINANCIAL AND ADMINISTRATIVE SERVICES**

#### **6.3.1. Sale of Land for Overdue Rates and Charges**

##### **Executive Summary**

To effectively address current rate arrears on some properties, the sale of land process will be necessary to discharge overdue rates and charges. Previous requests for payment have been ignored and the total outstanding revenue on these properties now exceeds \$150,000. If at any time during the sale of land process outstanding rates, charges and expenses on a property are paid in full, proceedings will cease.

##### **Recommendation**

That pursuant to Section 140(2) of the *Local Government Regulation 2012*, Council sells the land described in "Schedule A – List of Properties" for overdue rates and charges;

And that Council delegates to the Chief Executive Officer its power to take all further steps under Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012* to effect sale of the land or end the sale procedures if appropriate (Section 141(3) of the Regulation).

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**Schedule A – List of Properties**

Property No.	Legal Description	Amount Outstanding as at 14 November 2022
374	Lot 46 RP 706755	\$16,363.14
435	Lot 1 RP 727033	\$11,377.28
493	Lot 13 RP 841952	\$11,366.90
494	Lot 2 RP 731710	\$15,204.77
3751	Lot 16 RP 715883	\$12,649.09
4953	Lot 87 RP 711846	\$16,581.29
5255	Lot 16 RP 713758	\$20,225.56
6421	Lot 134 CP A26512	\$13,904.52
8205	Lot 7 RP 720236	\$14,409.43
8994	Lot 2 RP 730452	\$9,776.43
9161	Lot 2 RP 725647	\$11,286.40

**Resolution**

Moved Councillor Detenon, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

**6.3.2. Monthly Financial Report - October 2022****Recommendation**

That the Monthly Financial Report for Period Ending 31 October 2022 be received.

*9.16am - Mr. Wellwood entered the meeting.*

*9.21am - Mr. Mulcahy entered the meeting.*

**Resolution**

Moved Councillor Perry, seconded Councillor Boccalatte that the recommendation be adopted.

CARRIED

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9.34am - Mrs. Olsen left the meeting.

## 6.4. GOVERNANCE

## 7. INFRASTRUCTURE, PLANNING AND ENVIRONMENTAL SERVICES

### 7.1. ENVIRONMENTAL AND HEALTH SERVICES

#### 7.1.1. TBSC/22/016 Management - Burdekin Aquatic Centre

9.34am Mr. Terry Brennan left the meeting at the commencement of this discussion as he had a Declarable Conflict of Interest in relation to Item 7.1.1 TBSC/22/016 Management - Burdekin Aquatic Centre as his wife Mrs. Vicky Brennan conducts water aerobics classes at the Ayr Pool in conjunction with the current lessee.

#### Executive Summary

The tender for the Management of the expanded facility, Burdekin Aquatic Centre, was called on 14 October 2022. Tenders closed on 14 November 2022. One (1) tender was received. The current interim quotation will finish on 15 December 2022. The tender response has been assessed and a recommendation provided below for acceptance.

#### Recommendation

That Council:

1. accept the tender from Sage Swim Pty Ltd to undertake the services required under Tender TBSC/22/016 - Management of Burdekin Aquatic Centre, based on the following pricing table as at time of acceptance:

Service Description	Tender Unit	Price Tender (ex GST)
Management - Burdekin Aquatic Centre - Summer (with water park open)	Per week	\$5,202.00
Management - Burdekin Aquatic Centre - Summer (with water park closed 16 Dec 2022 to late Jan 2023)	Per week	\$4,725.00
Management - Burdekin Aquatic Centre - Winter (operating)	Per week	\$4,828.00
Management - Burdekin Aquatic Centre - Winter (closed)	Per week	\$1,000.00

2. agree to waive the requirement for the Principal to retain 20% of gross income associated with the kiosk; and
3. requires the Facility to be open during the normal 2023 winter period up to the conclusion of the June/July School holiday period, with analysis and negotiation on future winter opening periods to take place.

With specific terms to be determined as part of final contract negotiations for the tender.



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## **Resolution**

Moved Councillor Musumeci, seconded Councillor Boccalatte that the recommendation be adopted.

CARRIED

*9.39am - Mrs. Galletta entered the meeting.*

*9.41 am – Mr. Mulcahy left the meeting.*

*9.42 am – Mr. Brennan re-entered the meeting.*

## **7.2. OPERATIONS**

*9.42am - Councillor Musumeci left the meeting.*

*9.44am - Councillor Musumeci re-entered the meeting.*

## **7.3. PLANNING AND DEVELOPMENT**

### **7.3.1. RAL22/0017 Development Application Reconfiguring a Lot (2 into 2 Lots) at 108 and 110 Rita Island Road, Jarvisfield**

#### **Executive Summary**

Council is in receipt of a development application lodged by Atkinson & Booy Surveys on behalf of applicant Gordon Wood for a reconfiguration of a lot being a boundary realignment of two existing lots mapped within the Rural Zone, described as Lot 3 on SP250551 and Lot 2 on 296513 and located at 108 and 110 Rita Island Road, Jarvisfield, for the purposes of improving viable farming across the site.

Currently Lot 3 has a total area of 0.46ha with Lot 2, approximately 75.11ha in area. The boundary realignment will reposition the smaller Lot 3 to front Nuttall Road, becoming proposed Lot 37, 0.40 ha in area with Lot 2 increasing by 0.06ha and containing the entire farmed area.

Based on the assessment of the development application against the relevant assessment benchmarks, it is considered that the proposed boundary realignment complies with and/or can be conditioned to comply, and is recommended for approval, subject to reasonable and relevant conditions.

## Recommendation

That Council approve the proposed Reconfiguration of a Lot – Boundary Realignment (2 lots into 2 lots) on land described as Lot 3 on RP250551 and Lot 2 on SP296513 located at 108 and 110 Rita Island Road, Jarvisfield, subject to reasonable and relevant conditions as listed below:

Condition	Reason	Timing
<p><b>1. General and Administration</b></p> <p><u>Compliance with Conditions</u></p> <p>1.1 The Applicant is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, <u>contractor</u> or invitee of the Applicant.</p> <p>1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.</p> <p>1.3 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied the role of the Council may be fulfilled in whole or in part by an officer acting under appropriate delegation.</p> <p>1.4 The proposed development must comply in full <u>with</u> all conditions of this approval, relevant Planning Scheme requirements and the relevant policies, guidelines and standards, as applying at the date of this approval, except as otherwise specified by any condition, to Council's satisfaction prior to the commencement of the use.</p> <p>1.5 All civil works associated with this development permit must be constructed by a suitably qualified/ licenced contractor and delivered as per the accepted design plans, as per Council specifications and requirements.</p> <p>1.6 Council's assessment of the design has been an audit only. In the issuing of this permit Council makes no acknowledgement that the design meets the above requirements.</p> <p>1.7 It is a condition of this permit that any errors in the design are the responsibility of the consulting engineer, and that any rectification costs which may be applicable are to be borne by the developer. Council bears no responsibility for any errors associated with the design or any costs arising therefrom.</p> <p><u>Works – Applicant's Expense</u></p>	The development must comply with all planning scheme requirements as approved and conditioned by this development permit.	During the operation and life of the development.

Condition	Reason	Timing						
<p>1.8 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council, unless otherwise stated in a development condition.</p> <p><u>Infrastructure Conditions</u></p> <p>1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the <i>Planning Act 2016 (the Act)</i>, should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.</p> <p><u>Works – Applicants Responsibility</u></p> <p>1.10 The Applicant must repair any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, it must be repaired immediately.</p> <p><u>Works – Design and Standard</u></p> <p>1.11 Unless otherwise stated, all works must be designed, <u>constructed</u> and maintained in accordance with the relevant Council policies, guidelines and standards.</p>								
<b>2. Approved Plans and Supporting Documents</b>								
<table border="1"> <tr> <th>Drawing Title</th><th>Drawing/Revision</th><th>Date</th></tr> <tr> <td>Plan of Lots 2 &amp; 37, cancelling Lot 2 on SP296513 and Lot 3 on SP250551</td><td>P22_278</td><td>N/A</td></tr> </table> <p><b>Associated Reports</b></p> <p>Development Application (including Response to Information Request) prepared by the applicant and Atkinson &amp; Booy Surveyors, 6 September 2022 and 17 October 2022 respectively.</p>	Drawing Title	Drawing/Revision	Date	Plan of Lots 2 & 37, cancelling Lot 2 on SP296513 and Lot 3 on SP250551	P22_278	N/A		
Drawing Title	Drawing/Revision	Date						
Plan of Lots 2 & 37, cancelling Lot 2 on SP296513 and Lot 3 on SP250551	P22_278	N/A						

Condition	Reason	Timing
<p>2.1 The proposed development must be completed, comply with and maintained generally in accordance with the drawings/ documents identified in the above, except as otherwise specified and/or amended by any condition of this approval.</p> <p>2.2 One full set of the most up to date approved plans must be held on site and available for inspection for the duration of the construction phase.</p> <p>2.3 The development must be constructed in the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.</p> <p>2.4 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.</p>	The development must comply with all planning scheme requirements as approved and conditioned by this development permit.	At all times.
<p>3. <b>Payment of Rates, Charges and Expenses</b></p> <p>3.1 Prior to signing the Plan of Survey, payment is required of any outstanding rates or charges levied by the Council or any expenses being a charge over the subject land.</p> <p>3.2 Pay the sum calculated at the current charge per lot to be levied on the Council by the Department of Natural Resources, Mines and Energy, for each new valuation.</p>	Confirmation to be provided to Council prior to the release of the Plan of Survey.	
<p>4. <b>Confirmation of Existing Services</b></p> <p>The existing services for each lot must be contained within the individual allotments.</p>	To ensure the development is appropriately serviced by in accordance with relevant code/s and policy direction.	Confirmation to be provided to Council prior to the release of the Plan of Survey.

Condition	Reason	Timing
<p>5. <b>Relocation/alteration of Public Utilities</b></p> <p>The developer must at its own cost undertake all necessary alterations to public utility mains and services as rendered necessary by the carrying out of any required external works or other works associated with the approved development to the satisfaction of Council, and at no cost to Council.</p>	<p>Saved to this PC</p> <p>To ensure development is appropriately serviced by public services and/or facilities in accordance with relevant code/s and policy direction.</p>	Prior to the release of the Plan of Survey.
<p>6. <b>Roadworks</b></p> <p>The construction of any crossovers to give access to the land is to be the owner's responsibility and at no cost to Council, to the satisfaction of the Chief Executive Officer.</p>	To provide appropriate access in accordance with relevant code/s and policy direction.	Prior to the issuing of a Development Permit for Building Works.
<p>7. <b>Drainage/Stormwater</b></p> <p>The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.</p>	To convey stormwater across other lands legally and in an environmentally responsible manner in accordance with relevant code/s and policy direction.	At all times.

#### Advice

##### 1. Infrastructure Charges

Not Applicable.

##### 3. Compliance with Conditions

Unless otherwise specified by these conditions, the conditions must be complied with prior to Council's endorsement of the Plan of Survey.

##### 4. Future Development

4.1 Any future on-site sewerage treatment and disposal on the proposed lots must be in accordance with the On-Site Sewerage Code and AS/NZS 1547:2000.

Condition	Reason	Timing
4.2 Any development application for building works which includes habitable rooms may have to include a 1% AEP Flood Certificate. N.B. this applies in Localised and River Flood areas as identified in Burdekin Shire Councils mapping.		

## Resolution

Moved Councillor Boccalatte, seconded Councillor Perry that the recommendation be adopted.

CARRIED

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### 7.3.2. MCU22/0012 Development Application Material Change of Use for a Dual Occupancy at 995 Woodstock Giru Road, Shirbourne.

#### Executive Summary

Council is in receipt of a development application lodged by BNC Planning on behalf of their client and applicant C and C Essex for a Material Change of Use for a Dual Occupancy use on Rural zoned land described as Lot 2 on RP882142 and located at 995 Woodstock Giru Road, Shirbourne.

The application did not require referral to the State for an assessment of their mapped interests (state-controlled road (Woodstock Giru Road) and regulated vegetation).

The development application is subject to Impact Assessment and therefore required Public Notification. Public Notification was undertaken in accordance with the requirements of the *Planning Act 2016* with no submissions received.

As the development application is impact assessable, officers have assessed it on its own merits and against the relevant assessment benchmarks of the Planning Scheme and all other relevant plans, policies and legislation, and notwithstanding the conflicts identified, have determined that any approval is able to be conditioned appropriately to generally comply.

#### Recommendation

That Council approve the proposed Material Change of Use for a Dual Occupancy on land described as Lot 2 on RP882142 and located at 995 Woodstock Giru Road, Shirbourne, subject to reasonable and relevant conditions, as included below:

Condition	Reason	Timing
<b>1 General and Administration</b> <u>Compliance with Conditions</u> 1.1 The Applicant is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, <u>contractor</u> or invitee of the Applicant. 1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail. 1.3 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied, the role of the Council may be fulfilled in whole or in part by an officer acting under appropriate delegation. 1.4 The proposed development must comply in full <u>with</u> all conditions of this approval, relevant Planning Scheme requirements and the relevant Council policies, guidelines and standards, as applying at the date of this approval, except as otherwise specified by any condition, to Council's satisfaction prior to the commencement of the use.  <u>Works – Applicant's Expense</u> 1.5 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met at no cost to the Council, unless otherwise stated in a development condition.  <u>Infrastructure Conditions</u> 1.6 All development conditions contained in this development approval about infrastructure under Chapter 4 of the <i>Planning Act 2016 (the Act)</i> , should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.  <u>Works – Applicants Responsibility</u> 1.7 The Applicant must repair any damage to existing infrastructure ( <u>e.g.</u> kerb and channel, footpath or roadway) that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, must be repaired immediately.  <u>Works – Design and Standard</u> 1.8 Unless otherwise stated, all works must be designed, <u>constructed</u> and maintained in accordance with the relevant Council policies, guidelines and standards.		At all times.

Condition	Reason	Timing
<p><b>2 Approved Plans and Documents</b></p> <p>2.1 The proposed development must be completed, comply with and maintained generally in accordance with drawing s/ documents identified in the Table below, except as otherwise specified and/or amended by any condition of this approval.</p> <p>2.2 The development must generally accord with the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.</p> <p>2.3 <b>Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.</b></p>	The approved development must be completed and maintained generally in accordance with the approved drawings and documents.	At all times.
<b>Approved Plans</b>		
<b>Drawing Title</b>	<b>Drawing/Revision</b>	<b>Date</b>
SITE PLAN - Dual Occupancy	055-22S01-J11.1...R111. A	June 2022
THE WEEKENDER 85 ELEVATIONS		Received 8.7.22
THE WEEKENDER 85 FLOOR PLANS		Received 8.7.22
<b>Associated Reports</b>		
Development Application (including Response to Information Request) prepared by BNC Planning dated June 2022 and 2 September 2022 respectively.		
<p><b>3 Outstanding charges</b></p> <p>All rates and charges (including infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use</p>		

Condition	Reason	Timing
<p><b>4 Stormwater Drainage and Management</b></p> <p>4.1 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.</p> <p>4.2 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.</p>	To ensure the premises appropriately manages and convey stormwater legally and in an environmentally responsible manner in accordance with relevant standards, code/ and policy direction.	At all times.
<p><b>5 Stormwater Quality Treatment</b></p> <p>The approved development must achieve the applicable stormwater management design objectives listed in Part G, Appendix 2 of the State Planning Policy, July 2017.</p>	To manage and to minimise the risk of causing environmental harm to receiving waters, damage to council infrastructure, and unnecessary financial burdens to council and the community in accordance with relevant code/s and policy direction.	At all times.
<p><b>6 On Site Water Supply</b></p> <p>A private water supply must be provided for the new dwelling</p>	The development is not located within a service area for a reticulated water service and in accordance with relevant code/s and policy direction.	Prior to the commencement of the use
<p><b>7 On Site Sewerage Treatment and Disposal</b></p> <p>7.1 At future building application stage, the applicant is to design and construct a suitable on-site sewerage treatment system for the new dwelling.</p> <p>7.2 Such work must be designed and constructed in accordance with the <u>Queensland Sewerage Code</u> and AS/NZS 1547:2000.</p>	To ensure development is appropriately serviced by parking and access facilities in accordance with relevant code/s and policy direction.	Prior to the commencement of the use.

Condition	Reason	Timing
<p><b>8 Access, Roadworks and Traffic</b></p> <p>8.1 No new access from Woodstock Yifil Road to the new dwelling is permitted.</p> <p>8.2 The applicant must design and reconstruct the existing internal access from Woodstock Giru Road to provide appropriate access to the new dwelling.</p> <p>8.3 All vehicle access, parking and manoeuvring areas proposed for the development must be adequate, safe, and designed in accordance with the relevant standards and Council's policies, with all vehicles entering and exiting the site in a forward direction.</p> <p>8.4 The proposed development must not impact adversely on the efficiency and safety of the transport network and those who use it, nor adversely impact on the immediately surrounding uses.</p> <p>8.5 Accesses to the premises, car parking and manoeuvring areas must be constructed in an all-weather, suitably sealed, low glare paving (bitumen, asphalt, concrete) to the satisfaction of the Chief Executive Officer.</p> <p>8.6 Any damage which is caused to Council's infrastructure <u>as a result of</u> the proposed development must be repaired immediately.</p>	To provide development with access in accordance with council standards.	Technical details are to be submitted to council prior to the issue of the certificate of final inspection by the Building Certifier.
<p><b>9 On Site Car Parking</b></p> <p>Provide adequate <u>on site</u> car parking spaces per dwelling for residents and visitors, in accordance with the requirements of the Dual Occupancy Code.</p> <p>All on-site car parking facilities, driveways and manoeuvring areas must be designed and constructed in accordance with Council's requirements and the relevant Standards.</p> <p>All car parking facilities must be always maintained to a safe operating standard thereafter.</p>	To ensure the development is appropriately serviced by car parking and access facilities in accordance with relevant code/s and policy direction.	<p>i. Technical details are to be submitted to council prior to the issue of the certificate of final inspection by the Building Certifier.</p> <p>ii. At all times and maintained for the life of the development.</p>
Condition	Reason	Timing
<p><b>10 Amenity and Screening Treatments</b></p> <p>10.1 The proposed development is to be suitable screened by fencing or vegetation when viewed from all roads and adjoining properties to ensure the existing amenity and character of the area is maintained.</p> <p>10.2 Building materials and colours for the new dwelling are to be compatible with the surrounding amenity and character of the locality.</p>	To ensure the development is appropriately screened in accordance with relevant code/s and policy direction.	Prior to the commencement of the use.
<p><b>11 Property Numbering</b></p> <p>Legible property numbers must be erected at the premises and must be maintained.</p> <p>The site identification numbers should be of reflective material, maintained free from foliage and other obstructions, and be large enough to be read from the street.</p>	To allow the <u>general public</u> , service and emergency service providers to effectively identify the property.	Prior to the commencement of the use and maintained for the life of the development.
<p><b>12 Storage</b></p> <p>Any storage on site is required to be screened from view from all roads and adjacent properties, including materials associated with construction of the second dwelling.</p>	To ensure the development does not have a detrimental effect on the visual amenity of the surrounding land in accordance with relevant code/s and policy direction.	At all times following the commencement of the use.
<p><b>13 Soil Erosion Minimisation, Sediment Control</b></p> <p>Should any works that involve the exposure of earth occur on site, appropriate erosion and sediment control management must be undertaken (including installation of site-specific stormwater treatment devices) and maintained to the satisfaction of the Council.</p>	To ensure that receiving waters during construction of the development are managed from the effects of increased sediment run-off in accordance with relevant code/s and policy direction.	At all times during the construction phase.
<p><b>14 Waste Management Facilities</b></p> <p>Refuse collection arrangements on site must be provided by the developer to the satisfaction of the Council.</p> <p>In particular</p>	To ensure the premises is appropriately serviced and to protect matters of public	Technical details are to be submitted to council prior to the issue of the certificate of final inspection by the Building Certifier.

Condition	Reason	Timing
<p>a) The approved waste storage area is to be of sufficient size to house all garbage bins for the life of the development including recycling bins and area is to be suitably screened</p> <p>b) All waste generated <u>as a result of</u> the construction of the development is to be effectively controlled and contained entirely within the boundaries of the site prior to disposal.</p> <p>All waste is to be disposed of in accordance with the <i>Environmental Protection Regulation 2019</i> and council's waste management policy.</p>	health and amenity in accordance with relevant code/s and policy direction.	
<p><b>15 Outdoor Lighting</b></p> <p>Any outdoor lighting fixtures must be installed and maintained so that they do not emit glare or light above the levels stated in <i>Australian Standard 4282 - 1997 Control of the Obtrusive Effects of Outdoor Lighting</i>.</p>	To ensure that the use does not cause a light nuisance to nearby sensitive receptors, and to ensure that a nuisance is not caused to the use from other nearby light sources in accordance with the <i>Queensland Environmental Protection Act 1994</i> Section 440	Prior to the issue of the certificate of final inspection by the Building Certifier, and to be maintained for the life of the development.
<p><b>16 Limitation of Approval</b></p> <p>This approval is limited to a Dual Occupancy use defined by Schedule 1, Division 2 - Defined Uses and Use Classes of <i>Burdekin Shire IPA Planning Scheme</i>.</p>	The development must comply with all planning scheme requirements and definitions as approved and conditioned by this development permit.	During the operation and lifetime of the development.
<p><b>17 Notice of Intention to Commence the Use</b></p> <p>Prior to the commencement of the use on the land the subject of the application, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.</p>		Prior to the commencement of the use.

Advice	Reasons	Timing
<p><b>1. Infrastructure Charges</b></p> <p>The Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.</p>		
<p><b>2. Future Development Application for Reconfiguration of a Lot to establish a Community Titles Scheme</b></p> <p>Any future development application for reconfiguration of a lot to establish a community titles scheme that does not reasonably comply with the requirements of the Planning Scheme including the Rural Zone, would likely be refused</p>	<p>To ensure all development is appropriately located, <u>designed</u>, and operated to ensure that</p> <p>i. Existing and future agricultural activities anticipated in the Rural Zone are not compromised; and</p> <p>ii. A safe and pleasant environment is provided while reasonably maintaining the amenity experienced in the locality.</p>	<p>At all times.</p> <p>The Land Memo to be attached to the land parcel record, prior to the issue of the certificate of final inspection by the Building Certifier</p>
<p><b>3. General</b></p> <p>Council will not be obligated to upgrade any roads accessing the development due to increased vehicle numbers accessing the development.</p>		
<p><b>4. Further Approvals Required</b></p> <p>a) <b>Building Works</b></p> <p>i. A Development Permit for Building Works to carry out building works prior to works commencing on site.</p> <p>ii. Any Development Application for building works which include habitable rooms will have to include a 1% AEP Flood Certificate. N.B this only applies in Localised and River Flood areas as identified in Burdekin Shire Council's flood overlay mapping.</p> <p>iii. All habitable dwellings must be constructed to a level not less than 100mm above the Adopted Flood Level, in accordance with Council's policies.</p> <p>b) <b>Plumbing and Drainage Works.</b></p> <p>Before an onsite sewerage facility can be installed on a property, the applicant is required to apply for a permit to install the treatment facility on that property as per the <i>Plumbing and Drainage Act 2018 and On-Site Sewerage Code and AS/NZS 1547:2000</i>.</p>		

<p><b>5. Further Inspections Required</b></p> <p>Compliance with Conditions</p> <p>The following inspections will be required to be undertaken by council to determine compliance with conditions that are not subject to a further approval.</p> <p>Condition 8 - Roadworks, <u>Access</u> and Traffic</p> <p>Condition 9 - On Site Car Parking</p> <p>Condition 10 - Amenity and screening</p> <p>Condition 12 - Storage</p> <p>Condition 13 - Soil Erosion Minimisation, Sediment Control</p> <p>Condition 14 - Waste Management Facilities</p>
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## **Resolution**

Moved Councillor Detenon, seconded Councillor Furnell that the recommendation be adopted.

CARRIED

*9.56am - Mrs. Galletta left the meeting.*

## **7.4. TECHNICAL SERVICES**

## **8. NOTICE OF MOTION**

## **9. RECEIPT OF PETITIONS**

## **10. CORRESPONDENCE FOR INFORMATION**

### **10.1. Letter of Support Request - Funding CT Scanner - Ayr Health Services - Burdekin Community Advisory Network**

*9.59am Councillor Boccalatte left the meeting at the commencement of this discussion as she has a Declarable Conflict of Interest in relation to Item 8 Burdekin Community Advisory Network - Townsville Hospital and Health in the Correspondence of Information as she is a member of the Burdekin Community Advisory Network and has written the letter requesting a letter of support from Council as Chair.*

### **Executive Summary**

Burdekin Shire Council received a letter from the Burdekin Community Advisory Network requesting a letter of support to assist in obtaining funding for the purchase of a CT scanner for the Ayr Health Services.

## **Resolution**

Moved Councillor Detenon, seconded Councillor Perry that Council write a letter of support for the Burdekin Community Advisory Network's bid to obtain funding for a CT scanner at Ayr Health Services.

CARRIED

*10.00am - Councillor Boccalatte re-entered the meeting.*



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## **11. GENERAL BUSINESS**

### **11.1. Council Endorsement - Re-nomination of Councillor Boccalatte - Lower Burdekin Water Board**

#### **Resolution**

Moved Councillor Perry, seconded Councillor Furnell that Council endorse Councillor Boccalatte for re-nomination to the role as the Council's representative to the Lower Burdekin Water Board.

CARRIED

## **13. DELEGATION**

### **13.1. Australian Citizenship Ceremony**

#### **Recommendation**

10.15am - Citizenship Ceremony - The Mayor officiated at the Citizenship Ceremony and the following Citizenship Candidates were confirmed as Australian Citizens:

Mrs. Melanie Sevilla Anito  
Miss. Rheanna Anito  
Mrs. Jocelyn Anne Cullen  
Mrs. Nancy Lim Nacino

*10.30am - Meeting adjourned for Morning Tea.*

*11.05am - Meeting recommenced.*

*11.05am - Mr. Blackwell and Mr. Arboit entered the meeting.*

## **11. GENERAL BUSINESS**

### **11.2. Update - Preliminary Arts Culture and Venues Business Review**

Mr. Blackwell and Mr. Arboit undertook a presentation to Council on some of the outcomes of the preliminary Arts Culture and Venues Business Review they had initiated including some initial key findings.

## **12. CLOSED BUSINESS ITEMS**

There being no further business the meeting closed at 11.45am.

**These minutes were confirmed by Council at the Ordinary Council Meeting held on 13 December 2022.**

**MAYOR**

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## **4.2. MINUTES AND BUSINESS ARISING**

### **Economic Development Advisory Group Meeting Minutes - 3 November 2022**

**File Reference:** 1224

**Report Author:** Eliza Lovell, Economic Development Coordinator

**Authoriser:** Terry Brennan, Chief Executive Officer

**Meeting Date:** 13 December 2022

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#### **Purpose**

This report provides the minutes of the Economic Development Advisory Group Meeting held on 3 November 2022.

#### **Summary of recommendations and actions for consideration and adoption:**

No recommendations to report.

#### **Recommendation**

That:

1. the minutes of the Economic Development Advisory Group Meeting held on 3 November 2022 be noted and adopted.

#### **Attachments**

1. 14. EDAG - Minutes - 3 Nov 2022 (1)

# Meeting Minutes

<b>Meeting</b>	Economic Development Advisory Group Meeting		
<b>Date</b>	Thursday, 3 November 2022	<b>Time</b>	3:00pm
<b>Attendees</b>	Councillor Lyn McLaughlin, Councillor Max Musumeci, Councillor Kaylee Boccalatte, Eliza Lovell, Ian Macdonald, James Lewty, Jim Fahey, Neil Williams, Paul Giordani,		
<b>Apologies</b>	Councillor Michael Detenon, Eddie Smallwood, Neil Green, Matthew Oar, Melissa Robinson		
<b>Chairperson</b>	Jim Fahey		
<b>Minutes Clerk</b>	Faith Swindley		
<b>Location</b>	Burdekin Shire Council – John Hy Peake Meeting Room		

## Minutes

### 1. Welcome

Mr Fahey welcomed everyone to the meeting and provided a welcome to Country.

#### a. Apologies

Mr Fahey noted the apologies.

#### b. Conflicts of Interest

Mr Fahey asked if members had any conflicts of interest to declare. No members declared any conflicts of interest.

#### c. Minutes of previous meeting

Mr Fahey advised that the minutes from the meeting held on 1 September 2022 were circulated amongst the group and approved as true and correct.

#### d. Matters arising from previous meeting

Mr MacDonald asked about the previous discussion of the closure of Burdekin Local News from the meeting held 1 September 2022. Ms Lovell advised that the group did not go into detailed discussion rather just mentioned it. The group discussed the challenges of not having a local newspaper and is there any other options to encourage another group to take this on.

Mr MacDonald asked if the Council still paid a membership to Townsville Enterprise Limited (TEL). Cr McLaughlin advised the benefits and importance of the Burdekin Shire being a member of TEL and the support Burdekin has received on projects including the Ayr Industrial Estate and RegenAqua wouldn't be possible without their assistance. Membership also allows Council to participate in several opportunities and delegations to the Federal Government that Burdekin Shire Council alone wouldn't be able to coordinate. Cr McLaughlin also noted a good example of collaboration is the opportunity for Ms Lovell to present at the upcoming TEL AGM to give an update on projects in the Burdekin region.

**e. Councillors Feedback – Discussion on EDAG minutes at Council Meeting**

Cr Musumeci advised there was no Councillor feedback to report from the previous minutes that were presented at the Council Meeting.

**2. Virtual Presentation – Informed Decisions – Katrina Houghton – 2021 Census Date Review**

Ms Katrina Houghton is an economist working with Informed Decisions (.ID). Council subscribes to Informed Decisions each year to access the Burdekin's economic data.

Ms Houghton advised members that the public can access a variety of economic data on their website – [www.id.com.au](http://www.id.com.au)

Mr MacDonald asked if the data can be sourced to benchmark Burdekin against other regions including Townsville, Hinchinbrook, Charters Towers for comparison. Ms Houghton advised this can be done by selecting the region as a benchmark in the system.

Cr McLaughlin suggested that the group identify two economic topics (e.g. housing, employment, GRP) from the census data and analyse Burdekin's data in comparison to other regions including Queensland, Townsville, Whitsundays and Hinchinbrook in detail in a future meeting. The group decided the priority data that should be analysed at the next meeting would be the population movement and age demographics of the Burdekin. Mr MacDonald suggested comparing the population movement from Burdekin to Townsville, Townsville to Burdekin, Burdekin to Brisbane whilst also comparing this to a similar region like Hinchinbrook shire and their population movement.

Mr Giordani commented that it would be interesting to analyse the ageing demographic data further and then identify ways to attract more allied services to the region to support that market. If the ageing population requires services like physiotherapy, occupational therapy etc this could attract young professionals in this field to move to the Burdekin with their partners or families.

***Action: Ms Lovell to source economic data to further explore at the next meeting.***

**3. Virtual Presentation – North Queensland Regional Organisation of Councils – Marie-Claude Brown – Executive Officer – Overview of Resource Recovery Projects in North Queensland**

Ms Marie-Claude Brown is the Executive Officer for North Queensland Regional Organisation of Councils (NQROC). NQROC is a collaborative organisation representing five member-councils including Burdekin, Charters Towers, Hinchinbrook, Palm Island and Townsville.

NQROC member councils work collaboratively to solve common regional issues and to contribute to the future sustainability of the region and have been undertaking projects and investigations into resource recovery in the region.

Ms Brown provided an overview on the current situation of waste and recycling in Australia, the targets that the State and Federal government are working towards and the challenges of landfill capacity and processing.

Ms Brown explained the 3 projects that NQROC are currently working on: Food Organics Garden Organics (FOGO) (Short-Term), Used Tyre Recycling Facility with studies from Tyre Stewardship Australia (Medium-Term) and Energy from Waste Facility (Long-Term).

In discussion with the FOGO project, Cr McLaughlin explained Burdekin uses green bins for garden organic waste which goes directly to the local transfer stations. The green bins do not take food organics as they would have to be stored in the Burdekin before getting transferred to Townsville for processing.

Ms Brown presented on the used tyre recycling in Queensland and especially North Queensland. There is currently a business case being produced on the feasibility of a used tyre processing facility in North Queensland. Currently 5,590 tonnes of used tyres are being transported from NQ and FNQ to Brisbane to get processed at a cost of \$400 per tonne to transport. The business case has determined that there is enough used tyres in NQ and FNQ for a viable industry. Ms Brown advised that a project of this scale is not possible for Council to run solely, it requires partnership from the State Government and the private sector.

***Action: Ms Lovell to distribute the 'Overview of Resource Recovery Projects in NQ' presentation to members of the group.***

#### **4. Council Projects Update**

Ms Lovell provided an update on Council's economic development activities including:

- Inland Boat Ramp
  - Maritime Safety Queensland is currently undertaking their 5-year review of all boat ramps in Queensland. Council is submitting their priorities for upgrades required at current boat ramps and additional infrastructure priorities which include the up-river boat ramp discussed previously by this group.
- Feedback on draft tourism campaign clips.
- Ayr Industrial Estate
  - Ms Lovell advised that Council had submitted an application under the Federal Government's 'Building Better Regions Fund' for the Ayr Industrial Estate and has since been informed that the program was reviewed, and the current round was cancelled. A new 'Growing Regions' funding program will be released soon which Council will look to apply to. Ms Lovell advised that Council officers are currently undertaking a review of the budget and scope of works for the earthworks component of Stage 1 of the Ayr Industrial Estate project and report back to Council, with a view to undertaking these works in the 2022/23 financial year.

#### **5. General Business**

##### **Item 1 – Economic Development Advisory Group Memberships**

Ms Lovell advised that Ms Tracey Martin has resigned from the group due to work commitments. As the group's charter states that there can be up to 10 representatives from business and industry, this leaves the group with 2 vacant representative positions.

Cr McLaughlin mentioned that it may be worth identifying the industry gaps of members in this group by inviting someone from horticulture, health or retail.

***Action: Ms Lovell to update the Expressions of Interest form and distribute to members to promote.***

Extra meeting – Thursday 8 December @ 3pm. Discussion will be on census data.

Meeting closed 5:09pm

## Agreed Actions Items

	Action Item	Responsible Officer	Due Date	Status
1	Source economic data to further explore at the next meeting.	E Lovell	08-12-2022	
2	Distribute the 'Overview of Resource Recovery Projects in NQ' presentation to members of the group.	E Lovell	08-12-2022	
3	Update and distribute Economic Development Advisory Group membership expression of interest form and distribute to members	E Lovell	8-12-2022	

#### **4.3. MINUTES AND BUSINESS ARISING**

##### **Burdekin Shire Youth Council Meeting Minutes - 7 November 2022**

**File Reference:** 137

**Report Author:** Tammy Quagliata, Community Development Support Officer

**Authoriser:** Tony Blackwell, Manager Community Services

**Meeting Date:** 13 December 2022

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#### **Purpose**

This report provides the minutes of the Burdekin Shire Youth Council Meeting held on 10 October 2022

#### **Summary of recommendations and actions for consideration and adoption:**

##### Item 2 - Amendment to Minutes (10 October 2022)

Council notes an amendment to the Burdekin Shire Youth Council Meeting Minutes from 10 October (Attendance) being that Gracie Hosie undertook the role of Chairperson, not Xavier Wood.

##### Item 3.1 - Involvement in Seniors Luncheon and Expo

Council acknowledges the involvement of Burdekin Shire Youth Council Members in the Seniors Month Luncheon and Expo held on 28 October 2022.

##### Item 3.2 - Youth First Aid Course

Council notes the proposed Youth First Aid Course to be held on Tuesday 13 December, 2022.

##### Item 7 - End of Year Break Up

Council notes the Burdekin Shire Youth Council end of year break up will be held at the Ayr Pool on Sunday 4 December 2022.

#### **Recommendation**

That:

1. the minutes of the Burdekin Shire Youth Council Meeting held on 7 November be noted; and
2. the recommendations as detailed in the minutes and summarised in Items, 2, 3 and 7 above be adopted.

#### **Attachments**

1. Minutes - Burdekin Shire Youth Council Meeting held on 7 November 2022

# Meeting Minutes

<b>Meeting</b>	Burdekin Shire Youth Council Meeting		
<b>Date</b>	Monday, 7 November 2022	<b>Time</b>	3:30 PM
<b>Attendees</b>	Gracie Hosie – Youth Mayor Xavier Wood - Deputy Youth Major Byrin Bojack – Burdekin Catholic High School Breanna Wood - Ayr State High School Brent Dingle – Burdekin Christian College Clodagh Liessmann – Burdekin Catholic High School Eddie Jones – Ayr State High School Haigan MacDonald – Burdekin Catholic High School Jack Roveglia – Burdekin Catholic High School Michael Lindley – Ayr State High School Sarah Shepherd – Ayr State High School Thomas Lindley – Ayr State High School Vaylee Grabs – Ayr State High School  Tammy Quagliata – Burdekin Shire Council Tony Blackwell – Burdekin Shire Council Cr. John Furnell – Burdekin Shire Council Cr. Kaylee Boccalatte – Burdekin Shire Council Cr. Lyn McLaughlin – Mayor, Burdekin Shire Council		
<b>Apologies</b>	Emily Holmes - Burdekin Christian College Mikayla McDonnell – Ayr State High School		
<b>Chairperson</b>	Gracie Hosie		
<b>Minutes Clerk</b>	Tammy Quagliata		
<b>Location</b>	John Drysdale Chamber		

## Agenda Items

### 1. Minutes of 10<sup>th</sup> October 2022 Meeting Received

Moved by Michael Lindley, seconded by Eddie Jones that the minutes of the Burdekin Shire Youth Council Meeting held on 10<sup>th</sup> October 2022 be received.

CARRIED



## **2. Amendment to the Minutes**

It was noted that Gracie Hosie was chairperson of the Burdekin Shire Youth Council Meeting held on 10<sup>th</sup> October, not Xavier Wood as recorded in the Minutes.

## **3. Business Arising from the Minutes**

- Members, Michael Lindley, Vaylee Grabs and Gracie Hosie were acknowledged for their attendance and assistance with the Seniors Luncheon. Feedback from attendees was wonderful with all enjoying their involvement.
- It was noted that the Youth First Aid Course has been rescheduled for Tuesday 13<sup>th</sup> December. Expressions of Interest are currently being called with members asked to spread the word.
- Following last meeting, it was advised that unfortunately Lachie Gill (The Voice Winner 2022) was unavailable for Fast Track 2023. The Fast Track Team will come back with alternative suggestions to be considered at the next meeting.

## **4. Correspondence**

### **Inward & Outward Correspondence**

NIL

## **5. Introduction to Kids Helpline & Resilient Kids Program**

Briana Newson & Allison Cuthbert addressed Youth Council Members regarding the roll out of the Resilient Kids Program in the Burdekin community. Funded by Primary Health Network, the Resilient Kids Program will be delivered across 5 LGA's within North Queensland including Etheridge, Carpentaria, Burdekin, Douglas and Burketown. The purpose of this program is to support the resilience of young people within the community.

Information was provided and discussions held on the following services offered by Kids Helpline for youth aged 5 to 25 years:

- 24-hour phone, webchat, email access
- Not only a crisis line. Kids Helpline's slogan is 'Any Time, Any Reason'
- Kids Helpline Website Chat 'My Circles'
- Kids Helpline Program in Schools. Currently offered by Burdekin Catholic High School, St. Colman's Primary School, and East Ayr State Primary School
- Parentline. Phone support for parents from 8am to 10pm.

Feedback and suggestions on youth wellbeing needs in the Burdekin Shire were sought from Youth Council members as part of the community consultation process of this program.

## **6. Final update and feedback on "It's OK to have a Blue Day" – Qld Mental Health Week Project**

Tammy Quagliata confirmed that all local High Schools had now completed their "It's OK to have a Blue Day' Projects. The following details were shared:

Burdekin Catholic High School – Painted a blue tree and gave out free blue donuts  
Ayr State High School – Painted a blue table and gave out free blue donuts and lollies  
Burdekin Christian College – Painted blue bench seats and cut a blue cake  
Home Hill State High School – Painted blue bench seats, played games & shared blue sweets.

It was noted that plaques were placed at each of the schools acknowledging the project.

Members gave great feedback about the initiative, noting that it sparked conversations about mental health & wellbeing, and 'having a blue day'. Members were congratulated on the success of this initiative and delivery of the project.

## **7. Discussions re Youth Council End of Year Break Up**

Tammy Quagliata presented options for the 2022 End of Year Break Up. Members voted to hold a pool party at the Ayr Pool on Sunday 4<sup>th</sup> December from 10am to 12pm. Gracie Hosie undertook to coordinate the setup, games and catering with Tammy Quagliata for the event.

Members would be forwarded an invite with details and would be able to bring up to 2 friends to join the event.

## **8. CORES Youth Wellbeing Packs**

Tammy Quagliata noted that additional funding left from the Sing It Out Project was used to purchase youth health & wellbeing packs to be distributed to each of the local high schools and used as required. A sample pack was shown including information brochures, contact cards, water bottle, mental health bingo, fidget spinner and a pen. It was agreed that these bags be launched in the high schools in early 2023. Tammy Quagliata thanked Ross Romeo from CORES for his assistance in arranging these packs.

Youth Council Members were asked to assist in compiling the packs in the coming weeks with details to be forwarded via email.

## **9. Members Update**

Members updated other members of upcoming events and personal achievements. Congratulations was given to Xavier Wood after being announced School Vice-Captain of Ayr State High School for 2023 and Sarah Shepherd being announced as Community Services Vice Captain for Ayr State High School for 2023.

## **10. Other General Business**

- Cr Kaylee Boccalatte commended Youth Council members for their ongoing involvement in the community, noting that it was very positive to see such a committed and active Youth Council operating within the Community.
- Youth Council members agree to do Secret Santa at the final meeting to be held on Monday 5<sup>th</sup> December. Tammy to forward details.
- Andrew Sherrington, Burdekin PCYC noted that he was looking into options for Youth Council to assist with future school holidays programs through the Burdekin PCYC.

With no further business, the meeting closed at 4.30pm.

**Actions Items from Meeting**

	Action Item	Responsible Officer	Due Date	Status
	Investigate alternative Youth Leadership Development programs	Tammy Quagliata	Ongoing	
	Liaise with and attend High School Student Council Meetings to plan for 'It's OK to have a Blue Day' project.	Tammy Quagliata Youth Members - High School Leaders	Completed	
	Encourage completion of Burdekin Youth Needs Strategy & Involvement in Youth Strategy Working Group as required	All members	Ongoing	
	Investigate dates to host Youth First Aid Course in December 2022	Tammy Quagliata	Completed	
	Liaise with Burdekin Education Program regarding networking opportunities	Tammy Quagliata	Early 2023	
	Investigate availability and costing of Christmas Break up options. Proposed date 4 <sup>th</sup> December 2022.	Tammy Quagliata	Completed	
	Compile CORES Youth Wellbeing Packs for circulation in local high schools in 2023	All members	Early 2023	

**Recommendations for Council Consideration**

	Recommendation	Minutes Item No
	Council notes an amendment to the Burdekin Shire Youth Council Meeting Minutes from 10 <sup>th</sup> October (Attendance) being that Gracie Hosie undertook the role of Chairperson, not Xavier Wood	2
	Council acknowledges the involvement of Burdekin Shire Youth Council Members in the Seniors Month Luncheon & Expo held on 28 October 2022	3.1
	Council notes the proposed Youth First Aid Course to be held on Tuesday 13 December, 2022	3.2
	Council notes the Burdekin Shire Youth Council end of year break up will be held at the Ayr Pool on Sunday 4 December 2022.	7

#### 4.4. MINUTES AND BUSINESS ARISING

##### RADF Advisory Group Meeting Minutes - 22 November 2022

**File Reference:** 98

**Report Author:** Janice Horan, Grants and Property Officer

**Authoriser:** Nick OConnor, Director Corporate and Community Services

**Meeting Date:** 13 December 2022

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#### Purpose

This report provides the Minutes of the RADF Advisory Group Meeting held on Tuesday, 22 November 2022.

#### Summary of recommendations and actions for consideration and adoption:

##### Item 6 - Consideration of Applications received in RADF 2022/23 Round 1

It is recommended that the following projects be funded from RADF 2022/23 Round 1:

Applicant	Project	Requested Funding	Recommended Funding
Burdekin Shire Council – Economic Development Section	Towards cost of conducting 2023 Burdekin Cultural Fair featuring First Fire – 26 May 2023.	\$5,000.00	\$5,000.00
Selectability Burdekin	Towards cost of conducting art classes as part of Art Wellbeing Program, culminating in an art exhibition. <i>The meeting recommends funding of \$2,500 which would fund the project for a period of 8 weeks (instead of the 15 weeks requested).</i>	\$4,900.00	\$2,500.00
Burdekin Brass Band	Employ tutors to conduct brass music learner and advanced classes for new and existing members. <i>The meeting recommends funding of \$3,800. It was considered that the fee payable for learner classes should be increased to \$10 (from \$5).</i>	\$5,000.00	\$3,800.00
Jye Ravizza	Towards cost of attending 2023 Queensland Band Association Queensland Youth Band Development Camp - 9/1/23 to 13/1/23 - Brisbane. <i>The meeting noted that this was Jye Ravizza's first application.</i>	\$500.00	\$500.00
Cecillia Cason	Towards cost of attending 2023 Queensland Band Association Queensland Youth Band	\$500.00	\$0

	Development Camp - 9/1/23 to 13/1/23 - Brisbane. <i>The meeting noted this was Cecillia Cason's fourth application. She had been funded to attend three (3) previous Queensland Youth Band Development Camps (which is the limit of accepted parameters per genre).</i>		
Zale Ivory	Towards cost of attending 2023 Queensland Band Association Queensland Youth Band Development Camp - 9/1/23 to 13/1/23 - Brisbane. <i>The meeting noted that funds provided to Zale Ivory in the previous RADF round had been returned due to his inability to attend because of Covid concerns. (His application would fund his second attendance).</i>	\$500.00	\$500.00
David Kelly	Towards cost of attending 2023 Queensland Band Association Queensland Youth Band Development Camp - 9/1/23 to 13/1/23 - Brisbane. <i>The meeting noted that this application would fund David Kelly's second attendance.</i>	\$500.00	\$500.00
Burdekin Singers & Theatre Co	Towards cost of production of "Shrek the Musical" to be staged in the Burdekin Theatre - February 2023.	\$5,000.00	\$5,000.00
Burdekin Shire Youth Council	Mr. Blackwell left the meeting. Towards cost of conducting Fast Track Talent Showcase and workshops - 17 and 18 March 2023. Mr. Blackwell returned to the meeting.	\$5,000.00	\$5,000.00
Burdekin Potters Inc	Councillor Perry left the meeting and Mr. Woods assumed the chair. Towards the cost of conducting "Fat Ladies in Clay" workshop with tutor Cathy Spencer - 20 and 21 May 2023. Councillor Perry returned to the meeting and resumed the chair.	\$1,635.00	\$1,635.00
TOTAL		\$28,535.00	\$24,435.00

#### Item 7 - Consideration of Burdekin RADF Priority Funding Areas for 2022/23

It is recommended that Item 3 be extended to read:

3. Applications which support skill development and mentoring for artists and artswriters to promote and strengthen *individual development for a maximum of three (3) years per genre.*

Item 8.2 - Appointment of Proxy in situations of Mr. Blackwell's unavailability for RADF Advisory Group meetings

It is recommended that Theatre Manager, Mr. Arboit to be appointed as Mr. Blackwell's proxy in situations of his unavailability for RADF Advisory Group meetings.

**Recommendation**

That:

1. The minutes of the RADF Advisory Group Meeting held on 22 November 2022 be noted, and;
2. the recommendations as detailed in the minutes and summarised in Items 6, 7 and 8.2 above be adopted.

**Attachments**

1. RADF Minutes - 22 November 2022

## Meeting Minutes

<b>Meeting</b>	RADF Advisory Group Meeting		
<b>Date</b>	Tuesday, 22 November 2022	<b>Time</b>	4:00 PM
<b>Attendees</b>	Cr Lyn McLaughlin, Cr Sue Perry, Cr John Bonanno, Mr Tony Blackwell (Manager Community Services), Mrs Coral Colquhoun, Mr John Woods and Mrs Janine Worlein		
<b>Apologies</b>	Nil		
<b>Chairperson</b>	Cr Sue Perry		
<b>Minutes Clerk</b>	Mrs Janice Horan (RADF Liaison Officer)		
<b>Location</b>	Ernie Ford Board Room		

1. Welcome:  
Cr Perry opened the meeting and welcomed attendees, especially Mrs Worlein who was attending her first RADF Advisory Group meeting.
2. Declarations of Interest:  
Cr Perry declared a perceived conflict of interest for the Burdekin Potters' application as she is a member.  
Mr Blackwell declared a conflict of interest for the Burdekin Shire Youth Council application.
3. Apologies - Nil
4. Minutes of 20/6/22 Meeting Received:  
It was resolved that the minutes of the RADF meeting held on 20 June 2022 be received as a true and accurate record.
5. Business Arising from Minutes:  
The meeting reviewed outcome reports received for projects funded in the June 2022 RADF round.  
To assist new member, Mrs Worlein, Cr Perry provided an overview of the RADF program.
6. Consideration of Applications received in RADF 2022/23 Round 1:

Applicant	Project	Requested Funding	Recommended Funding
Burdekin Shire Council – Economic Development Section	Towards cost of conducting 2023 Burdekin Cultural Fair featuring First Fire – 26 May 2023	\$5,000	\$5,000
Selectability Burdekin	<p>Towards cost of conducting art classes as part of Art Wellbeing Program, culminating in an art exhibition</p> <p><i>The meeting recommends funding of \$2,500 which would fund the project for a period of 8 weeks (instead of the 15 weeks requested).</i></p>	\$4,900	\$2,500
Burdekin Brass Band	<p>Employ tutors to conduct brass music learner and advanced classes for new and existing members</p> <p><i>The meeting recommends funding of \$3,800. It was considered that the fee payable for learner classes should be increased to \$10 (from \$5).</i></p>	\$5,000	\$3,800
Jye Ravizza	<p>Towards cost of attending 2023 Queensland Band Association Qld Youth Band Development Camp – 9/1/23 to 13/1/23 – Brisbane</p> <p><i>The meeting noted that this was Jye Ravizza's first application.</i></p>	\$500	\$500
Cecillia Cason	<p>Towards cost of attending 2023 Queensland Band Association Qld Youth Band Development Camp – 9/1/23 to 13/1/23 – Brisbane</p> <p><i>The meeting noted this was Ms Cason's fourth application. She had been funded to attend three previous Qld Youth Band Development Camps (which is the limit of accepted parameters per genre).</i></p>	\$500	\$0
Zale Ivory	<p>Towards cost of attending 2023 Queensland Band Association Qld Youth Band Development Camp – 9/1/23 to 13/1/23 – Brisbane</p> <p><i>The meeting noted that funds provided to Zale Ivory in the previous RADF round had been returned due to his inability to attend because</i></p>	\$500	\$500



	<i>of Covid concerns. This application would fund his second attendance).</i>		
David Kelly	Towards cost of attending 2023 Queensland Band Association Qld Youth Band Development Camp – 9/1/23 to 13/1/23 – Brisbane  <i>The meeting noted that this application would fund David Kelly's second attendance.</i>	\$500	\$500
Burdekin Singers & Theatre Co	Towards cost of production of "Shrek the Musical" to be staged in the Burdekin Theatre – February 2023	\$5,000	\$5,000
Burdekin Shire Youth Council	Mr Blackwell left the meeting.  Towards cost of conducting Fast Track Talent Showcase and workshops – 17 & 18 March 2023  Mr Blackwell returned to the meeting.	\$5,000	\$5,000
Burdekin Potters Inc	Cr Perry left the meeting and Mr Woods assumed the chair  Towards the cost of conducting "Fat Ladies in Clay" workshop with tutor Cathy Spencer - 20 & 21 May 2023  Cr Perry returned to the meeting and resumed the chair.	\$1,635	\$1,635
<b>TOTAL</b>		<b>\$28,535</b>	<b>\$24,435</b>

## 7. Consideration of Burdekin RADF Priority Funding Areas for 2022/23:

The meeting reviewed the current RADF Priority Funding Areas as follows:

1. Applications which increase participation of priority community including children and young people; people from culturally and linguistically diverse communities; Aboriginal and Torres Strait Islander people and people with disabilities;
2. Applications which invest in cultural and community programs to promote and strengthen community cohesion;
3. Applications which support skill development and mentoring for artists and artswriters to promote and strengthen community cohesion.
4. Applications which align with the Burdekin Shire Council Arts and Cultural Strategy 2021-2030.

It is recommended that Item 3 be extended to read:

3. Applications which support skill development and mentoring for artists and artworkers to promote and strengthen *individual development for a maximum of three years per genre*.

Cr McLaughlin left the meeting at this stage.

## 8. General Business:

8.1 Mr Woods advised the meeting that the “Gateway to the Burdekin” sculpture, in Lloyd Mann Gardens, undertaken by the Home Hill Harvest Festival had been constructed with the funds available. However, because of a shortage of funds, it had not been possible to complete the project and the photo skins had not been installed. It was decided to request the Home Hill Harvest Festival to submit their Outcome Report including copies of tax invoices covering the full cost of the project.

Cr Bonanno left the meeting at this stage.

8.2 Mr Blackwell requested that Theatre Manager, Mr Glenn Arboit be approved to act as his proxy in situations of his unavailability.

It is recommended that Theatre Manager, Mr Glenn Arboit to be appointed as Mr Blackwell’s proxy in situations of his unavailability for RADF Advisory Group meetings .

There being no further business, the meeting closed at 6 pm.

## Actions from Previous Meeting

	Action Item	Responsible Officer	Action	Status
1	Template to be prepared and provided to groups conducting workshops to capture attendance numbers	J Horan	30/6/22	Completed
2	Add category of “Young People (up to 12 years) in RADF Application Form (Page 4)	J Horan	30/6/22	Completed

## New Action Items

	Action Item	Responsible Officer	Action	Status
1	Change to Item 3 of RADF Priority Funding Areas for 2022/23	J Horan	31/1/23	
2	Request Home Hill Harvest Festival to submit Outcome Report for “Gateway to the Burdekin” sculpture project.	J Horan	31/1/23	

#### **4.5. MINUTES AND BUSINESS ARISING**

##### **Burdekin Shire Road Safety Advisory Meeting Minutes - 16 November 2022**

**File Reference:** 691

**Report Author:** Ginett Biffanti, Administration Officer

**Authoriser:** Kevin Byers, Manager Technical Services

**Meeting Date:** 13 December 2022

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#### **Purpose**

This report provides the Minutes of the Burdekin Shire Road Safety Advisory Meeting held on 16 November 2022.

#### **Summary of recommendations and actions for consideration and adoption:**

##### Item 6.2 – Current Give Way Sign Arrangement – Intersection of Milburn Road and Mill Lane, Home Hill

That Council investigate the use of “Give Way Sign Ahead” treatment to alert motorist of the approach of the Give Way Sign and leave the Give Way Sign as is and to remove trees that may obstruct the line of sight of the motorist.

##### Item 6.7 - Complaints Regarding Traffic Disobeying Give Way Sign at Plantation Creek Crossing on Giddy Road, McDesme

That Council reline the road’s white markings at the Plantation Creek Crossing on Giddy Road, McDesme to make it clear to motorists that it is only one lane.

##### Item 7.0 – Complaints Regards Speeding in Adelaide Street, Ayr near Burdekin Christian School

That Council investigate the moving of the School Zone Sign to reduce speeding.

##### Item 7.0 – Replacement of Missing School Zone Sign – End of Ross Street, Ayr

That Council arrange a replacement School Zone sign in Ross Street, Ayr and install, when Council staff are replacing other signs in the shire due to fading.

#### **Recommendation**

That:

1. the minutes of the Burdekin Shire Road Safety Advisory Meeting held on 16 November 2022 be noted, and;
2. the recommendations as detailed in the minutes and summarised in Item 6.2, 6.7 and 7.0 above be adopted.

#### **Attachments**

1. Minutes - Burdekin Shire Road Safety Advisory Committee Meeting - 16 November 2022



# Meeting Minutes

<b>Meeting</b>	Burdekin Shire Road Safety Advisory Committee Meeting		
<b>Date</b>	Wednesday, 16 November 2022	<b>Time</b>	10.36am
<b>Core Attendees</b>	Councillor Max Musumeci – Burdekin Shire Council Mr. Kevin Byers – Burdekin Shire Council Mr. Glen Stockdale – Burdekin Shire Council Mr. Kevin Riseley – Technical Officer (Road Safety) Northern District – Department of Transport and Main Roads Senior Constable Brendon Gadd – Road Policing Unit – Queensland Police Service, Ayr Mr. Peter Heron – Officer in Charge (Acting), Queensland Ambulance Service, Ayr Mr. Mark Lazzarini – Burdekin Transport Operations Manager - Wilmar Sugar Australia Limited		
<b>Advisor Attendees</b>	Mrs. Kristy Raitelli – Transport and Main Roads Project Officer – Burdekin Shire Council		
<b>Apologies</b>	Senior Sergeant Steve Barton – Officer in Charge – Queensland Police Service, Ayr Senior Constable Brett Elton – Road Policing Unit – Queensland Police Service, Ayr Ms. Rachel Coulson – Manager (Road Safety) Northern Region – Department of Transport and Main Roads Ms. Marita Stecko – Senior Advisor (Road Safety) - Northern Region – Department of Transport and Main Roads Mr. John Tait – Cane Supply Manager – Wilmar Sugar Australia Limited		
<b>Chairperson</b>	Councillor Max Musumeci		
<b>Minutes Clerk</b>	Ms. Ginett Biffanti		
<b>Location</b>	Ernie Ford Board Room - 145 Young Street, Ayr		

## 2. Minutes Received

### Minutes of the Burdekin Shire Road Safety Advisory Committee Meeting held on 18 May 2022.

Moved Max Musumeci, seconded Glen Stockdale that the flying minutes of the Burdekin Shire Road Safety Advisory Committee Meeting held on Wednesday, 16 November 2022 be accepted.

CARRIED

## 3. Business Arising out of Minutes

Nil.

#### 4. Review Action Items List

	Action Item	Responsible Officer	Status
1.	<b>12 May 2021</b> Item 6.5 - Speed Limit Review Giddy Road between Old Clare Road and McDesme Crossing.	Kevin Byers	A Request for Quotation has been drafted and waiting an ECM number so that a company can be appointed to complete speed limit review for submission to Speed Review Committee before the final submission is approved. Expected completion date is January/February 2023.
2.	<b>18 May 2022</b> Item 6.3 - Council to investigate the lack of speed signs and review the speed limit required on Lena Road, Mount Kelly.	Glen Stockdale BSC	A Request for Quotation has been drafted and waiting an ECM number so that a company can be appointed to complete speed limit review for submission to Speed Review Committee before the final submission is approved. Expected completion date is January/February 2023.
3.	Item 6.4 - Council to review the speed zone on Mount Kelly Drive, Mount Kelly.	Glen Stockdale BSC	A Request for Quotation has been drafted and waiting an ECM number so that a company can be appointed to complete speed limit review for submission to Speed Review Committee before the final submission is approved. Expected completion date is January/February 2023.
4.	Item 6.5 - Council to investigate the current speed zones on Maidavale Road, Maidavale to ensure compliance with DTMR regulations.	Glen Stockdale BSC	Council Officers to review the buffer zone and speed zones.
6.	Item 6.7 – Council to investigate posting 'No Parking Anytime' sign at the no parking zones marked behind the Ayr Police Station on Graham Street, Ayr.	Glen Stockdale BSC	The area will be inspected so that the Council can mark it with "Keep Clear" in yellow to make it more visible to the public and allow the Parking Zone to be kept clear of all traffic.
7.	<b>17 August 2022</b> Item 6.2 – Council to review trimming the trees on the corner of Burke and Chippendale Streets, Ayr.	Glen Stockdale BSC	Council will send a letter to the property owner on the corner of Burke Street, Ayr requesting that the shrubs and trees that are obstructing motorists' views at the intersection be removed.

#### 5. Correspondence or Information

Discussed in Item 6.4 Request to Reduce Speed Limit – Sandy Corner Turnoff in General Business.

## **6. General Business**

### **6.1 Update – Burdekin Shire Road Safety Advisory Committee Charter 2022**

Moved Max Musumeci, seconded Kevin Byers that the updated Burdekin Shire Road Safety Advisory Committee Charter 2022 be accepted.

CARRIED

### **6.2 Current Give Way Sign Arrangement – Intersection of Milburn Road and Mill Lane, Home Hill**

Mr. Stockdale advised that Council received a customer request regarding the Give Way Sign posted on Milburn Road to be switched to Mill Lane. Council to investigate the use of “Give Way Sign Ahead” treatments and re-mark white lines to alert motorist of the approach of the Give Way Sign and leave the Give Way Sign as is and to remove trees that may obstruct the line of sight of the motorist.

### **6.3 Community Road Safety Education Grants Program, Awareness Campaign for Speed Limit Adherence and General Safety through Road Construction and Maintenance Zones**

Mr. Byers sought the advice of the committee members regarding the Community Road Safety Education Grants Program in identifying what areas in the Burdekin needed to be highlighted for the Grant Program.

Mr. Riseley suggested contacting Ms. Rachel Coulson for assistance with this matter in order to get ideas.

### **6.4 Request to Reduce Speed Limit – Sandy Corner, Brandon Turnoff**

Council received a request from a customer to review the speed limit at the Sandy Corner, Brandon turnoff to allow caravan-pulling drivers to safely enter the road.

Mr. Riseley reported that he has investigated the area using the nearby camera for the past five days to view the behaviour of motorists and other available data, including a road crash query of the area for the previous five years with only one reportable accident that was not related to any caravans. Mr. Riseley also advised that the area has been upgraded in 2011 with over 300-meter sight clearance to motorist on either side that allows enough distance to pull into the traffic safely. Mr. Riseley recommended that the current speed limit be maintained.

### **6.5 Black Spot Funding Application – Intersection of Soper Street and Graham Street Ayr**

Mr. Byers informed the committee that the application for Black Spot Funding for the intersection of Soper Street and Graham Street, Ayr has been submitted. If successful, the work will commence sometime in July 2023 in line with 2023/2024 Budget.



## **6.6 Complaint Regarding Speed on Mountainview Road, Airville**

Council received a complaint from a resident on Mountainview Road, Airville regarding the speed driven along the road. Mr. Stockdale advised due to the road being a rural road with the speed limit of 100kph and no history of incidents on the road that a review of the speed limit is not advisable. It was agreed that the current speed limit stay the same.

## **6.7 Complaints Regarding Traffic Disobeying Give Way Sign at Plantation Creek Crossing on Giddy Road, McDesme**

Council has received complaints about drivers failing to obey the Give Way Sign at the Plantation Creek Crossing on Giddy Road, McDesme. In the hope that traffic will obey the Give Way Sign, the Council intends to reline the road's white markings to make it clear to motorists that it is only one lane. Mr. Byers to discuss further upgrades of the area with Mr. Wellwood to be then brought back to Council for approval and funding opportunities.

## **6.8 Mr. Peter Heron – Queensland Ambulance Service Ayr**

Mr. Heron enquired if the Burdekin Bridge's traffic lights are activated when the emergency lights of the ambulance are on. Mr. Riseley enquired as to whether the ambulance had a remote to activate the lights on the bridge when needed, as the Queensland Ambulance Service should have one.

Mr. Heron to get in touch with Mr. Riseley to seek further information.

## **6.9 Mr. Kevin Riseley – Department of Transport and Main Roads**

Mr. Riseley gave an update on the Bruce Highway maintenance reseal works in Brandon from the southern approach through Brandon up to the northern end ceasing at the Queensland Rail Crossing. Works will commence on the 17 November to 28 November 2022 from 7.00pm to 5.00am.

Mr. Riseley announced that a tender had been released for the Bruce Highway 10K, Inkerman Overtaking Lane Project with the scope of work involving the construction of a new 2 kilometre north bound overtaking lane along the existing south bound overtaking lane.

## **7.0 Senior Constable Brendon Gadd – Road Policing Unit – Queensland Police Service Ayr**

Senior Constable Gadd asked members about the minimum School Zone Sign Distance from the start of school due to complaints of speeding in Adelaide Street, Ayr near the Burdekin Christian School. Mr. Riseley informed that the distance is 300 metres. Council to investigate the moving of the School Zone Sign to reduce speeding.

Senior Constable Gadd informed the members of a missing school zone sign at the end of Ross Street, Ayr. Council to arrange a replacement sign and install when council staff replace other signs in the shire due to fading.

There being no further business, the meeting closed at 12.05 am.

**The next meeting will be held on Wednesday, 15 February 2023 at 10.30am.**

Councillor M. Musumeci.

Chairman

#### **Actions from This Meeting**

	<b>Action Item</b>	<b>Responsible Officer</b>	<b>Status</b>
1.	Item 6.2 Council to investigate the use of "Give Way Sign Ahead" treatment to alert motorist of the approach of the Give Way Sign and leave the Give Way Sign as is and to remove trees that may obstruct the line of sight of the motorist.	Glen Stockdale BSC	Pending
2.	Item 6.7 Council intends to reline the road's white markings to make it clear to motorists that it is only one lane.	Glen Stockdale BSC	Pending
3.	Item 7.0 Council to investigate the moving of the School Zone Sign to reduce speeding.	Glen Stockdale BSC	Pending
4.	Item 7.0 Council to arrange a replacement School Zone sign in Ross Street, Ayr and install when Council staff are replacing other signs in the shire due to fading.	Kristy Raitelli BSC	Pending



### **5.1.1. CEO**

#### **Council Workshops - November 2022**

**File Reference:** 1394

**Report Author:** Terry Brennan, Chief Executive Officer

**Authoriser:** Terry Brennan, Chief Executive Officer

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027:

5.2.1 Demonstrate open and transparent leadership

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#### **Executive Summary**

The Council conducted three (3) general workshops during November with workshops held on 1, 15 and 29 November 2022. As there were five (5) Tuesdays in November and only one (1) workshop scheduled in December it was agreed to conduct the three (3) workshops to finalise key presentations and discussions with Councillors.

A range of policy and operational issues were discussed by Councillors and staff at the workshops. A summary of the items discussed at the workshops is outlined in the report.

#### **Recommendation**

That the report on the Council workshops held on 1, 15 and 29 November 2022 be received and noted.

#### **Background**

The Council has adopted governance arrangements based on holding Council meetings on a fortnightly basis each month, with the exception of December and January each year, where one (1) meeting is held in each month. Similar arrangements apply to the conduct of general workshops which are held on the alternate week to Council meetings.

For the month of November this arrangement was varied with three workshops held on 1, 15 and 29 November 2022. This was due to there being five (5) Tuesdays in November and only one (1) workshop being scheduled in December. A broad range of policy and operational issues were discussed at the workshops along with presentations from external parties.

A summary of the issues discussed at the workshop is outlined below:

#### 1 November 2022

- Review of Sundry Debtors Recovery Policy
- Development Application for Reconfiguration of a Lot - Rita Island Road, Jarvisfield
- Development Application - Material Change of Use - Backpacker Accommodation - Charles Street, Ayr
- Update on current Planning Appeals
- Presentation on QRA Betterment Program for Disaster Recovery Works
- Request for road closure - Alva Beach Caravan Park
- Presentation on proposed reseal program for 2022/23
- Update on Arts and Cultural Venues planning
- Discuss options for lighting of trees at Home Hill
- Discuss proposed Clean-up Day on 27 November 2022
- Presentation of Q1 quarterly report on Operational Plan
- Presentation on ICT Service Level agreement with Burdekin Community Association (BCA)
- Application for conversion of existing State Leasehold land to freehold at Rita Island
- Proposed Storage Depot for heavy vehicles - Giru-Woodstock Road

#### 15 November 2022

- Discuss Sale of Land for Overdue Rates
- Development Application - Material Change of Use - Dual Occupancy - Woodstock - Giru Road
- Development Application - Material Change of Use - Pump Station associated with Haughton Pipeline Stage 2
- Discuss Capital Works item - Hot Water to Showers - Home Hill Pool
- Update on Tenders Received for Management of Burdekin Aquatic Centre
- Licencing and Compliance Issue
- Update on Library Operations
- Reporting on Arts and Culture Operational Plan Q1
- Presentation on Arts Culture and Venues Scope of Business review
- Discuss draft Friends of the Theatre Memorandum of Understanding (MOU)
- Presentation on analysis of capacity of Mt Kelly Water Supply Network
- Rideability Issues at sections of Sheepstation Creek and Airville Roads, Airville
- Review of Council's Submission for Recreational Boating Demand Forecast Study
- Discuss proposed Playground Equipment replacement at Groper Creek
- Discuss proposals for replacement of CBD Furniture - Home Hill
- Update - 261 Edwards Street, Ayr
- Discuss approach from Home Hill RSL to install banner poles adjacent to Memorial Park, Home Hill

#### 29 November 2022

- Ayr Water Supply issues
- Presentation on North Queensland Waste Management Plan 2022
- Review of existing policies:
  - o Fox and Wild Dog Bounty Policy
  - o Animal Management De-Sexing Policy
  - o Environmental Levy Policy
  - o Compliance and Enforcement Policy
- Development Application – Material Change of Use – Duplex – Edwards Street, Ayr
- Development Application – Material Change of Use – Vehicle Repair Station – Ross Street, Ayr
- Request for Negotiated Decision Notice – Accommodation Building – Nelson Street, Clare
- Review of existing Library Development Collection Policy
- Update on Australia Day Program for 2023
- Discuss proposed Sensory Trail – Memorial Park, Home Hill
- Discuss Refurbishment of Council Chambers Water Feature
- Presentation on Road Asset Condition Assessment System (RACAS)
- Update on actions - 261 Edwards Street, Ayr

**Consultation**

Consultation was undertaken with various parties in the presentation of the workshop topics.

**Budget & Resource Implications**

Not Applicable.

**Legal Authority & Implications**

Not Applicable.

**Policy Implications**

Any policy proposals or approvals are subsequently referred to a Council meeting via a report for consideration and if approved, formal adoption.

**Risk Implications (Strategic, Operational, Project Risks)**

Strategic Risk due to possible reputation damage if policies or major initiatives are not effectively developed with input and support from Councillors.

**Attachments**

None

### 5.1.2. CEO

#### Appointment of Acting Chief Executive Officer

**File Reference:** 395

**Report Author:** Terry Brennan, Chief Executive Officer

**Authoriser:** Terry Brennan, Chief Executive Officer  
System Admin

**Meeting Date:** 13 December 2022

#### Link to Corporate/Operational Plan:

Burdekin Shire Council Corporate Plan 2022-2027

5.4.1 Build effective leadership and management capability

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#### Executive Summary

The Chief Executive Officer (CEO) will be taking a period of annual leave from 9 to 27 January 2023, returning to work on Monday 30 January 2023. During the absence of the CEO on annual leave the Council should appoint an Acting CEO. It is proposed that the Director Corporate and Community Services, Mr. Nick O'Connor, be appointed Acting CEO for this period.

#### Recommendation

That the Director Corporate and Community Services, Mr Nick O'Connor, be appointed Acting CEO from 9 to 27 January 2023 during the absence of the CEO on annual leave.

#### Background

The Chief Executive Officer, Mr Terry Brennan, will be taking a period of annual leave from 9 to 27 January 2023, returning to work on Monday, 30 January 2023.

During the absence of the CEO on leave the Council should take action to appoint another officer to act as the CEO. It is proposed that the Director Corporate and Community Services, Mr. Nick O'Connor, be appointed as Acting CEO during the absence of the CEO on annual leave.

#### Consultation

Not Applicable.

#### Budget & Resource Implications

Nil – covered within existing salaries budget.

#### Legal Authority & Implications

Section 195 of Local Government Act 2009 provides for the appointment of an Acting CEO by the Council.

#### Policy Implications

Not Applicable.

#### Risk Implications (Strategic, Operational, Project Risks)

Appointment of an Acting CEO will address any issues that may arise with the execution of documents and exercising of powers delegated to the CEO during this period.

**Attachments**

None

### 5.3. EXECUTIVE

#### Macro-algae Bioremediation Project – Sole Supplier Arrangement with Pacific Biotechnologies (Australia) Pty Ltd

**File Reference:** 1394

**Report Author:** Terry Brennan, Chief Executive Officer

**Authoriser:** Terry Brennan, Chief Executive Officer

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027:

2.3.3 Support development, value adding, diversification, and expansion to provide a sustainable economic base.

3.2.2 Improve water and sewerage network reliability and efficiency through planned infrastructure renewals and upgrades.

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#### **Executive Summary**

The Council has been advocating for a number of years for funding support from the State and Federal Governments to undertake the construction of a Macro-algae Bioremediation facility at the Ayr-Brandon Waste-Water Treatment Plant (WWTP). The facility will be built on land adjoining the existing WWTP and based on the design, requires an area of approximately 4.5 hectares.

The project will be a joint initiative between Council and Pacific-Biotechnologies (Australia) Pty Ltd (Pacific Bio), who owns the intellectual property for the macro-algae treatment process, to construct and operate the facility.

The estimated cost of the facility is approximately \$8.32 Million and the Council has been successful in securing funding from the State Government under both the 2022/24 Local Government Grants and Subsidies Program (LGGSP) and Round 6 of the Building Our Regions (BOR) Program to undertake the project. The combined funding approved by the State Government is approximately \$5.512 Million, with Council being responsible for the balance of the costs, which will be funded from Sewerage Reserves.

As the intellectual property for the Macro-algae facility is owned by Pacific Bio, Council will be required to enter into a contract with the company. In order to meet the contracting provisions of the Local Government Regulation 2012, Council must pass a resolution that Pacific Bio is the only supplier reasonably available to undertake this work.

#### **Recommendation**

That :

(a) In accordance with Section 235 (a) of the Local Government Regulation 2012 Council resolve that Pacific Biotechnologies (Australia) Pty Ltd is the only supplier that is reasonably available to Council to undertake the construction of a Macro-algae Bioremediation facility at the Ayr-Brandon Waste-Water Treatment Plant and the Chief Executive Officer be authorised to enter into negotiations with the company to undertake this work, along with ongoing operation and maintenance of the facility once complete; and

(b) Council note and endorse that its funding contribution for both the 2022/24 LGGSP project funding and Round 6 of the Building Our Regions project funding will be met from existing capital funds held in Sewerage Reserves.

## **Background**

The Council has been advocating for over four ( 4) years for funding support from the State and Federal Governments to undertake the construction of a Macro-algae Bioremediation facility at the Ayr-Brandon Waste-Water Treatment Plant (WWTP). The facility will be built on land adjoining the existing WWTP and based on the design, requires an area of approximately 4.5 hectares.

The project will be a joint initiative between Council and Pacific-Biotechnologies (Australia) Pty Ltd (Pacific Bio), who owns the intellectual property for the macro-algae treatment process, to construct and operate the facility. A pilot project has been undertaken at the Ayr-Brandon WWTP with a smaller scale version of the treatment process being tested over the past 18 months. This process has been a joint exercise involving Council, Pacific-Bio and James Cook University (JCU).

Construction of the facility will enable a major improvement in the water quality of the final discharge from the WWTP through a significant reduction in Nitrogen and Phosphorous levels in the treated effluent. The project will also allow for an increase in the treatment capacity at the WWTP by providing additional load and buffering capacity with the additional ponds.

The estimated cost of the project is approximately \$8.32 Million and given its capital cost, it has required multiple grant funding applications to be submitted with a financial contribution from Council as well. This has increased the complexity of the project as parts of the project have had to be applied for under different funding programs.

A funding application was submitted under Round 6 of the State Government Building Our Regions (BOR) program for a \$2 million grant, which is the maximum available under this program. This funding was to undertake the earthworks component of the project, with a Council contribution of approximately \$463,000.00.

A funding application was also submitted under the 2022-24 Local Government Grants and Subsidies Program (LGGSP) for funding to undertake construction of the Macro-algae facility along with internal modifications at the Ayr-Brandon Waste Water Treatment Plant (WWTP). The estimated cost of this component of the project is approximately \$5.85 Million, with a 60% grant applied for and the balance of the cost being funded by Council.

The Council was successful with both of these funding applications, with advice of approval under LGGSP being received in early July and subsequent advice on the BOR application being received in late October. The combined funding approved under these two State Government programs is a little over \$5.5 Million.

As the funding for the project has been secured, work has commenced on various elements required to enable works to proceed during 2023. This includes ensuring relevant planning approvals are in place and the preparation of legal documents initiated.

As the intellectual property for the Macro-algae facility is owned by Pacific Bio, Council will be required to enter into a contract with the company for the construction of the bioremediation facility and subsequent arrangements for its ongoing operation and maintenance. In order to meet the contracting requirements under the Local Government Regulation 2012 Council is required to resolve that Pacific Bio is the only supplier reasonably available to Council to undertake this work.

Negotiations will need to be entered into with Pacific Bio for a final amount to undertake construction of the facility, with Council undertaking the earthworks component of the project. The project also requires internal plant changes to be made to the WWTP, which will involve a separate contract process that will be open to tender or quotation.

Broad terms in relation to the operation and maintenance of the facility once constructed, where outlined in a Term Sheet that was signed with the company in June 2019 to assist with proposed funding applications. This will form the basis for negotiations in relation to this aspect of the project, with the Term Sheet likely to be updated as part of the project plan.

**Consultation**

Consultation has been undertaken both internally and externally in securing the grant funding for the project and a project control group will be established to manage the construction of the various elements of the project.

**Budget & Resource Implications**

The Council will be required to fund its capital contribution of approximately \$2.8 Million for the two grant programs from funds held in Reserves for sewerage purposes.

**Legal Authority & Implications**

Council is required to pass a resolution under Section 235 (a) of the Local Government Regulation 2012 to appoint a sole supplier.

**Policy Implications**

Not Applicable.

**Risk Implications (Strategic, Operational, Project Risks)**

The project will address possible future requirements to upgrade the Ayr/Brandon WWTP to meet improved discharge standards for treated effluent. Without the project there will potentially be limitations on the types of industries that can be accommodated in the Industrial Estate expansion depending on effluent discharge quality. Contracting and project risks will be managed through a Project Control Group and engagement of lawyers to assist with drafting contract documentation.

**Attachments**

None



## **6.2.1. COMMUNITY DEVELOPMENT**

### **Burdekin Library Collection Development Policy Report**

**File Reference:** 427

**Report Author:** Alexis Adams, Manager Library Services

**Authoriser:** Tony Blackwell, Manager Community Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

1.1.2: Encourage equitable access to facilities and resources.

1.1.3: Provide ongoing support for art, culture, youth, seniors, and welfare activities.

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#### **Executive Summary**

The Burdekin Library Collection Development Policy provides a formally endorsed framework for the development and maintenance of the Burdekin Library collections. The library collection includes print materials, photographs, streaming services and various digital mediums. The Policy is aimed at ensuring the information, educational, recreational and cultural needs of the community are considered and balanced in relation to the limitations of Library space and budget. The policy sets out criteria for selection of materials as well as detailing the maintenance and disposal triggers for items within Council's Library Collections.

#### **Recommendation**

That Council adopts the Library Collection Development Policy as attached to this report.

#### **Background**

The "Queensland Public Library Guidelines for Collections" from the State Library of Queensland, documenting best practice for the management of library collections, includes a section on the necessity for a statement or policy on collection development approved by Council, updated regularly and made readily available to staff and the public.

The Collection Development Policy provides a formal mechanism for the development of the collections of the Burdekin Library and is an important document for the Library Service. It was last reviewed and adopted by Council in 2020. It has again been reviewed and updated with minor amendments.

#### **Consultation**

State Library of Qld, Manager Community Services, Library Staff

Council discussed the revisions to this policy at a workshop on 29 November 2022

#### **Budget & Resource Implications**

The collections budget is included in existing budget allocations and supported by State Library of Queensland through its annual Public Library Grant.

#### **Legal Authority & Implications**

Not Applicable.

#### **Policy Implications**

This is a revised policy and will be updated in Council's policy register and published to Council's website.

**Risk Implications (Strategic, Operational, Project Risks)**

Without an agreed Collection Development Policy, there is a risk that the collection budget could be allocated to materials that do not meet the information, education, recreation and cultural needs of the community, or support the development of lifelong learning within the Burdekin community.

**Attachments**

1. Library Collection Development Policy (2)

Policy Type	Corporate
Function	Arts and the Library
Policy Owner	Manager Community Services
Policy Contact	Manager Library Services
Effective Date	13 December 2022

## Purpose

This policy provides a framework for the acquisition and maintenance of the Library collection.

## Scope

This policy applies to all Library branches and Library staff.

## Policy Statement

### Criteria for Selection

The Libraries objective is to provide a quality collection of resources that cater for the recreational and information needs of all sectors of the community. Issues such as the expansion in knowledge-based media, changing social values, technological advances and increasing awareness of cultural differences will be considered part of the selection criteria requiring Library staff to be flexible, open-minded and responsible in the evaluation of Library resources considered for acquisition.

Resources should support and be consistent with the general aim of Burdekin Library.

Resources should meet the broad spectrum of community needs.

Resources may not be excluded from selection based on personal taste, moral or political viewpoints, social or ideological variance.

Biased resources may be selected to meet specific objectives and to ensure that all viewpoints are represented in the collection.

Resources will be considered for selection based on their own merit and the audience for whom it is intended. Resources are judged based on the work as a whole, not on a part taken out of context.

Priority is given to resources that are popular as well as being relevant to Burdekin lifestyles and trends.

Resources should be at levels and language appropriate to the various users of the Library.

Physical form and appearance of Library resources should be suited for their intended use and users.

Resources must be suitable for public lending purposes with consideration to appropriate distribution and licensing agreements.

Resources deemed important as a local historical record for present and future use will be acquired.

Multiple copies of resources may be acquired when probable usage justifies it.

Within the guidelines set by this policy, the knowledge and experience of Library staff influences the choices of the Library resources, as does their familiarity with the local community, other resources available, the current collection profile and the limits of the Library budget.

## Methods of Selection

Library resources may be purchased from Library suppliers, local retail outlets, subscription agencies or through consortia arrangements with other libraries.

Where possible, Library resources will be ordered utilising Library profiles and selection profiles, standing orders and online ordering through allocated suppliers to ensure a regulated supply of materials.

Additional mechanisms such as staff selection and public requests will also be utilised.

Resources will not be purchased from unsolicited sources unless they are of vital local significance and comply with the specific collection statement.

Criteria by which vendors are chosen include but are not limited to type and range of stock, price of stock, discount offered, reliability and speed of supply, reporting procedures of unfilled orders, ordering and invoicing procedures, LGA approved supplier.

All procurement of Library resources is managed in accordance with Council's Procurement Policy.

## Access to the Collection

Most of the Libraries collections are available for loan to all members of the Burdekin community. Access restrictions are those required by law or government legislation. There are collections that are only available for use in the Library for example, local history resources.

Access to the Libraries collections is provided free of charge as outlined in the Australian Library and Information Association (ALIA) policy on Free Access to Information (available at [www.alia.org.au/policies](http://www.alia.org.au/policies)) and as required by the Service Level Agreement for Public Library Services between the Library Board of Queensland and the Council.

## Responsibility for Selection

Collection development funding is a partnership between Burdekin Shire Council and the Queensland State Government. The Manager Library Services has formal responsibility for collection development and its budget. Responsibilities and duties relating to resources selection are also delegated to other Library staff referring to input from the public and other team members.

## Inter-Library Loan

The Libraries will borrow where possible, material that is not available for purchase or which does not meet the selection criteria. The Libraries provide Inter-Library Loans in accordance with the industry-accepted Inter-lending Code. Conditions imposed by the lending Library apply.

## Gifts and Donations

Donated materials which meet the selection criteria and which are offered without condition may be accepted. All donated materials become the property of Burdekin Library and the Library reserves the right to discard donated materials at any time and by any means which are deemed appropriate and to refuse donated materials.

The acceptance or purchase of materials for memorial donations from individuals, institutions or community organisations will be arranged with the Library Services Manager within the requirements of this 'Library Collection Development' policy. A record of memorial donations will be retained at the Library.

## Censorship

The primary objective of the Library is to facilitate free and unrestricted access to the ideas and information available on all subjects utilising all possible formats. The Library will not acquire any resources that are prohibited by law. Library staff will not censor the information selected by any member of the public. Supervision of material read or accessed by persons less than 18 years of age remains the responsibility of the parent or legal guardian.

The Library supports the Australian Library and Information Association's (ALIA) policy statements on free access to information. ALIA policy statements are available for access at [www.alia.org.au/policies](http://www.alia.org.au/policies).

## Challenged Materials

The Library accepts the possibility that some people may be offended by material held in the collection. These people have a right to express their view but not to force their beliefs on other members of the community or to deface Library materials to record their disapproval.

Any person disagreeing with the inclusion or exclusion of materials in the collection has the right to appeal. Complaints outlining specific concerns about Library materials should initially be submitted to the Library Services Manager in writing. The material in question will be re-evaluated using Libraries selection criteria and a reply provided to the complainant.

## Collection Evaluation and Maintenance

The Library will evaluate the effectiveness of the Library collections through analysis of performance data and regular stocktakes. Data collection is undertaken to develop the collection appropriately and to satisfy the requirements of the Library Board of Queensland's Service Level Agreement.

An up-to-date, attractive and useful collection is maintained through a continual withdrawal and replacement process. This ongoing process is the responsibility of the Library. Withdrawn materials will be handled in a similar manner and under the same authority as donated materials. As a guide, items are identified for withdrawal when they are:

- factually inaccurate or obsolete;
- worn beyond repair;
- no longer in demand;
- superseded by a new edition or a better title on the topic;
- of no discernible literary or topical merit;
- irrelevant to the needs of the community served;
- available elsewhere through reciprocal borrowing or interlibrary loan.

## Exceptions

Nil.

## Objectives

Because of the volume of publishing, as well as the limitations of budget and space, the Library must have a framework within which it can work to meet the information, educational, recreational and cultural needs of the community.

The Collection Development Policy is used by Library staff in the selection of resources and also serves to acquaint the general public with the principles of selection.

The basic principles underlying the policy are:

**Access** – The Library will provide free, adequate and convenient access to ideas, information and creative endeavour in a variety of formats whether held within the Burdekin Library or obtained from other sources.

**Equity** – The Library will provide resources for all people regardless of class, gender, age, disability, ethnic origin or economic status.

**Participation** – The Library will be adaptable to the changing needs of the community and actively seek informed community involvement including continuous feedback from customers. The Library encourages purchase suggestions from the community.

**Effective Citizenship** – The Library will provide information to assist the individual or community groups to be effective citizens in the social, political, economic, cultural and natural environment in which they live. Such information is necessary to enable the individual to be aware of their civil rights to safeguard those rights and to interact effectively within society.

**Cultural Relevance** – The Library will endeavour to match resources with customer requirements for diversity of ethnicity, interest and experience and will also acknowledge the needs of special groups.

**Creativity and Leisure** – The Library will provide resources which the individual can use to foster their creative and leisure pursuits.

**Education** – The Library will support lifelong learning in the form of self-education, thus helping to develop economic value in the community.

## **Risk Management**

Council is committed to applying a risk- based approach to the development and management of the Library Collection. In managing the acquisition and maintenance of the Libraries Collection, officers will consider the risks associated with the usefulness and ongoing value of collection material. This policy aims to mitigate many of the other risks associated with selection of collection materials through setting clear criteria for material selection. The policy also mitigates the risks associated with access to items of historic value by stipulating access conditions, thus reducing the risk of loss of irreplaceable items. Council's Library Collection is also valued in accordance with the Asset Management Framework and is insured as part of Council's wider insurance framework.

## **Legislation**

*Libraries Act 1988*

## **Definitions and Abbreviations**

<b>Collection</b>	means the total accumulation of books and other materials owned by the Burdekin Shire Library, organised and catalogued for ease of access by its users.
<b>Library or Libraries</b>	any library facility managed by Burdekin Shire Council.
<b>Resource</b>	means an item acquired for the Library collection including print material, photographs, streaming services, digital services etc.

## **Related Documents**

Reference Number	Document Title
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Refer ALIA Website	Australian Library and Information Association – Free Access to Information Statement
Refer ALIA Website	Australian Library and Information Association – Statement on Public Library Services
Refer SLQ Website	State Library of Queensland – Standards and Guidelines for Queensland Public Libraries
LIB-GDE-0001	Library Collection Development Guideline
FIN-POL-0004	Procurement Policy
LIB-FRM-0001	Request for Reconsideration of Library Materials

## Document History and Version Control

<b>Title of Document</b>	Library Collection Development Policy
<b>Document Reference Number</b>	LIB-POL-0002 Rev 3
<b>Review Schedule</b>	24 months
<b>Council Meeting Date</b>	13 December 2022
<b>Council Resolution Number</b>	<a href="#">Click or tap here to enter text.</a>

### **6.3.1. FINANCIAL AND ADMINISTRATIVE SERVICES**

#### **Monthly Financial Report for Period Ending 30 November 2022**

##### **Recommendation**

That the Monthly Financial Report for Period Ending 30 November 2022 be received.

##### **Attachments**

1. November 22 Financial Report
2. 2022-2023 Capital PCG November 2022



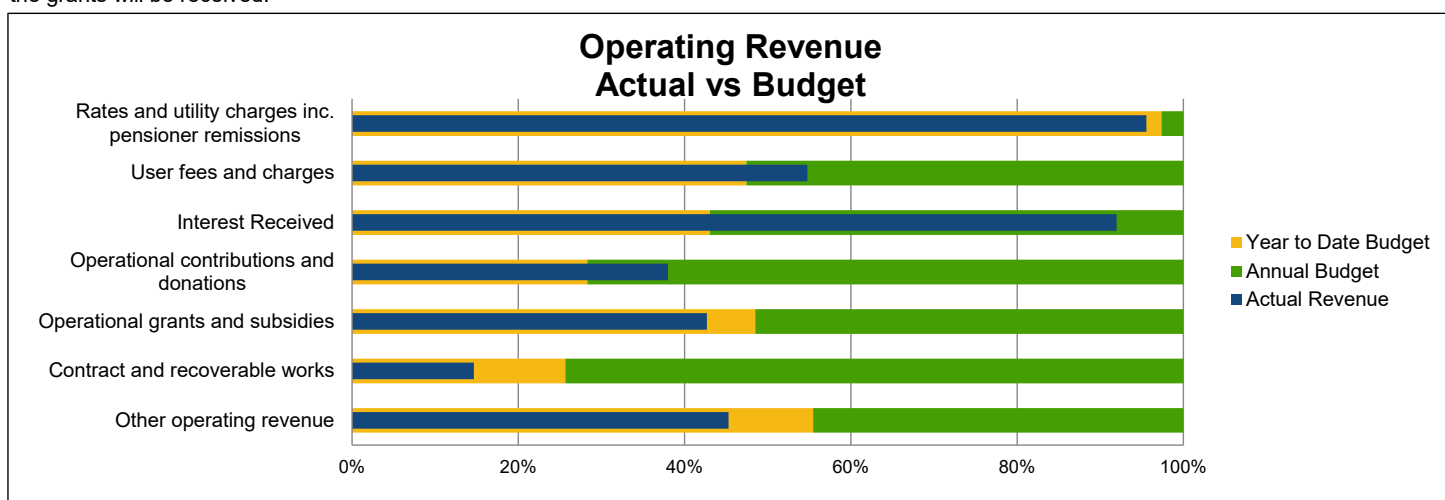
The following report provides a summary of Council's financial performance to 30 November 2022.

## FINANCIAL STATEMENTS AT A GLANCE

As at 30 November 2022	Actual \$	Annual Budget \$	YTD Revised Budget \$	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
Total Operating Revenue	45,444,274	52,995,827	45,975,090	-530,816	-1%
Total Operating Expenses	22,478,268	56,334,301	24,179,500	-1,701,232	-7%
<b>Operating Position</b>	<b>22,966,006</b>	<b>-3,338,474</b>	<b>21,795,590</b>	<b>1,170,416</b>	<b>5%</b>
Capital Revenue	7,974,400	13,870,228	13,870,228	-5,895,828	-43%
<b>Net Result</b>	<b>30,940,406</b>	<b>10,531,754</b>	<b>35,665,818</b>	<b>-4,725,412</b>	<b>-13%</b>

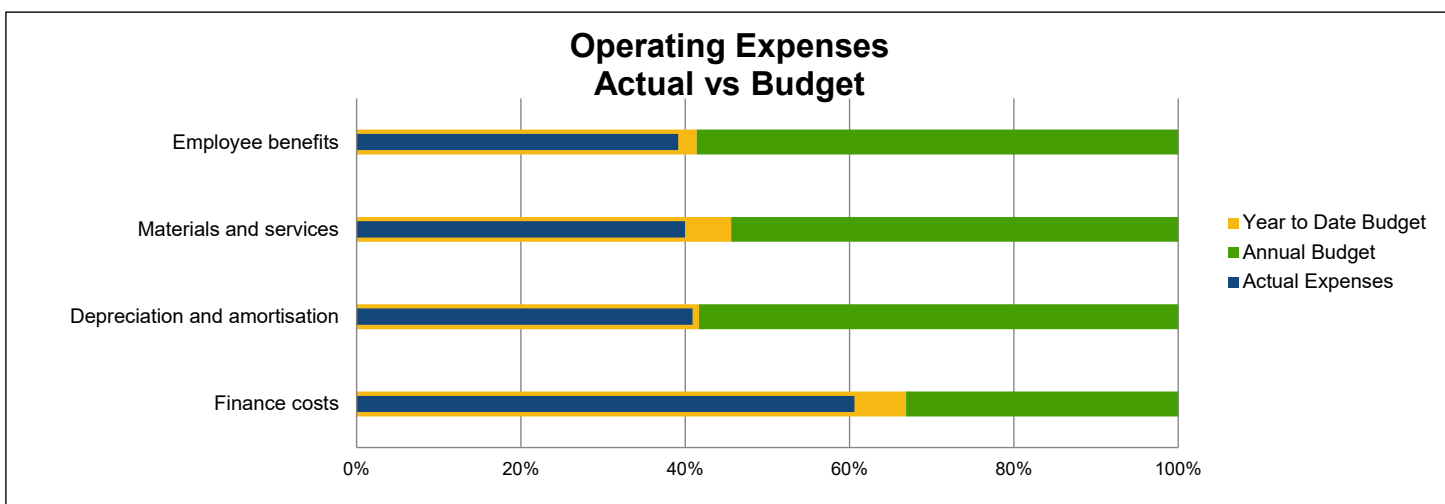
This report contains financial information for the period ending 30 November 2022. Council's operating position at month end is a \$23M surplus.

Capital Revenue includes capital grants which are budgeted to be received in July. The nature of capital grants means that it is often unknown when the grants will be received.



### Over Budget:

- Interest Received: Current interest rates are higher than the conservative budget estimates.



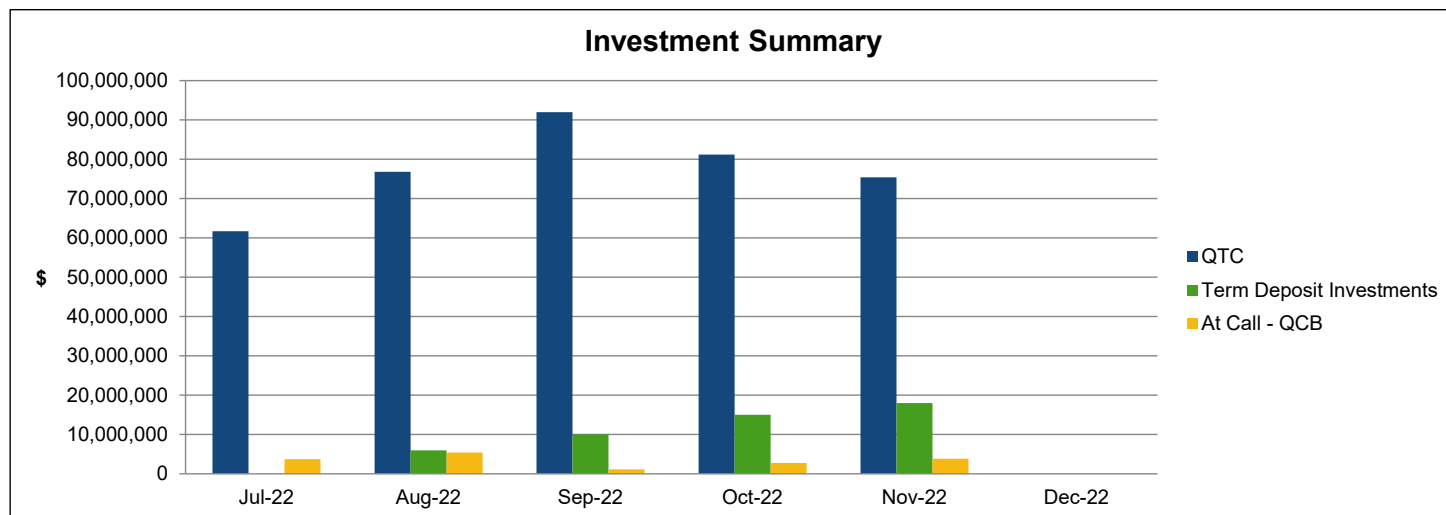
### Under Budget:

- Materials and services: Major variances are QRA Recoverable works, waste collection, and recoverable works expenditure as identified in program reports.

## INVESTMENT PORTFOLIO

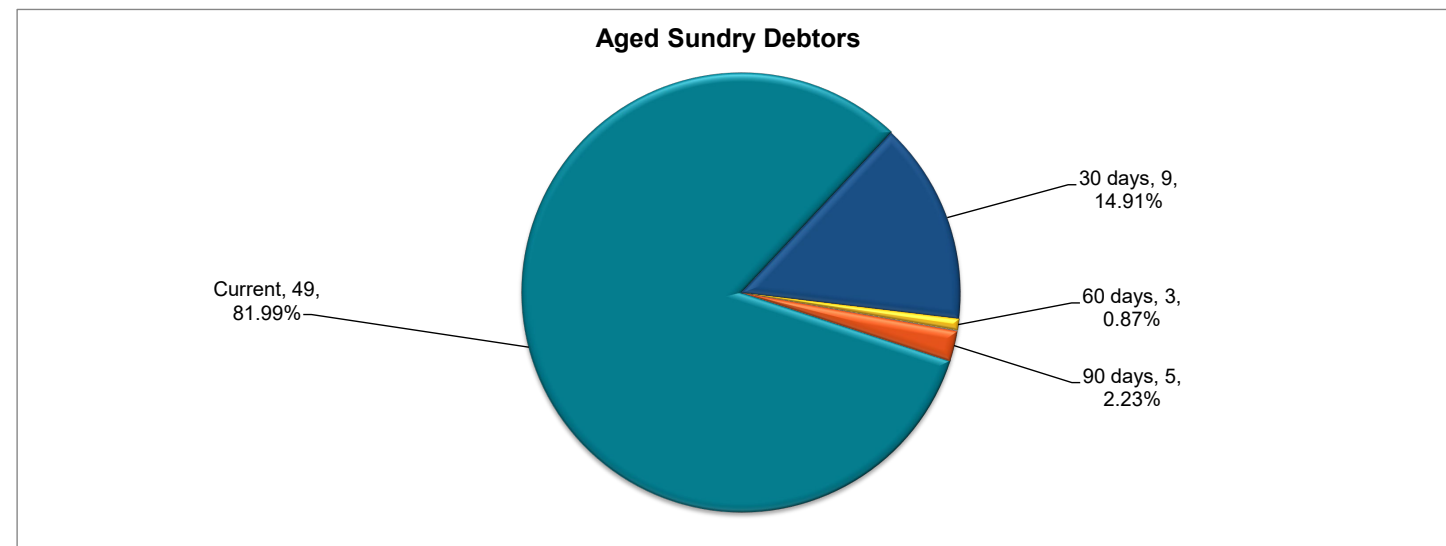
### Investment Report as at 30 Nov 2022 (including at call cash)

	Total Invested	Average Current Rate Weighted	% Invested
Bendigo	1,000,000	3.75%	1.0%
CBA	8,000,000	3.65%	8.2%
NAB	7,000,000	3.43%	7.2%
Suncorp	2,000,000	3.84%	2.1%
QTC	75,432,432	3.67%	77.6%
QCB General	3,817,871	1.75%	3.9%
<b>Total Funds</b>	<b>\$97,250,303</b>		



## SUNDRY DEBTORS

Total outstanding Sundry Debtors as at 30 November are \$142,367.

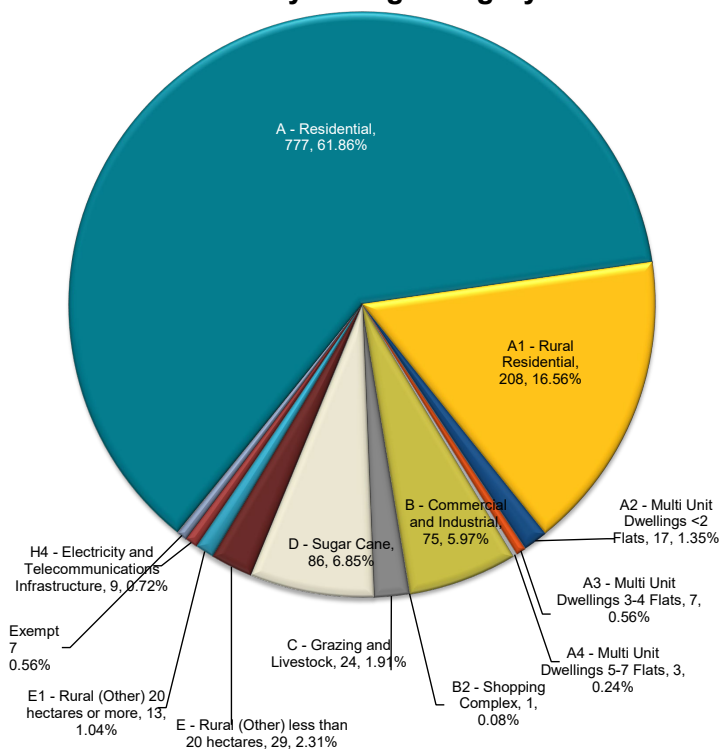


## RATES

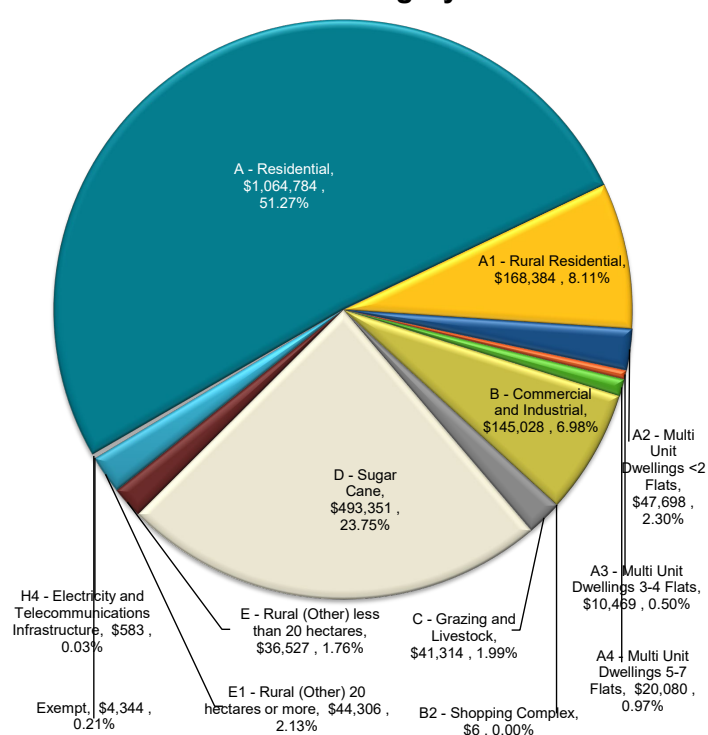
Arrears as at 1 July 2022		\$518,242
Levy and fees raised *	\$44,169,244	
Interest charged *	\$68,246	
Less Pensioner subsidy and rebate	<u>\$661,668</u>	\$43,575,822
Payments received		<u>\$42,019,420</u>
Arrears as at 30 November 2022		<u><u>\$2,074,644</u></u>
% Arrears November 2022		4.71%
% Arrears November 2021		4.75%
Pre-payments as at 30 November 2022		\$936,820
Pre-payments as at 30 November 2021		\$772,357

\* includes State Govt Emergency Management Levy

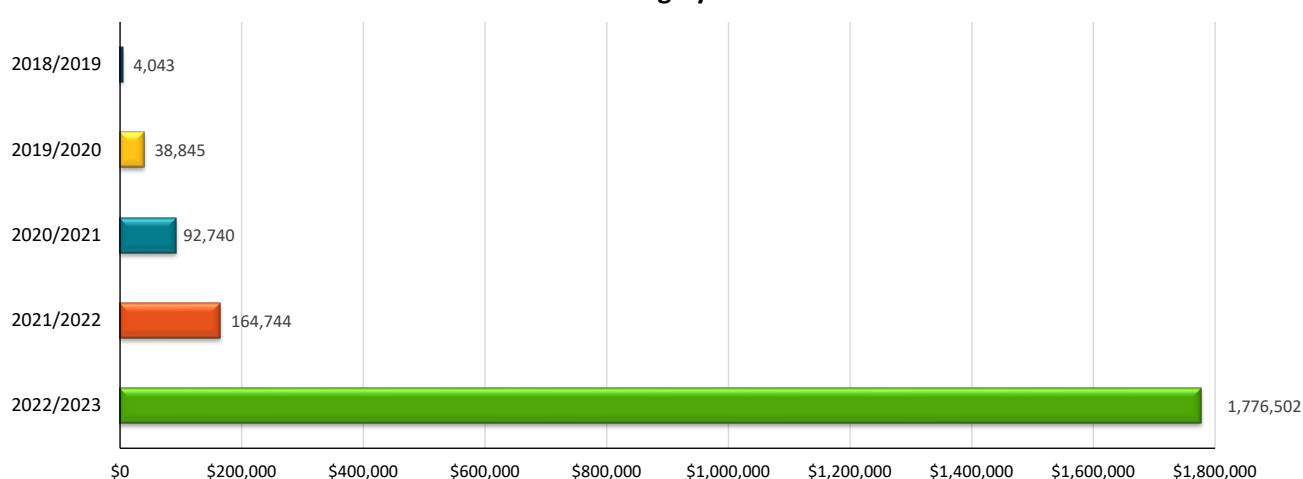
**Number of Properties with Outstanding Rates by Rating Category**



**\$ Value of Outstanding Rates by Rating Category**



**Total Rates Outstanding by Financial Year**



## Rates Debt Recovery

### Collection House - Debt Referral

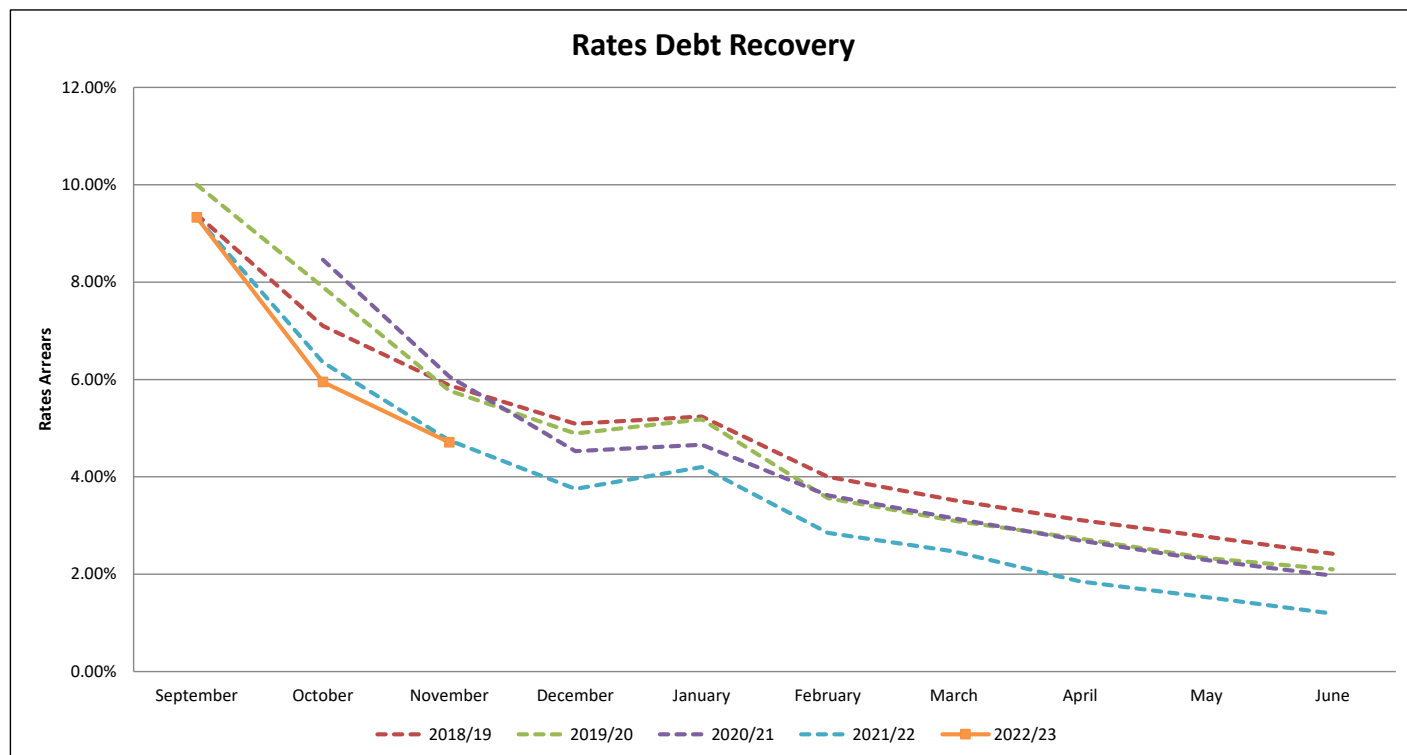
Council currently has 282 active files with Collection House with an outstanding balance of \$1,111,849.26.

### Council Periodic Payment Plans

Council has 327 formalised periodic payment plans currently in place. These will continue to be monitored by Rates Staff to ensure conformance.

### Collection House - Sale of Land

On 22 November 2022 Council resolved to commence Sale of Land proceedings for 11 properties. On 24 November 2022 one property that was passed in at the sale of land auction held in May, was sold by private treaty.



## OVERVIEW OF COUNCIL'S CAPITAL PROJECTS

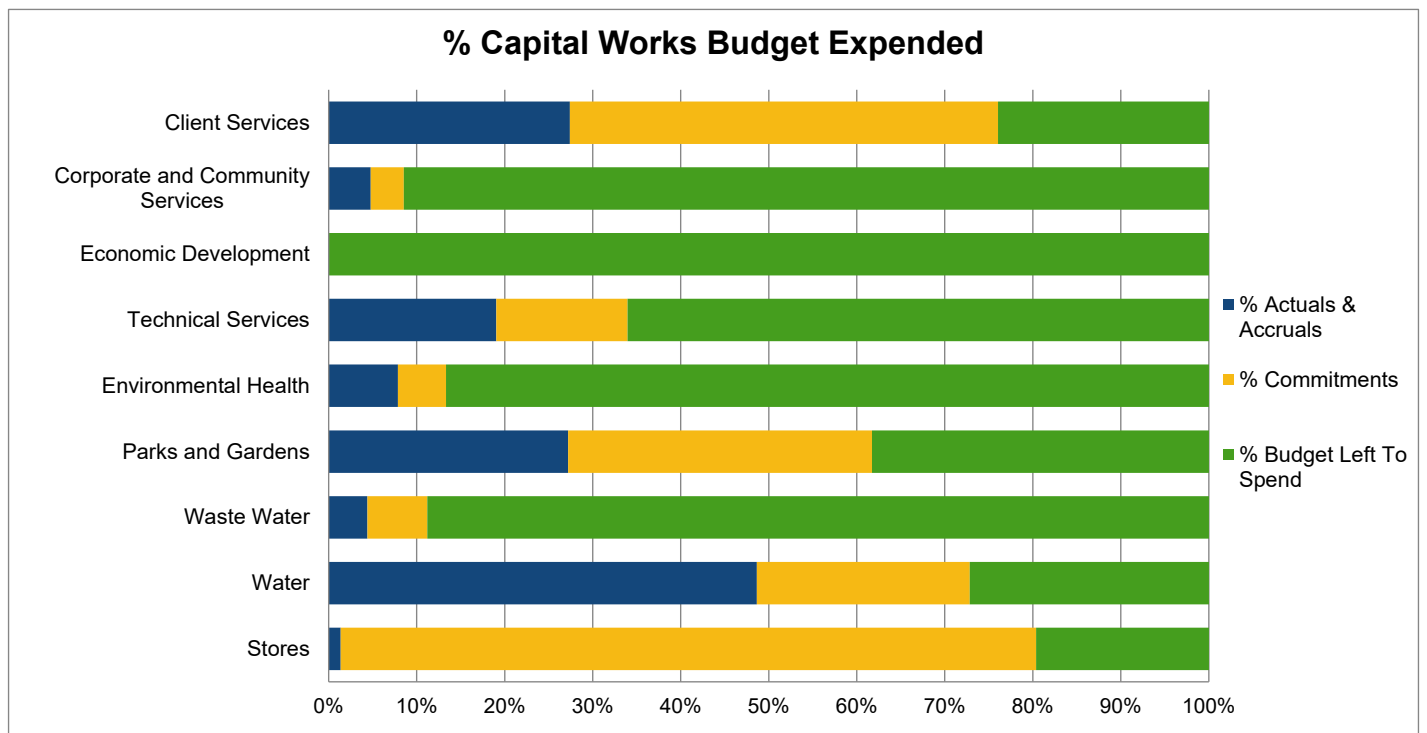
Capital expenditure incurred for the year to 30 November, is shown by asset category in the table below.

Capital project expenditure to 30 November is \$8,151,777. In addition to this, there is \$6,478,950 of commitments. Therefore totalling \$14,630,727.

### Financial Overview by Asset Category

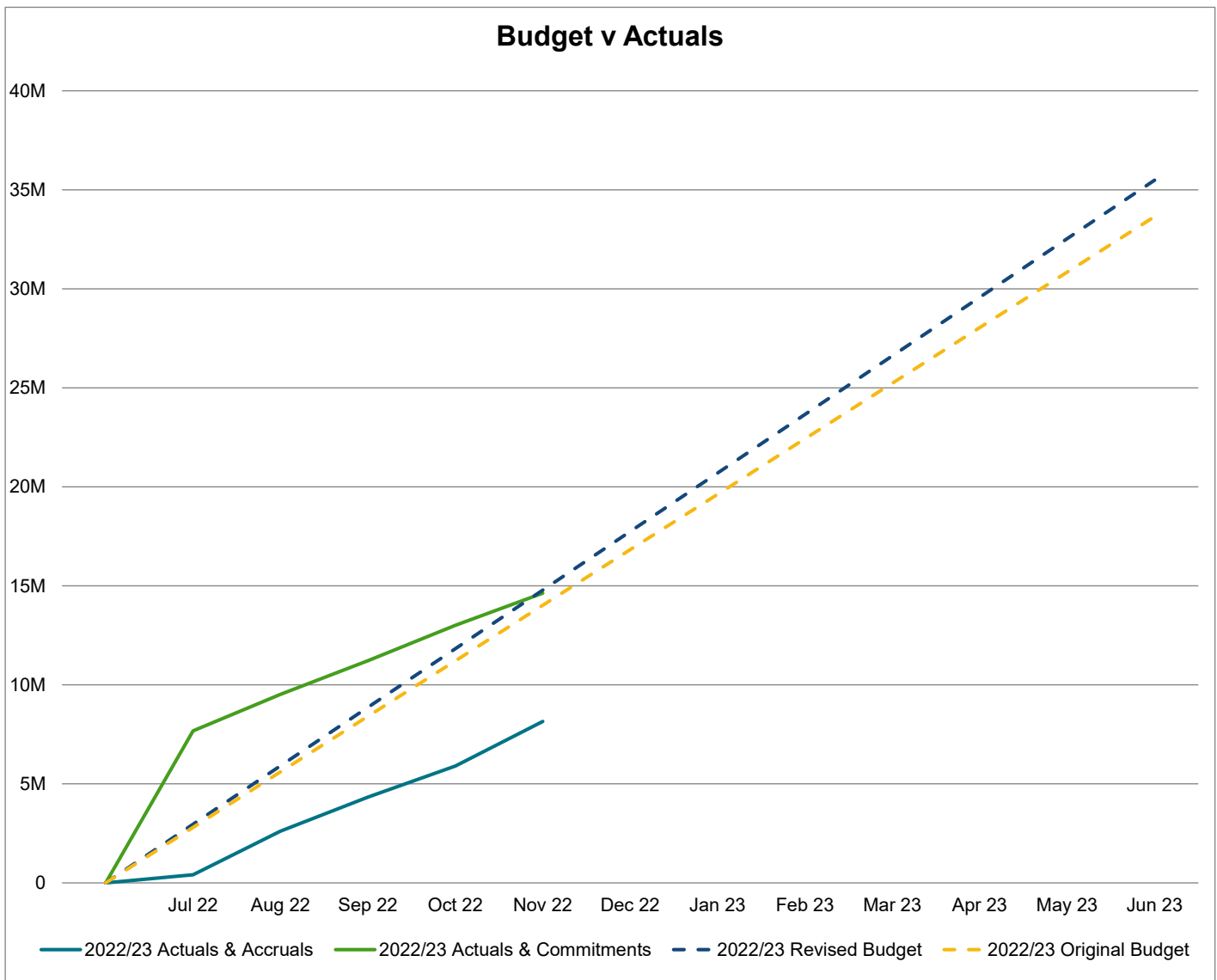
Asset Category	Original Budget	Revised Budget	Actuals & Accruals	Commitments	Total
Client Services	\$ 196,000	\$ 263,056	\$ 72,094	\$ 127,971	\$ 200,065
Corporate and Community Services	\$ 2,622,700	\$ 2,736,287	\$ 130,699	\$ 102,608	\$ 233,307
Economic Development	\$ 30,000	\$ 30,000	\$ -	\$ -	\$ -
Technical Services	\$ 13,199,000	\$ 14,203,912	\$ 2,705,990	\$ 2,116,346	\$ 4,822,336
Environmental Health	\$ 335,000	\$ 652,530	\$ 51,279	\$ 35,683	\$ 86,962
Parks and Gardens	\$ 4,898,520	\$ 5,899,624	\$ 1,604,699	\$ 2,037,782	\$ 3,642,481
Waste Water	\$ 4,250,000	\$ 4,677,403	\$ 205,958	\$ 317,705	\$ 523,663
Water	\$ 8,040,483	\$ 6,949,372	\$ 3,380,040	\$ 1,681,596	\$ 5,061,636
Stores	\$ 75,000	\$ 75,000	\$ 1,018	\$ 59,259	\$ 60,277
<b>TOTAL</b>	<b>\$ 33,646,703</b>	<b>\$ 35,487,184</b>	<b>\$ 8,151,777</b>	<b>\$ 6,478,950</b>	<b>\$ 14,630,727</b>

The below graph shows, by Asset Category, how much Council has spent (including accruals) on Capital Projects, compared to each budget.



Extended information on individual projects has been provided to Council in a separate dashboard report.

## OVERVIEW OF COUNCIL'S CAPITAL PROJECTS



Actuals and Accruals include payments made and materials/services received but not yet invoiced.

Actuals and Commitments include payments made, accrual transactions and purchase orders raised for materials/services not yet provided/supplied.

### APPENDIX 1 - OPERATING STATEMENT BY MANAGER

Attached are the Operating Statement Reports by Manager - please refer to these report for individual comments.

### APPENDIX 2 - TOTAL COUNCIL OPERATING STATEMENT

Attached is the Total Council Operating Statement for your information.

### APPENDIX 3 - STATEMENT OF FINANCIAL POSITION

Attached is the Statement of Financial Position as at 30 November 2022.

### APPENDIX 4 - STATEMENT OF CASH FLOWS

Attached is the Statement of Cash Flows for the period ending 30 November 2022.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

Appendix 1

Chief Executive Officer

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Operational contributions and donations	57	114	333	-219	-66%
Operational grants and subsidies	29,550	29,550	0	29,550	-
Other operating revenue	-22,903	41,092	68,433	-27,341	-40%
<b>Total operating revenue</b>	<b>6,704</b>	<b>70,757</b>	<b>68,767</b>	<b>1,990</b>	<b>3%</b>
<b>Operating Expenses</b>					
Employee benefits	153,651	571,925	569,420	2,505	0%
Materials and services	21,366	119,239	183,589	-64,350	-35%
<b>Total operating costs</b>	<b>175,017</b>	<b>691,164</b>	<b>753,009</b>	<b>-61,845</b>	<b>-8%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-168,312</b>	<b>-620,407</b>	<b>-684,243</b>	<b>63,836</b>	<b>-9%</b>
<b>Net result for period</b>	<b>-168,312</b>	<b>-620,407</b>	<b>-684,243</b>	<b>63,836</b>	<b>-9%</b>

**Comments**

**Operational grants and subsidies**

Unbudgeted grant received from Arts Queensland for Sweet Days Hot Nights festival.

**Other operating revenue**

Tourism membership fees and sponsorships received for Sweet Days Hot Nights Festival. Under budget due to timing of income.

**Materials and services**

Under year to date budget for promotion and marketing expenses and costs associated with Sweet Days Hot Night festival which will be incurred later in year.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Director of Corporate & Community Services**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
User fees and charges	5,649	49,765	43,507	6,258	14%
Operational contributions and donations	0	6,837	5,500	1,337	24%
Operational grants and subsidies	0	65,436	65,436	0	0%
Other operating revenue	226	1,536	1,042	494	47%
<b>Total operating revenue</b>	<b>5,875</b>	<b>123,574</b>	<b>115,484</b>	<b>8,090</b>	<b>7%</b>
<b>Operating Expenses</b>					
Employee benefits	79,062	267,265	273,808	-6,543	-2%
Materials and services	102,341	286,286	321,900	-35,614	-11%
Depreciation and amortisation	112,406	573,218	581,542	-8,324	-1%
<b>Total operating costs</b>	<b>293,809</b>	<b>1,126,768</b>	<b>1,177,250</b>	<b>-50,481</b>	<b>-4%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-287,934</b>	<b>-1,003,194</b>	<b>-1,061,765</b>	<b>58,571</b>	<b>-6%</b>
Capital grants and subsidies	0	0	1,100,000	-1,100,000	-100%
Other capital income (expense)	0	-12,062	-6,867	-5,195	76%
<b>Net result for period</b>	<b>-287,934</b>	<b>-1,015,256</b>	<b>31,368</b>	<b>-1,046,624</b>	<b>-3337%</b>

**Comments**

**User fees and charges**

Ahead of budget due to increased showgrounds facility hire.

**Operational contributions and donations**

Home Hill showgrounds electricity contribution.

**Materials and services**

Under budget due to the timing of internal audit scheduling and pest control at Home Hill courthouse. Offset by unbudgeted tree lopping and safety works undertaken at Ayr Showgrounds prior to water festival.

**Capital grants and subsidies**

Grant application for Ayr Industrial Estate was unsuccessful. To be adjusted in second revised budget.

**Other capital income (expense)**

Disposal of roof covering at Ayr Showgrounds Bird and Poultry Pavilion and switchboard at Burdekin Community Association building.



**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Client Services**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Operational grants and subsidies	0	34,678	35,940	-1,262	-4%
Other operating revenue	343	18,138	17,167	971	6%
<b>Total operating revenue</b>	343	52,816	53,107	-290	-1%
<b>Operating Expenses</b>					
Employee benefits	127,226	1,000,311	972,751	27,560	3%
Materials and services	39,068	1,402,175	1,409,956	-7,782	-1%
<b>Total operating costs</b>	166,294	2,402,486	2,382,707	19,778	1%
<b>Surplus (deficit) from operating activities</b>	-165,951	-2,349,669	-2,329,601	-20,068	1%
<b>Net result for period</b>	-165,951	-2,349,669	-2,329,601	-20,068	1%

**Comments****Other operating revenue**

Queensland Local Government Workcare payments higher than forecast due to long term injury of an employee. Actual received is for electricity reimbursement for Lower Burdekin Gymnastics Academy.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Community Services**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
User fees and charges	22,924	71,312	91,875	-20,563	-22%
Operational contributions and donations	50	50	0	50	-
Operational grants and subsidies	5,850	23,098	75,005	-51,907	-69%
Other operating revenue	4,451	25,962	33,854	-7,892	-23%
<b>Total operating revenue</b>	<b>33,275</b>	<b>120,422</b>	<b>200,734</b>	<b>-80,312</b>	<b>-40%</b>
<b>Operating Expenses</b>					
Employee benefits	228,973	752,892	764,782	-11,890	-2%
Materials and services	57,817	597,504	667,340	-69,836	-10%
Depreciation and amortisation	8,384	42,761	44,208	-1,447	-3%
<b>Total operating costs</b>	<b>295,174</b>	<b>1,393,157</b>	<b>1,476,331</b>	<b>-83,173</b>	<b>-6%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-261,899</b>	<b>-1,272,736</b>	<b>-1,275,597</b>	<b>2,861</b>	<b>0%</b>
Capital grants and subsidies	0	21,772	80,000	-58,228	-73%
Other capital income (expense)	0	-6,473	-6,473	0	0%
<b>Net result for period</b>	<b>-261,899</b>	<b>-1,257,437</b>	<b>-1,202,070</b>	<b>-55,367</b>	<b>5%</b>

**Comments**

**User fees and charges**

Under year to date budget for hire fees for the Burdekin Theatre.

**Operational grants and subsidies**

North Queensland Recovery and Resilience Grant for Community Capacity officer has been budgeted to be received monthly, however is paid on completion of milestones.

**Other operating revenue**

Under budget for bar sales and theatre promotions.

**Materials and services**

Under budget due to timing of Burdekin Neighbourhood Centre donation, electrical savings at Memorial Hall, timing of expenses for the Community Capacity Program, and Arts and Culture projects not decided. Over budget in Community Grants program due to timing of rounds.

**Capital grants and subsidies**

First quarter payment received for Public Library Grant. Under budget due to capital income entered in full in July.

**Other capital income (expense)**

Disposal of Burdekin Theatre LED Message Board.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Environmental & Health Services - Waste Program**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Rates and Utility Charges	-1,691	4,249,733	4,251,424	-1,691	0%
User fees and charges	84,987	304,904	234,001	70,904	30%
Interest Received	28,836	96,864	45,083	51,781	115%
Other operating revenue	16,402	51,242	66,879	-15,637	-23%
<b>Total operating revenue</b>	<b>128,533</b>	<b>4,702,744</b>	<b>4,597,387</b>	<b>105,357</b>	<b>2%</b>
<b>Operating Expenses</b>					
Employee benefits	105,570	343,829	360,330	-16,502	-5%
Materials and services	124,388	780,529	1,047,571	-267,042	-25%
Depreciation and amortisation	35,477	180,930	183,958	-3,028	-2%
<b>Total operating costs</b>	<b>265,434</b>	<b>1,305,288</b>	<b>1,591,860</b>	<b>-286,571</b>	<b>-18%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-136,901</b>	<b>3,397,456</b>	<b>3,005,528</b>	<b>391,928</b>	<b>13%</b>
<b>Net result for period</b>	<b>-136,901</b>	<b>3,397,456</b>	<b>3,005,528</b>	<b>391,928</b>	<b>13%</b>

**Comments**

**User fees and charges**

Over budget due to increased income at Landfill and the Waste Levy income budgeted starting from August. This is offset slightly by Giru Transfer Station income being below budget.

**Interest Received**

Over year to date for interest on investments as the budget was spread evenly over the year. Current interest rates are higher than the conservative budget estimates.

**Other operating revenue**

Scrap steel income under budget.

**Employee benefits**

Under budget due to reduction in casual utilisation, staff taking leave, and staff vacancy.

**Materials and services**

Under budget due to Cleanaway invoices behind schedule.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Environmental & Health Services excluding Waste Program**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Rates and Utility Charges	-24	349,452	349,481	-29	0%
User fees and charges	54,294	433,111	416,299	16,812	4%
Operational contributions and donations	6,454	34,543	35,682	-1,139	-3%
Operational grants and subsidies	0	0	12,648	-12,648	-100%
Other operating revenue	8,114	11,373	2,917	8,456	290%
<b>Total operating revenue</b>	<b>68,839</b>	<b>828,479</b>	<b>817,027</b>	<b>11,452</b>	<b>1%</b>
<b>Operating Expenses</b>					
Employee benefits	179,370	611,479	669,758	-58,279	-9%
Materials and services	134,195	737,799	758,252	-20,452	-3%
Depreciation and amortisation	27,065	138,030	140,083	-2,053	-1%
<b>Total operating costs</b>	<b>340,630</b>	<b>1,487,308</b>	<b>1,568,093</b>	<b>-80,784</b>	<b>-5%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-271,792</b>	<b>-658,830</b>	<b>-751,066</b>	<b>92,236</b>	<b>-12%</b>
Capital grants and subsidies	0	0	2,904,922	-2,904,922	-100%
<b>Net result for period</b>	<b>-271,792</b>	<b>-658,830</b>	<b>2,153,856</b>	<b>-2,812,686</b>	<b>-131%</b>

**Comments**

**Operational grants and subsidies**

QFPI Feral Pig Project grant yet to be received.

**Other operating revenue**

One-off income received from Millaroo Pool.

**Employee benefits**

Under year to date budget due to sick and annual leave taken.

**Capital grants and subsidies**

Capital budget for design, construction and site works at Burdekin Water Park. Funds to be received as works completed and claims submitted.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Financial and Administrative Services**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Rates and Utility Charges	6,848	29,031,596	28,975,813	55,783	0%
Pensioner remissions	1,973	-341,927	-350,000	8,073	-2%
User fees and charges	26,829	82,326	72,445	9,881	14%
Interest Received	151,283	511,409	244,458	266,950	109%
Operational grants and subsidies	477,062	925,442	913,373	12,069	1%
Other operating revenue	35,240	35,301	35,500	-199	-1%
<b>Total operating revenue</b>	<b>699,235</b>	<b>30,244,147</b>	<b>29,891,590</b>	<b>352,557</b>	<b>1%</b>
<b>Operating Expenses</b>					
Employee benefits	229,275	778,745	798,981	-20,236	-3%
Materials and services	85,345	592,755	589,498	3,257	1%
Depreciation and amortisation	38,758	198,313	198,708	-395	0%
Finance Costs	3,925	48,470	53,500	-5,030	-9%
<b>Total operating costs</b>	<b>357,303</b>	<b>1,618,284</b>	<b>1,640,688</b>	<b>-22,404</b>	<b>-1%</b>
<b>Surplus (deficit) from operating activities</b>	<b>341,932</b>	<b>28,625,863</b>	<b>28,250,902</b>	<b>374,961</b>	<b>1%</b>
Other capital income (expense)	0	-132	-132	0	0%
<b>Net result for period</b>	<b>341,932</b>	<b>28,625,731</b>	<b>28,250,770</b>	<b>374,961</b>	<b>1%</b>

**Comments**

**User fees and charges**

Over year to date budget due to the misallocation of rental income. Journal to transfer rental income to Water will be completed in December.

**Interest Received**

Over year to date for interest on investments as the budget was spread evenly over the year. Current interest rates are higher than the conservative budget estimates.

**Finance Costs**

Under budget due to timing of bank charges.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Operations - General Fund**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
User fees and charges	19,382	70,960	74,800	-3,840	-5%
Operational contributions and donations	6,409	30,780	24,300	6,480	27%
Operational grants and subsidies	247,635	505,174	684,324	-179,149	-26%
Contract and recoverable works	32	17,280	32,500	-15,220	-47%
Other operating revenue	670	3,106	2,700	406	15%
<b>Total operating revenue</b>	<b>274,128</b>	<b>627,300</b>	<b>818,624</b>	<b>-191,324</b>	<b>-23%</b>
<b>Operating Expenses</b>					
Employee benefits	664,104	2,074,019	2,226,987	-152,968	-7%
Materials and services	314,223	1,681,623	2,032,488	-350,865	-17%
Depreciation and amortisation	74,806	381,455	405,625	-24,170	-6%
<b>Total operating costs</b>	<b>1,053,133</b>	<b>4,137,097</b>	<b>4,665,099</b>	<b>-528,003</b>	<b>-11%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-779,005</b>	<b>-3,509,797</b>	<b>-3,846,476</b>	<b>336,679</b>	<b>-9%</b>
Capital contributions	0	0	11,750	-11,750	-100%
Capital grants and subsidies	0	0	153,999	-153,999	-100%
Other capital income (expense)	0	-130,233	0	-130,233	-
<b>Net result for period</b>	<b>-779,005</b>	<b>-3,640,030</b>	<b>-3,680,727</b>	<b>40,697</b>	<b>-1%</b>

**Comments**

**Operational contributions and donations**

Income received in the period represents two months contributions from the Home Hill Boat Club as payment of the \$5/site/night contribution to septic pumpouts

**Operational grants and subsidies**

Income received in the period represents quarterly payment of the Federal Assistance Grants, and monies received as 30% advance payment of REPA claims related to the April 2022 monsoonal rain event. Under budget due to timing of QRA funding.

**Contract and recoverable works**

Under budget for income received for private works. Income is variable throughout the year and can differ to budget.

**Employee benefits**

Under budget in Recoverable Works Other, Roads Maintenance, and Cemeteries. Variation is in part due timing of QRA works, vacant positions, and an emphasis on Capital Works program delivery.

**Materials and services**

Variance is skewed by Recoverable Works budget which is \$280,100 under budget due to timing delays waiting for QRA claim approvals. This will reduce in the coming months as REPA works are undertaken.

**Capital contributions**

Budget is for contribution to relocate BBQ at Plantation Park.

**Capital grants and subsidies**

Capital grants for Giru Tennis Court and Home Hill Electronic Variable Message board budgeted in July, not yet received.

**Other capital income (expense)**

Loss from transport asset disposals.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Operations - Sewerage**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Rates and Utility Charges	-4,020	4,247,116	4,251,136	-4,020	0%
User fees and charges	459	1,836	0	1,836	-
Interest Received	72,440	239,762	107,625	132,137	123%
Operational contributions and donations	0	0	0	0	-
<b>Total operating revenue</b>	<b>68,879</b>	<b>4,488,714</b>	<b>4,358,761</b>	<b>129,953</b>	<b>3%</b>
<b>Operating Expenses</b>					
Employee benefits	162,265	562,119	572,885	-10,766	-2%
Materials and services	103,602	485,658	479,667	5,991	1%
Depreciation and amortisation	126,456	644,920	652,000	-7,080	-1%
<b>Total operating costs</b>	<b>392,324</b>	<b>1,692,697</b>	<b>1,704,551</b>	<b>-11,855</b>	<b>-1%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-323,445</b>	<b>2,796,018</b>	<b>2,654,210</b>	<b>141,808</b>	<b>5%</b>
Capital grants and subsidies	0	1,053,696	1,930,000	-876,304	-45%
Other capital income (expense)	0	-6,891	0	-6,891	-
<b>Net result for period</b>	<b>-323,445</b>	<b>3,842,823</b>	<b>4,584,210</b>	<b>-741,387</b>	<b>-16%</b>

**Comments**
**Interest Received**

Over year to date for interest on investments as the budget was spread evenly over the year. Current interest rates are higher than the conservative budget estimates.

**Capital grants and subsidies**

Payment received for Macro Algal Treatment Construction LGGSP grant. Budget includes grant for Ayr Industrial Estate which was unsuccessful. To be adjusted in second revised budget.

**Other capital income (expense)**

Asset disposal in the period represents the partial write off of the Primary Digester lid at the Home Hill Sewerage Treatment Plant as part of the current asset refurbishment.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Operations - Water**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
Rates and Utility Charges	388	3,292,610	4,114,844	-822,234	-20%
User fees and charges	11,810	37,741	42,500	-4,759	-11%
Interest Received	37,482	125,511	58,542	66,970	114%
Operational contributions and donations	0	16,000	0	16,000	-
Other operating revenue	0	0	500	-500	-100%
<b>Total operating revenue</b>	<b>49,681</b>	<b>3,471,862</b>	<b>4,216,386</b>	<b>-744,524</b>	<b>-18%</b>
<b>Operating Expenses</b>					
Employee benefits	149,225	540,667	562,987	-22,320	-4%
Materials and services	282,304	810,238	974,350	-164,112	-17%
Depreciation and amortisation	72,628	370,162	408,875	-38,713	-9%
<b>Total operating costs</b>	<b>504,157</b>	<b>1,721,068</b>	<b>1,946,212</b>	<b>-225,144</b>	<b>-12%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-454,476</b>	<b>1,750,794</b>	<b>2,270,173</b>	<b>-519,380</b>	<b>-23%</b>
Capital grants and subsidies	0	1,625,194	3,985,000	-2,359,806	-59%
Other capital income (expense)	0	-23,021	0	-23,021	-
<b>Net result for period</b>	<b>-454,476</b>	<b>3,352,966</b>	<b>6,255,173</b>	<b>-2,902,207</b>	<b>-46%</b>

**Comments**

**Rates and Utility Charges**

Second half water consumption levy to be issued in January 2023.

**User fees and charges**

Revenue in the period is for two new water connections. Rental income to be journalled from Council Operational in December.

**Interest Received**

Over year to date for interest on investments as the budget was spread evenly over the year. Current interest rates are higher than the conservative budget estimates.

**Materials and services**

Year to date variance is largely attributable to decreased electricity consumption in water production following a wetter than average spring and lower than forecast payment for bulk water to Lower Burdekin Water for the last financial year.

**Capital grants and subsidies**

Budget includes grant for Ayr Industrial Estate which was unsuccessful. To be adjusted in second revised budget.

**Other capital income (expense)**

Asset disposals including damaged pump at Bore Number 3 at Home Hill and security fence recently replaced at Home Hill Water Tower.



**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Planning and Development**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
User fees and charges	43,513	239,690	156,250	83,440	53%
Other operating revenue	40	40	0	40	-
<b>Total operating revenue</b>	43,554	239,730	156,250	83,480	53%
<b>Operating Expenses</b>					
Employee benefits	147,411	484,259	498,385	-14,126	-3%
Materials and services	16,442	158,438	109,221	49,217	45%
<b>Total operating costs</b>	163,853	642,697	607,606	35,092	6%
<b>Surplus (deficit) from operating activities</b>	-120,299	-402,967	-451,356	48,388	-11%
<b>Net result for period</b>	-120,299	-402,967	-451,356	48,388	-11%

**Comments**

**User fees and charges**

Over year to date budget due to the large volume of development applications being received.

**Materials and services**

Actuals for materials and services are exceeding budget due to legal expenses associated with current appeals and enforcement action.

**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

**Manager Technical Services**

	Month of November Actual	Year to Date Actual	Year To Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>					
User fees and charges	14,173	150,749	117,400	33,349	28%
Operational grants and subsidies	8,766	20,850	36,668	-15,818	-43%
Contract and recoverable works	34,794	301,264	524,823	-223,559	-43%
Other operating revenue	866	866	2,083	-1,217	-58%
<b>Total operating revenue</b>	<b>58,599</b>	<b>473,730</b>	<b>680,975</b>	<b>-207,245</b>	<b>-30%</b>
<b>Operating Expenses</b>					
Employee benefits	294,070	956,303	1,189,814	-233,511	-20%
Materials and services	54,556	-92,445	53,656	-146,101	-272%
Depreciation and amortisation	664,896	3,396,396	3,422,625	-26,229	-1%
<b>Total operating costs</b>	<b>1,013,521</b>	<b>4,260,254</b>	<b>4,666,095</b>	<b>-405,842</b>	<b>-9%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-954,922</b>	<b>-3,786,524</b>	<b>-3,985,121</b>	<b>198,597</b>	<b>-5%</b>
Capital contributions	0	4,333,000	1,105,000	3,228,000	292%
Capital grants and subsidies	695,802	1,164,221	2,613,029	-1,448,808	-55%
Other capital income (expense)	0	-44,670	0	-44,670	-
<b>Net result for period</b>	<b>-259,119</b>	<b>1,666,027</b>	<b>-267,092</b>	<b>1,933,119</b>	<b>-724%</b>

**Comments**

**User fees and charges**

Trade waste income higher than anticipated mainly from septage receival income.

**Operational grants and subsidies**

Fuel Tax credits lower due to reduced fuel excise.

**Contract and recoverable works**

Under for RMPC Contract income due to available resources, with the November payment to be received in December.

**Employee benefits**

Under budget due to vacancies in the following areas - Technical Services, Asset Management Unit, Workshop and Project Engineer.

**Materials and services**

Under budget due to timing of consultancy payments and recoverable works expenditure.

**Capital contributions**

Contribution for damaged local roads received in full in August, with projects to be completed over two years. Funds unspent at the 30 June will be recognised as a Contract Liability.

**Capital grants and subsidies**

Capital grant funds to be received as works completed and claims submitted.

**Other capital income (expense)**

Loss from transport asset disposals.

**BURDEKIN SHIRE COUNCIL**  
**OPERATING STATEMENT**  
**Period Ending 30 November 2022**

Appendix 2

	Month of November Actual	Year to Date Actual	Revised Budget	Year to Date Revised Budget	\$ Variance YTD Actual to YTD Revised Budget	% Variance YTD Actual to YTD Revised Budget
<b>Operating Revenue</b>						
Rates and Utility Charges	1,502	41,170,508	43,072,858	41,942,698	-772,190	-2%
Pensioner remissions	1,973	-341,927	-350,000	-350,000	8,073	-2%
User fees and charges	284,021	1,442,393	2,633,499	1,249,076	193,316	15%
Interest Received	290,042	973,546	1,058,700	455,708	517,837	114%
Operational contributions and donations	12,971	88,325	232,401	65,815	22,510	34%
Operational grants and subsidies	768,862	1,604,228	3,758,673	1,823,393	-219,165	-12%
Contract and recoverable works	34,826	318,544	2,173,000	557,323	-238,780	-43%
Other operating revenue	43,449	188,657	416,696	231,075	-42,418	-18%
<b>Total operating revenue</b>	<b>1,437,645</b>	<b>45,444,274</b>	<b>52,995,827</b>	<b>45,975,090</b>	<b>-530,816</b>	<b>-1%</b>
<b>Operating Expenses</b>						
Employee benefits	2,520,201	8,943,814	22,846,591	9,460,888	-517,074	-5%
Materials and services	1,335,647	7,559,799	18,917,410	8,627,487	-1,067,688	-12%
Depreciation and amortisation	1,160,876	5,926,185	14,490,300	6,037,625	-111,440	-2%
Finance Costs	3,925	48,470	80,000	53,500	-5,030	-9%
<b>Total operating costs</b>	<b>5,020,649</b>	<b>22,478,268</b>	<b>56,334,301</b>	<b>24,179,500</b>	<b>-1,701,232</b>	<b>-7%</b>
<b>Surplus (deficit) from operating activities</b>	<b>-3,583,004</b>	<b>22,966,006</b>	<b>-3,338,474</b>	<b>21,795,590</b>	<b>1,170,416</b>	<b>5%</b>
Capital contributions	0	4,333,000	1,116,750	1,116,750	3,216,250	288%
Capital grants and subsidies	695,802	3,864,882	12,766,950	12,766,950	-8,902,068	-70%
Other capital income (expense)	0	-223,482	-13,472	-13,472	-210,010	1559%
<b>Net result for period</b>	<b>-2,887,202</b>	<b>30,940,406</b>	<b>10,531,754</b>	<b>35,665,818</b>	<b>-4,725,412</b>	<b>-13%</b>

**BURDEKIN SHIRE COUNCIL**  
**STATEMENT OF FINANCIAL POSITION**  
**As at 30 November 2022**

Appendix 3

	Year to Date Actual \$	Annual Budget \$
<b>Current Assets</b>		
Cash and Cash Equivalents	96,659,651	59,520,972
Receivables	2,158,544	1,247,512
Inventories	658,416	603,236
Contract Assets	287,279	0
Other Assets	524,508	1,911,475
<b>Total Current Assets</b>	<b>100,288,399</b>	<b>63,283,195</b>
<b>Non-Current Assets</b>		
Receivables	341,018	341,018
Property, Plant and Equipment	591,164,273	609,775,172
Intangibles Assets	355,182	300,750
Other Assets	37,895	70,205
<b>Total Non-Current Assets</b>	<b>591,898,368</b>	<b>610,487,145</b>
<b>TOTAL ASSETS</b>	<b>692,186,767</b>	<b>673,770,340</b>
<b>Current Liabilities</b>		
Payables	2,368,011	5,911,555
Provisions	5,569,551	5,569,551
Contract Liabilities	1,808,386	91,574
Other Liabilities	369,820	535,315
<b>Total Current Liabilities</b>	<b>10,115,767</b>	<b>12,107,995</b>
<b>Non-Current Liabilities</b>		
Provisions	18,126,667	18,126,667
Other Liabilities	1,665,681	1,665,681
<b>Total Non-Current Liabilities</b>	<b>19,792,348</b>	<b>19,792,348</b>
<b>TOTAL LIABILITIES</b>	<b>29,908,115</b>	<b>31,900,343</b>
<b>NET COMMUNITY ASSETS</b>	<b>662,278,652</b>	<b>641,869,997</b>
<b>Community Equity</b>		
Asset Revaluation Surplus	358,610,465	358,610,467
Retained Surplus (deficiency)	303,668,187	283,259,530
<b>TOTAL COMMUNITY EQUITY</b>	<b>662,278,652</b>	<b>641,869,997</b>

**BURDEKIN SHIRE COUNCIL**  
**STATEMENT OF CASH FLOWS**  
For Period Ending 30 November 2022

Appendix 4

	Year to Date Actual \$	Annual Cashflow Budget \$
<b>Cash Flows from Operating Activities</b>		
<b>Receipts</b>		
Receipts from Customers	42,697,588	47,946,053
Operating Grants, Subsidies and Contributions	1,703,036	4,001,556
Interest Received	1,004,901	1,058,700
<b>Payments</b>		
Payments to Suppliers and Employees	-19,758,829	-41,844,001
<b>Net Cash Inflow (Outflow) from Operating Activities</b>	<u>25,646,696</u>	<u>11,162,308.00</u>
<b>Cash Flows from Investing Activities</b>		
Commonwealth Government Grants	620,261	0
State Government Subsidies and Grants	3,244,621	12,766,950
State Government Subsidies and Grants arising from Contract Assets and Liabilities	1,621,282	191,749
Capital Contributions	4,333,000	1,116,750
Payments for Property, Plant and Equipment	-8,132,608	-35,487,184
Proceeds from Sale of Property, Plant and Equipment	1	444,000
<b>Net Cash Inflows (Outflow) from Investing activities</b>	<u>1,686,557</u>	<u>-20,967,735</u>
<b>Net Increase (Decrease) in Cash and Cash Equivalents Held</b>	<u>27,333,252</u>	<u>-9,805,427</u>
Cash and Cash Equivalents at Beginning of the Financial Year	69,326,399	69,326,399
<b>Cash and Cash Equivalents at end of the Period</b>	<u><u>96,659,651</u></u>	<u><u>59,520,972</u></u>

#### **6.4.1. GOVERNANCE**

##### **Townsville City Council - Haughton Pipeline Project Stage 2 - Request for Support: Priority Purchase Application (Part of Lot 33 on Survey Plan 117630)**

**File Reference:** 1964

**Report Author:** Tamara Bateman, Governance and Property Officer

**Authoriser:** Nick OConnor, Director Corporate and Community Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

3.4.2: Review land supply and uses to meet community and business needs.

Burdekin Shire Council Operational Plan 2022-2023

CG3 Manage Council's property portfolio (including the Ayr Aerodrome) in accordance with legislation with the timely reporting of matters to Council for approval.

---

#### **Executive Summary**

Townsville City Council has written further correspondence to Council, as the Trustee of Lot 33 on Survey Plan 117630, seeking Council's support to provide a letter of no objection to Townsville City Council's priority purchase application for the acquisition of an additional 2,593m<sup>2</sup> of Lot 33 on Survey Plan 117630 for the purpose of a High Voltage (HV) substation and pump station site in Stage 2 of the Haughton Pipeline Project.

#### **Recommendation**

That Council:

1. Write to Townsville City Council confirming:
  - a. Council understands that an additional 2,593m<sup>2</sup> of Lot 33 on Survey Plan 117630 is required to allow for the HV substation and pump station to be located within the same allotment; and
  - b. Council does not require part of Lot 33 on Survey Plan 117630 totaling an area of 18,905m<sup>2</sup> (shown in Attachment A) for its dedicated community purposes being, camping and water; and
  - c. Council provides consent as the Trustee of Lot 33 on Survey Plan 117630 to Townsville City Council's priority purchase application to the Department of Resources for the acquisition of part of Lot 33 on Survey Plan 117630 totaling an area of 18,905m<sup>2</sup>.

#### **Background**

Townsville City Council is undertaking Stage 2 of the Haughton Pipeline Project which will extend the 1800mm Stage 1 water pipeline to source water from the Burdekin River to the Ross River Dam.

To facilitate the construction of pump facilities and associated power infrastructure, Townsville City Council requires part of the reserve land described as Lot 33 on Survey Plan 117630 which is controlled by Council as Trustee.

At the Ordinary Council Meeting held on 14 June 2022, it was resolved to consent to Townsville City Council's priority purchase application for part of Lot 33 on Survey Plan 117630 (totaling 18,905m<sup>2</sup>) and to enter into an interim Trustee Lease with Council while such priority purchase application is processed. However, subsequent discussions between Townsville City Council and the Department of Resources revealed a new pathway available to Townsville City Council which does not require an interim Trustee Lease between Council and Townsville City Council but does require an additional 2,593m<sup>2</sup> to allow the HV substation and pump station exist on the same allotment.

**Consultation**

Department of Resources.

**Budget & Resource Implications**

All costs associated with Townsville City Council's priority purchase application are to be borne by Townsville City Council.

**Legal Authority & Implications**

Not Applicable.

**Policy Implications**

Not Applicable.

**Risk Implications (Strategic, Operational, Project Risks)**

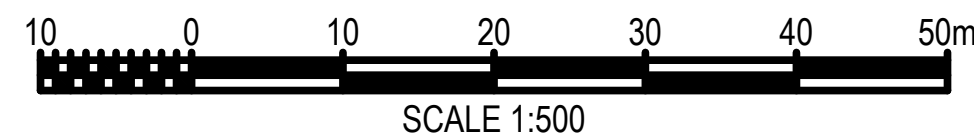
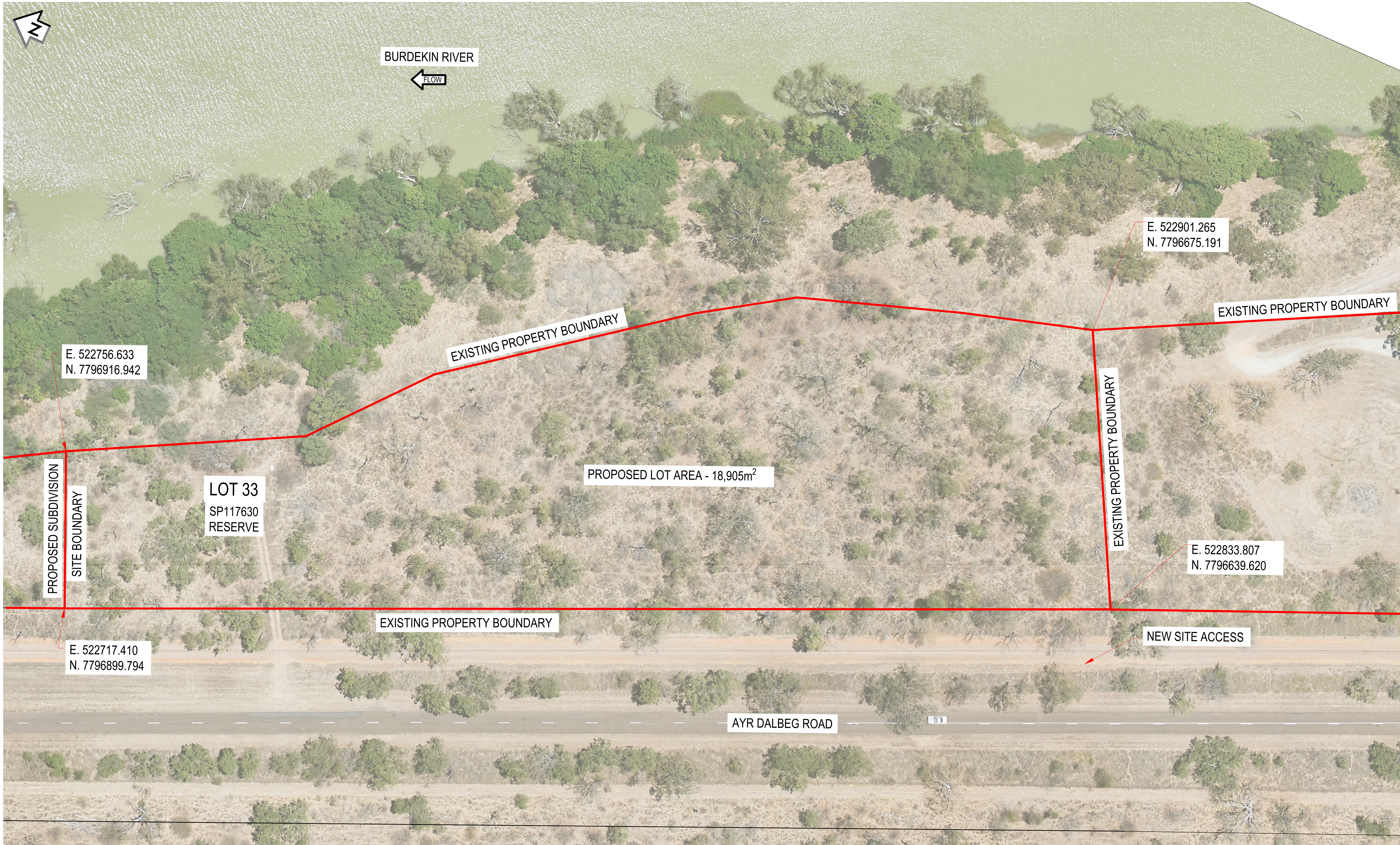
Not Applicable.

**Attachments**

1. Attachment A - revised area



ORIGINAL SIZE A1  
DO NOT SCALE - IF IN DOUBT, ASK



PLAN  
SCALE 1 : 500

**FOR INFORMATION ONLY**

**NOT FOR CONSTRUCTION**

REV	REVISIONS	DRN	CHK	APP	DATE

SURVEYED		
DESIGNED	Peter Hocking	01/12/22
DRAWN	Michael Vanka	01/12/22
CAD REVIEW		
DESIGN CHECK		
DESIGN REVIEW		
APPROVED	<b>NOT APPROVED</b>	
PROF REGISTRATION:		



HAUGHTON PIPELINE STAGE 2  
BURDEKIN PUMP STATION

PROPOSED LOT CONFIGURATION

Status Stamp	
Date Stamp	01/12/2022
Scales	1:500
Drawing No.	300203499-SK-G014
Rev.	F



## **7.1.1. ENVIRONMENTAL AND HEALTH SERVICES**

### **Adoption of Compliance and Enforcement Policy**

**File Reference:** 2256

**Report Author:** Dan Mulcahy, Manager Environmental and Health Services

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

5.2.3: Implement effective governance frameworks.

5.2.4: Undertake regulatory responsibilities in accordance with legislative obligations.

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#### **Executive Summary**

The Compliance and Enforcement Policy was first adopted by Council on 27 October 2020. The policy guides Council Officers in enforcing the variety of laws that are in place to protect public infrastructure, public health and safety and the environment.

#### **Recommendation**

That Council adopt the revised Compliance and Enforcement Policy.

#### **Background**

Council is responsible for enforcing a variety of laws that are designed to protect public infrastructure, public health and safety and the environment.

Enforcement activities include but are not limited to:

- patrolling streets and public places
- inspecting licensed or approved premises and activities whether on a routine basis or on a random basis
- regulation of development activity
- regulation of environmental nuisance
- regulation of roads, footpaths and parking
- compliance matters in the keeping of animals
- regulation of food safety and accommodation
- responding to enquiries and complaints.

This policy outlines the Council's broad approach to enforcement and provides a framework that promotes public and operational understanding of the manner in which enforcement activities are undertaken.

The policy is supported by Operational Standards that comply with the policy guidelines.

Council staff will carry out their enforcement related work with regard to the following principles:

- Proportionality
- Consistency
- Transparency
- Fairness
- Impartiality
- Respect

Council has a broad range of statutory instruments to assist in addressing unlawful activities. Enforcement actions may be grouped as follows:

- Investigation – no action
- Informal action
- Formal action
- Prosecution

A decision-making matrix outlined in the policy provides guidance on the use of enforcement actions dependent on the classification of the breach.

Other than relocation of the “Objectives’ Section, the only other change proposed is to extend the review period from 24 to 36 months.

### **Consultation**

Discussion and feedback from Senior Leadership Group. Council considered the revised policy at a workshop on 29 November 2022.

### **Budget & Resource Implications**

Not Applicable.

### **Legal Authority & Implications**

Not Applicable.

### **Policy Implications**

Not Applicable.

### **Risk Implications (Strategic, Operational, Project Risks)**

This policy is intended to improve the consistency of the application and enforcement of the exercise of Council’s powers in dealing with regulatory matters. An enforcement regime that is too lax may lead to undesired consequences such as: setting an expectation in the community or contributing to the creation of safety problems. Similarly, an enforcement regime that is too tough and can also lead to undesired consequences such as: an additional drain on staff and Council resources in defending decisions; or promoting an image problem for Council.

A consistent approach to the exercise of Council’s enforcement powers supported by the Council itself should reduce the number of undesired consequences or risks.

## **Attachments**

1. Compliance and Enforcement Policy - Meeting Version 2022

Policy Type	Corporate
Function	Governance
Policy Owner	Director Corporate and Community Services
Policy Contact	Manager Environmental and Health Services
Effective Date	13 December 2022

## Purpose

The purpose of the policy is to assist Council staff to act promptly, consistently and effectively in response to regulatory matters including allegations of unlawful activity and to ensure that:

- Council exercises its regulatory functions consistently and without bias;
- Council regulatory functions are exercised proactively;
- Council responds promptly and effectively to allegations of unlawful activity;
- the rules of procedural fairness are applied when making decisions that concern regulatory matters;
- enforcement action is proportionate to the offence in each case;
- there are clear guidelines on enforcement options available to Council where there has been a failure on behalf of an individual or business to comply with community and/or legislative standards;
- there is widespread understanding of the Council's approach to enforcement, including the circumstances which will be taken into account when assessing different enforcement options;
- Council allocates its limited resources in the most appropriate manner consistent with the public interest, its policy objectives and current regulatory issues.

## Scope

This policy provides guidance and applies to all compliance and enforcement activities undertaken by Council.

## Objectives

The aim of this policy is to establish clear guidelines for the exercise of Council's powers in dealing with regulatory matters, requests or complaints regarding unlawful activity. It provides practical guidance on:

- Council's responsibility with respect to actioning unlawful activities;
- how Council staff are to assess complaints of unlawful activity to determine if they require further investigation;
- enforcement action available to Council for dealing with unlawful activity;
- how to decide whether enforcement action is warranted;
- the process to be used in deciding which type of enforcement action is appropriate in the circumstances.

## Policy Statement

### Background

Council is responsible for enforcing a variety of laws that are designed to protect public infrastructure, public health and safety and the environment.

Enforcement activities include but are not limited to:

- patrolling streets and public places;

- inspecting licensed or approved premises and activities whether on a routine basis or on a random basis;
- regulation of development activity;
- regulation of environmental nuisance;
- regulation of roads, footpaths and parking;
- compliance matters in the keeping of animals;
- regulation of food safety and accommodation;
- responding to enquiries and complaints.

This policy outlines the Council's broad approach to enforcement and provides a framework that promotes understanding of the manner in which enforcement activities are undertaken.

The policy is supported by Operational Standards that comply with the policy guidelines.

In the exercise of Council's regulatory functions, it is required to act in the public interest rather than the private interest of individuals.

## Key Principles

Council staff will carry out their enforcement related work with regard to the following principles.

### *Proportionality*

Council's enforcement action is in the overall public interest. This requires a proportional response. A proportional response means that Council's actions will be scaled to the seriousness of the breach. Council recognises that most individuals want to comply with the law and will assist compliance by being open and helpful offering information, advice and providing the chance to discuss compliance problems.

Attention will be focused on those whose activities give rise to the most serious risks. Generally, the Council will endeavour to minimise the costs to the person or body infringing the law by enforcing the minimum action necessary to secure compliance. Prosecution will generally be used as a last resort, or for high impact or continuous serious offences.

### *Consistency*

Council will take a similar approach in similar cases to achieve similar outcomes. While decisions on enforcement require the use of professional judgement and discretion to assess varying circumstances, officers will:

- follow standard operating procedures wherever possible;
- ensure fair, equitable and non-discriminatory treatment; and
- record any deviation from standard operating procedures and the reasons.

### *Transparency*

Council will be open and transparent about the manner in which it undertakes enforcement activities and the laws it enforces. It will be open about what is expected from those on whom the law places a duty (duty holders). In educating the community at large and dealing with duty holders, Council will make a clear distinction between what is legally required; if codes of practice apply; and what is desirable but not compulsory.

When remedial action is needed Council will explain clearly and in plain language why the action is necessary. Where practicable, it will give notice of its intent to commence formal action. It will point out what action is required to achieve compliance and the timeframe for undertaking that action. Advice will be provided on the process for seeking a review of, or how to appeal against that decision.

Complainants will be advised generically of what action has been taken noting that privacy issues prevent full disclosure of what action has been taken.

### *Fairness*

Council officers are to act in good faith at all times and ensure that the principles of procedural fairness and natural justice are adhered to. This may include, but is not limited to:

- providing information on the substance of the complaint to the alleged offender;
- providing an opportunity for a person whose interests may be affected by a decision to present their case to the Council. This may not be appropriate in all circumstances, such as cases where urgent/public safety action is required;
- considering any submission put forward by the affected persons;
- making reasonable enquiries or investigations before making a decision.

### *Impartiality*

Council officers are to make decisions based on credible evidence and in accordance with statutory obligations. Decisions must be free of bias or conflicts of interests in accordance with the Council's Code of Conduct.

### *Respect*

Council officers are to treat other staff and the public with respect at all times.

### **Record Keeping**

All notifications of unlawful activity, whether by telephone, email, letter or attendance at Council offices, will be logged as a Customer Request in Council's electronic systems as soon as practical upon receipt.

Details of all instances of unlawful activity identified by officers in the course of their duties will also be logged as a Customer Request.

Council officers responsible for the investigation of a matter will keep full and complete records of their actions within the relevant Customer Request. Such records include all decisions and the reasons for such decisions.

### **Classification of the breach – low, medium, high**

After the above factors have been considered, an alleged unlawful activity may be classified by the investigating officer as being of low, medium or high significance. This classification will guide the Council's choice of the appropriate enforcement action to be taken in the circumstances. The investigating officer will make determinations on the level of significance with reference to:

- facts and circumstances of the case;
- peer review;
- supervisor support; and
- legal advice where appropriate.

### **Enforcement Actions**

Council has a broad range of statutory instruments to assist in addressing unlawful activities. Enforcement actions may be grouped as follows:

#### *Investigation – No Action*

Council takes no action where an investigation identifies:

- the legislation is not applicable in the circumstances;
- there is insufficient evidence;
- another agency has taken action and issues of duplicity arise;
- the statutory time limit has expired;

- an exemption, exception or defence available under relevant legislation is clearly applicable in the circumstances;
- a public interest factor(s) dictates that no action is the appropriate response.

### *Informal Action*

In some instances, the unlawful activity has a relatively inconsequential impact, yet it is deemed remedial action is necessary. The offence may be of a trivial or minor nature or the alleged offender has received no previous warnings concerning the unlawful activity. Informal actions may take an educational approach and include the issue of one or more of the following:

- verbal caution;
- advisory letter, such as a First and Final Notice;
- written request for remedial action.

The circumstances in which informal action may be appropriate include:

- the act or omission is not serious enough to warrant formal action;
- the duty holder's past history reasonably suggests that informal action will secure compliance;
- confidence in the individual/other body is high;
- the consequences of non-compliance will not pose a significant risk; and
- where it may prove more effective than a formal approach.

### *Formal Action*

Where more formal action is required, including where the issue has not been addressed following Informal Action, enforcement tools exist to expedite an immediate and effective response, with written explanation about any rights of review or appeal against formal enforcement action. Formal actions can include the issue of one or more of the following:

- Warning letter;
- Legislative notices such as:
  - Show cause notice
  - Enforcement notice
  - Compliance notice
  - Stop order
  - Penalty infringement notice (PIN)

Generally, only in circumstances such as a threat to life or immediate threat to public health or safety will a legislative notice be made without giving notice of intention. In these circumstances immediate compliance to resolve a situation can be required.

### *Prosecution*

Prosecution is an important and sometimes necessary part of an enforcement program. Council recognises that prosecution is a serious consequence and it is only pursued after full consideration of its implications and the outcomes sought.

Prosecutions should not commence unless it is in the public interest and passes the sufficiency of evidence test and there is a realistic prospect of a conviction, i.e. determining the existence of a prima facie case, admissibility and reliability of evidence, possible defences, competency and availability of witnesses.

Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender and whether, through the conviction of the offender, others may be deterred from similar failures to comply with the law.

Where an offence passes both the evidential and public interest test, Council may prosecute in any of the following circumstances:

- A flagrant breach of the law such that public health, safety and welfare have been put at risk.
- Serious environmental harm.
- The alleged breach is too serious or the risks too great to be dealt with by means of an infringement notice, if available.
- A failure to correct an identified serious problem after having been given reasonable opportunity to do so.
- A failure to comply with the requirements of a legislative notice.
- An established and recorded history of similar offences.
- An unwillingness, on the part of the individual or other body, to prevent a recurrence of the problem.
- There has been failure to provide information without reasonable excuse or knowingly supplying false or misleading information.
- There has been obstruction of Council staff in carrying out their duties.
- As a means to deter certain types of inappropriate behaviour or unlawful activity.

## Which Enforcement Action?

Appendix 1 outlines a decision-making matrix that provides guidance on the use of enforcement actions dependent on the classification of the breach. Appendix 1 also provides an explanation of the risk parameters.

Where a breach is considered frivolous, vexatious or trivial in nature or where taking action may prejudice other action, no enforcement action will be taken. Where enforcement action is not taken, education may be provided to ensure the person fully understands their responsibilities.

## Other

### Injunctions

In instances of serious non-compliance with legislation and where efforts to resolve that non-compliance have proven ineffective, the Council may seek an injunction requiring a person not to breach, or to cease breaching, a statute. Decisions on whether to seek an injunction shall be made at the discretion of the Chief Executive Officer.

### Recovery of Legal Costs

The Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by a charge on the land, consent or by order of the Court. The Council will also seek to recover any penalty imposed by the Court.

### Rectification Works

Where Council successfully prosecutes an offender or the offender does not comply with a compliance notice, the Council may complete the rectification works to achieve compliance if the:

- person responsible for the non-compliance has not completed the required work within the specified timeframe; and
- relevant legislation enables the Council to complete the rectification work.

Where Council completes rectification work to achieve compliance, the Council shall seek to recover the costs in accordance with the relevant legislation.

## Delegations

Council staff are delegated to initiate the various levels of investigation, compliance and enforcement action.



## Authorised Persons

Only employees who are competent by training, qualification and/or experience will be appointed by the CEO to take enforcement actions. These employees also have an understanding of Council's policies, procedures, culture and their Instruments of Appointments. Such employees must ensure currency of any relevant training or qualifications to maintain this authorisation.

## Exceptions

Nil.

## Risk Management

Managing risk is achieved through the systematic application of policies, procedures and practices to identify, analyse, evaluate, treat, monitor and communicate risk.

This policy is intended to improve the consistency of the application and enforcement of the exercise of Council's powers in dealing with regulatory matters. An enforcement regime that is too lax may lead to undesired consequences such as: setting an expectation in the community or contributing to the creation of safety problems. Similarly, an enforcement regime that is too tough and can also lead to undesired consequences such as: an additional drain on staff and council resources in defending decisions; or promoting an image problem for Council.

A consistent approach to the exercise of Council's enforcement powers supported by the Council itself should reduce the number of undesired consequences or risks.

## Legislation

Council has the authority to take regulatory action under its Local Laws and a number of Queensland Acts and Regulations including, but not limited to:

*Animal Management (Cats and Dogs) Act 2008*

*Biosecurity Act 2014*

*Building Act 1975*

*Environmental Protection Act 1994*

*Food Act 2006*

*Local Government Act 2009*

*Planning Act 2016*

*Plumbing and Drainage Act 2018*

*Public Health (Infection Control for Personal Appearance Services) Act 2003*

*Public Health Act 2005*

*Waste Reduction and Recycling Act 2011*

*Water Supply (Safety and Reliability) Act 2008*

## Definitions and Abbreviations

**Procedural fairness** means the procedures used by a decision-maker, rather than the actual outcome reached. It requires that a fair and proper procedure be used when making a decision. Specifically, the rules of procedural fairness require:

- a hearing appropriate to the circumstances;
- lack of bias;
- evidence to support a decision; and
- inquiry into matters in dispute.

**Unlawful activity** means any activity or work that has been or is being carried out:

- contrary to the terms and conditions of a development permit, approval, permit or license;
- without a required development permit, approval, permit of license;
- contrary to any local government act that regulates the activities or work that can be carried out on particular land in relation to which Council is the appropriate regulatory authority;
- contrary to any local law.

## Related Documents

Reference Number	Document Title
ECM 1068863	Burdekin Shire Council Code of Conduct for Workers
GOV-POL-0017	Complaints Management Policy
To Be Developed	Compliance and Enforcement Operational Standard
GOV-POL-0012	Enterprise Risk Management Policy
ECM 1490274	Enterprise Risk Management Framework

## Document History and Version Control

Title of Document	Compliance and Enforcement Policy
Document Reference Number	ENV-POL-0007 Rev 2
Review Schedule	<a href="#">[Review Timing]</a> 36 months
Council Meeting Date	13 December 2022
Council Resolution Number	

## APPENDIX 1 – ENFORCEMENT ACTION DECISION MATRIX

LIKELIHOOD OF APPROPRIATE BEHAVIOUR / WILLINGNESS AND CAPACITY TO BEHAVE APPROPRIATELY		CONSEQUENCES		
		Level 1 (Low/no harm)	Level 2 (Minor or temporary harm)	Level 3 (Severe harm)
	<b>Category A</b> (High level of compliance expected)	Verbal caution Advisory letter Written request for remedial action	Warning letter	Show cause notice Enforcement notice Compliance notice Stop order PIN
	<b>Category B</b> (Uncertain level of compliance expected)	Warning letter	Show cause notice Enforcement notice Compliance notice Stop order PIN	Stop order PIN
	<b>Category C</b> (Low level of compliance expected)	Show cause notice Enforcement notice Compliance notice Stop order PIN	Stop order Prosecution	PIN Prosecution

If a repeat offender (2 or 3 complaints within a 12 month period), enforcement may commence at Level 2 or 3.

## **7.1.2. ENVIRONMENTAL AND HEALTH SERVICES**

### **Adoption of Revised Environmental Levy Policy**

**File Reference:** 423

**Report Author:** Dan Mulcahy, Manager Environmental and Health Services

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

4.2.3: Protect and enhance the natural environment, partnering with organisations and the community to safeguard and improve environmentally sensitive areas.

4.2.5: Promote the implementation of environmental best practice by Council, residents, and business.

---

#### **Executive Summary**

The Environmental Levy Policy establishes criteria to guide how the environmental levy funds will be applied and to establish basic reporting and recording guidelines.

A review has been undertaken of the policy and a revised version is attached for consideration and adoption.

#### **Recommendation**

That Council adopt the attached revised Environmental Levy Policy.

#### **Background**

The Environmental Levy is to be used to undertake projects that have an environmental and community benefit for our Shire residents. The eligibility criteria are outlined in the Environmental Levy Policy.

The policy was last reviewed and adopted by Council on 24 November 2020.

The policy and associated criteria generally remain unchanged. The 'Objectives' Section has been relocated and the review period extended from 24 to 36 months.

The Environmental Levy is used to fund Council programmes such as the Herbicide Subsidy Scheme, Aquatic Weed Removal, Dune Restoration Works, and Siam Weed Removal. The levy is usually advertised twice per year in August and February. Only one (1) application was received in the 2021-22 financial year.

#### **Consultation**

Discussion at Council Workshop held on 29 November 2022.

#### **Budget & Resource Implications**

Funds are held in the Environmental Levy recurrent maintenance reserve.

#### **Legal Authority & Implications**

Not Applicable.

#### **Policy Implications**

This policy will replace the existing Environmental Levy Policy that was adopted on 24 November 2020.

**Risk Implications (Strategic, Operational, Project Risks)**

The Council's Revenue Statement allows for the making of the Environment Separate Charge which raises the revenue that may fund projects that have an environmental benefit to the Burdekin community. The Policy provides further detail and eligibility criteria for the consideration and approval of projects by Council. The associated reporting process and consideration at Council level adds value and reduces the risk of approving non-eligible projects.

**Attachments**

1. Environmental Levy Policy - Meeting Version 2022

Policy Type	Corporate
Function	Environmental Management
Policy Owner	Manager Environmental and Health Services
Policy Contact	Coordinator Environment and Health Projects
Effective Date	13 December 2022

## Purpose

The purpose of this policy is to promote a consistent approach to the distribution of the Environmental Levy.

## Scope

This policy applies to eligible applications for funding under Council's Environmental Levy Program.

## Objectives

The aim of the policy is to establish criteria to guide how the Environmental Levy will be applied and to establish basic reporting and recording guidelines.

## Policy Statement

### Eligibility Criteria

The Environmental Levy is to be used to undertake projects that have an environmental and community benefit for our Shire residents. To achieve this Council has established the following criteria to guide how the Burdekin Shire Council Environmental Levy will be applied:

- (1) To provide funding support, that can assist or enable community groups or individuals to gain access to grants and other funding opportunities.
- (2) For funding projects that are considered to have environmental benefit but are not eligible for funding from existing Government schemes or grants or whose funding application was not successful.
- (3) To undertake rehabilitation, care or maintenance of the natural environment in areas such as:
  - (a) Aquatic weed management
  - (b) Wetland management
  - (c) Herbicide subsidy (excluding individuals who are where eligible under the Herbicide Subsidy Scheme)
  - (d) Coastal management and beach protection
  - (e) Biodiversity conservation, preservation or enhancement
  - (f) Storm water litter management
  - (g) Water quality preservation
  - (h) Natural resource management
  - (i) Salinity and erosion management
  - (j) Management of local biosecurity matters such as declared pest animals and weeds
  - (k) Tree planting
  - (l) Fish restocking

- (4) To provide for the preservation or remediation of environmentally important areas. Such programs will only be considered after exploring other opportunities available through government agencies to gain rate relief and/or other funding.
- (5) To undertake acquisition of land that has particular environmental value.
- (6) To promote and encourage sustainable practices in a public field such as energy efficiency, reduction in greenhouse gas emissions, utilisation of alternative energy sources, waste minimisation and/or water efficiency.
- (7) To promote and publish in an appropriate manner, e.g. via signs and promotional material, specific projects which have benefited from the levy.
- (8) Notwithstanding the above, the Council may utilise funds from the Environmental Levy to fund budgeted projects provided such projects have an environmental and community benefit.
- (9) All approved applications are required to have completed the Acquittal of Grant Funding and Project Report – Enviro Levy at the end of the project. Progress reports may be required depending on the length of the project.
- (10) All Environmental Levy funds are to be recorded in Council's financial records and reported at regular intervals in such a manner that fully discloses, in a transparent manner, the purpose for which it is used.
- (11) Any unspent funds from one financial year are to be placed in an environmental reserve fund set aside specifically to fund environmental levy projects in subsequent years.

## Exceptions

Nil.

## Risk Management

Any identified risks will be evaluated and managed in accordance with the Enterprise Risk Management (ERM) Policy and the adopted ERM Framework.

The Council's Revenue Statement allows for the making of the Environment Separate Charge which raises the revenue that may fund projects that have an environmental benefit to the Burdekin community. The Policy provides further detail and eligibility criteria for the consideration and approval of projects by Council. The associated reporting process and consideration at Council level adds value and reduces the risk of approving non-eligible projects.

## Legislation

Nil.

## Definitions and Abbreviations

<b>Biodiversity</b>	The existence of a wide variety of plant and animal species in their natural environments
<b>Herbicide Subsidy Scheme</b>	Co-contribution subsidy available to landholders to assist with the cost of herbicide. Please refer to the Herbicide Subsidy Scheme Policy for details

## Related Documents

Reference Number	Document Title
------------------	----------------

ENV-FRM-0002	Environmental Levy Application Form
ENV-POL-0006	Environmental Policy
ENV-FRM-0001	Acquittal of Grant Funding and Project Report – Enviro Levy
ENV-PRO-0001	Guideline – Environmental Levy Application
ENV-POL-0005	Herbicide Subsidy Policy

### Document History and Version Control

Title of Document	Environmental Levy Policy
Document Reference Number	ENV-POL-0003 Rev 2
Review Schedule	<a href="#">[Review Timing]</a> 36 months
Council Meeting Date	13 December 2022
Council Resolution Number	<a href="#">Click or tap here to enter text.</a>



### 7.1.3. ENVIRONMENTAL AND HEALTH SERVICES

#### Adoption of Revised Animal Management De-Sexing Policy

**File Reference:** 1787

**Report Author:** Dan Mulcahy, Manager Environmental and Health Services

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

1.2.1: Deliver regulatory and advisory programs.

---

#### **Executive Summary**

The Animal Management De-Sexing Policy sets guidelines for providing financial support to eligible Burdekin Shire residents to alleviate the costs of de-sexing their cat or dog. The policy therefore assists to reduce the impact and cost to the Council and the community in dealing with unwanted animal litters.

A review has been undertaken of the policy and a revised version is attached for consideration and adoption.

#### **Recommendation**

That Council adopt the attached revised Animal Management De-Sexing Policy.

#### **Background**

The policy was originally adopted by Council on 13 March 2018.

An animal problem that had been emerging at that time had been the high number of cats and dogs left and/or surrendered at the Council Pound. These animals need to be either re-homed or euthanized. The table below details the number of animals received in the pound, re-homed and euthanized.

Calendar Year	Animal Type	No Received in Pound	Re-Homed	Euthanized
2019	Dog	252	126	49
	Cat (domestic)	232	189	28
2020	Dog	196	84	53
	Cat (domestic)	128	96	25
2021	Dog	173	118	51
	Cat (domestic)	129	93	21
2022 (YTD)	Dog	157	39	59
	Cat (domestic)	142	105	8

The number of euthanasias has remained relatively stable for the last three (3) years at around 76 per year. Also, the re-homing of cats has grown stronger over the last few years. The table indicates that the re-homing of cats is very strong however the interest in re-homing a dog is lower. Generally, a decrease in support of the local pet rescue organisation would lead to an increase in the euthanasias.

In the past, a local organisation, Burdekin Pet Rescue had expressed an interest in some form of de-sexing program for cats and dogs to reduce the number of litters and therefore the number of animals needing to be re-homed or euthanized.

Council staff worked together with representatives of Burdekin Pet Rescue to develop a de-sexing program which is outlined in this policy. Burdekin Pet Rescue does not exist now but the rationale for the policy still exists.

Experience and knowledge to date indicates that the unwanted litters emanate from animal owners of a low socio-economic base. In other words, the cost of de-sexing is somewhat prohibitive.

To quote from the RSPCA website:

*Cats and dogs are loving pets that provide companionship and affection to many people across Australia.*

*Tragically however, each year, RSPCA shelters take in around 160,000 animals nationally, many of which are the result of unplanned breeding. De-sexing is an effective strategy to prevent these unwanted pregnancies.*

*Aside from preventing accidental litters, there are many health and behavioural benefits to de-sexing.*

*De-sexed animals are generally less likely to get diseases and certain illnesses such as mammary cancer and uterine infections in females and prostate problems in males.*

*De-sexing commonly reduces behaviour problems such as roaming, aggression and urine marking in males.*

*In females it prevents mating behaviour and false pregnancy. Reducing the desire to roam also reduces the risk of being in a traumatic accident such as being hit by a car.* There appears to be a strong community benefit in undertaking a de-sexing program.

Since the subsidy commenced in early 2018, Council has received 90 applications with 67 (74%) of these approved. 58 of the applications were for desexing dogs. Policy changes to the revised policy include the following:

- relocation of the 'Objectives' Section
- adding in that the subsidy can be provided at the discretion of Manager of Environmental and Health Services
- deleting reference to Burdekin Pet Rescue in the assessment of the applications
- clarifying that the subsidy cannot be applied to a regulated dog.

### **Consultation**

Discussion at Council Workshop held on 29 November 2022.

### **Budget & Resource Implications**

Funding is allocated in the operational budget.

### **Legal Authority & Implications**

Not Applicable.

**Policy Implications**

This policy will replace the existing Animal Management De-Sexing Policy that was adopted on 24 November 2020.

**Risk Implications (Strategic, Operational, Project Risks)**

The policy addresses a risk of increased numbers of animal litters and the resulting impost on Council resources to regulate and respond to. A risk management approach is taken to the application and approval process – eligibility criteria is restricted and two (2) Council staff are required to approve the applications.

**Attachments**

1. Animal Management De-Sexing Policy - Meeting Version 2022

Policy Type	Corporate
Function	Animal Management
Policy Owner	Manager Environmental and Health Services
Policy Contact	Coordinator Environment and Health Projects
Effective Date	13 December 2022

## Purpose

The purpose of this policy is to establish guidelines for the assessment of applications for financial assistance towards animal de-sexing costs on Burdekin Shire residents who are experiencing financial hardship and to reduce the impact and cost to the Council and community in dealing with unwanted animal litters.

## Scope

This policy applies to eligible persons within the Burdekin Shire who are seeking financial assistance from Council towards de-sexing a cat or dog. The policy targets individuals who would not usually have their cats and dogs de-sexed due to cost affordability.

Where Council has identified ongoing animal management issues, a full subsidy may apply.

## Objectives

The objectives of this policy are:

- To identify eligible persons within the Burdekin Shire to whom Council may provide financial assistance (i.e. subsidy) towards de-sexing a cat or dog.
- To reduce the number of litters and therefore the number of animals to be rehomed or euthanized.
- To reduce the costs associated with the euthanizing of animals.
- To have the Council approved veterinary firm provide the service.

## Policy Statement

Council is committed to reducing the number of unwanted cats and dogs within the Shire by assisting eligible persons to access de-sexing services through the provision of financial assistance in the form of a subsidy.

## Eligibility Criteria

- Applications for financial assistance for de-sexing a cat or dog must be submitted to Council by the eligible person on Council's *Subsidised Desexing Application Form (Dog/Cat)*. Supporting documentation will include:
  - proof of economic circumstances (i.e. employment status, pension, concession or health care card).
  - proof of animal ownership. (i.e. registration or microchipping documents)
- The animal identified in the application must be registered and microchipped in accordance with the requirements of the *Animal Management (Cats and Dog) Act 2008*.

- c) An adequate enclosure is required on the land where the animal is kept in accordance with the requirements of *Local Law No 2 (Animal Management) 2012* and *Subordinate Local Law No 2 (Animal Management) 2012*.
- d) The applicant is required to contribute the amount of \$30 towards the cost of de-sexing. This is to be paid to Council on approval of the application and prior to the de-sexing procedure taking place.
- e) The animal must be suitable for de-sexing as per advice from the veterinary surgeon. Any conditions imposed by the veterinary surgeon are to be addressed prior to the de-sexing appointment.
- f) Subsidy will be provided for a maximum of one animal per address per year or at the discretion of the Manager Environmental and Health Services.
- g) Participation in the program is strictly voluntary. Burdekin Shire Council assumes no risk for the health of the animal or for the outcome of the surgery. Any costs associated with unforeseen circumstances that arise with the animal's health during or after the operation will not be covered by the program.

### Assessment of Applications

- a) Applications will be assessed by Burdekin Shire Council.
- a) The applicant will be advised of the outcome of the application in writing.
- b) Prior to Council forwarding the approval advice to Council's nominated veterinary surgeon, the applicant is required to pay the \$30 contribution.
- c) It will be the applicant's responsibility to contact Council's nominated veterinary surgeon and make the required appointment for the de-sexing procedure.

### Veterinary Surgeon Invoice

- a) The veterinary surgeon will forward the invoice for the de-sexing procedure directly to Council for payment.

### Exceptions

The subsidy does not apply to regulated dogs.

### Risk Management

Any identified risks will be evaluated and managed in accordance with the Enterprise Risk Management (ERM) Policy and the adopted ERM Framework.

The policy addresses a risk of increased numbers of animal litters and the resulting impost on Council resources to regulate and respond to. A risk management approach is taken to the application and approval process – eligibility criteria is restricted, and two Council staff are required to approve the applications.

## Legislation

*Animal Management (Cats and Dogs) Act 2008*

*Local Law No 2 (Animal Management) 2012*

*Subordinate Local Law No 2 (Animal Management 2012)*

## Definitions and Abbreviations

**Nominated veterinary surgeon** Council preferred veterinary service provider based on a request for quotation process.

## Related Documents

Reference Number	Document Title
ANI-FRM-0003 ANI-FRM-0004	Application for Subsidised De-Sexing Cat/Dog Form

## Document History and Version Control

Title of Document	Animal Management De-Sexing Policy
Document Reference Number	ANI-POL-0001 Rev 2
Review Schedule	<a href="#">[Review Timing]</a> 36 months
Council Meeting Date	13 December 2022
Council Resolution Number	<a href="#">Click or tap here to enter text.</a>

## **7.1.4. ENVIRONMENTAL AND HEALTH SERVICES**

### **Adoption of Revised Fox and Wild Dog Bounty Policy**

**File Reference:** 1623

**Report Author:** Dan Mulcahy, Manager Environmental and Health Services

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

4.2.3: Protect and enhance the natural environment, partnering with organisations and the community to safeguard and improve environmentally sensitive areas.

4.2.5: Promote the implementation of environmental best practice by Council, residents, and business.

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#### **Executive Summary**

The Fox and Wild Dog Bounty Policy describes a practice that has been undertaken in the Burdekin Shire for a considerable period of time. The policy sets out the Council's commitment to the management of foxes and wild dogs within the Shire area and provides the rules for administering bounty monies for fox and wild dog scalps to ensure consistency when providing payments.

A review has been undertaken of the policy and a revised version is attached for consideration and adoption.

#### **Recommendation**

That Council adopt the attached revised Fox and Wild Dog Bounty Policy.

#### **Background**

The policy was originally adopted by Council on 27 September 2016. However, the practice of Council providing a bounty payment for fox and wild dog scalps has been a practice undertaken for a long period of time.

Other than relocate the 'Objectives' Section, the only change to the existing policy is to extend the review period from 24 to 36 months.

Foxes and wild dogs are considered to be restricted invasive animals under the Biosecurity Act 2014 and as such, ongoing population management is required by public and private landholders.

Through the management of these declared pests and subsequent reduction in numbers, Council aims to reduce the risk of adverse effects to the community, the environment and to the livestock industry.

In the context of this policy, wild dogs refer to purebred dingoes, dingo hybrids and domestic dogs that have escaped or been deliberately released and now live in the wild.

#### **Consultation**

Discussion at Council Workshop held on 29 November 2022.

#### **Budget & Resource Implications**

Funding for bounty payments is allocated in the operational budget.

**Legal Authority & Implications**

Not Applicable.

**Policy Implications**

This policy will replace the existing Fox and Wild Dog Policy that was adopted on 15 December 2020.

**Risk Implications (Strategic, Operational, Project Risks)**

The policy addresses a risk of increased numbers of restricted invasive animals by providing incentives via bounty payments. Provision of a bounty is a recognised method of control in Queensland and has been practiced in the Burdekin Shire Council area for many years.

If no policy or bounty was provided, the risk is that the population of the restricted invasive animals would increase, to the detriment of the environment, community and livestock industry.

**Attachments**

1. Fox and Wild Dog Bounty Policy - Meeting Version 2022



Policy Type	Corporate
Function	Environmental Management
Policy Owner	Manager Environmental and Health Services
Policy Contact	Coordinator Public Health and Environment
Effective Date	13 December 2022

## Purpose

This policy sets out Council's commitment to the management of foxes and wild dogs within the Burdekin Shire Council Local Government Area and provides the rules for administering bounty monies for fox and wild dog scalps to ensure consistency when providing payments.

## Scope

This policy applies to fox and wild dog control activities within the Burdekin Shire Council Local Government area.

## Objectives

Foxes and wild dogs are considered to be restricted invasive animals under the *Biosecurity Act 2014* and as such, ongoing population management is required by public and private landholders.

Through the management of these declared pests and subsequent reduction in numbers, Council aims to reduce the risk of adverse effects to the community, the environment and to the livestock industry.

## Policy Statement

Council is committed to the management of fox and wild dog populations within its local government area and understands that an integrated management approach is required to appropriately control these populations.

## Claim Forms

- A claim form must be completed to claim bounty monies for fox or wild dog scalps.
- Pest Management officers are authorised to approve claim forms to enable efficiency of processing.
- Pest Management officers must not approve their own claim form.
- The claim form must identify the property where the animal/s were taken (description to include lot/plan number).

## Presentation of Scalps

- Presentation of scalps will be by prior arrangements and can either be made on site, or at another agreed meeting place.
- Scalps are not to be presented to Council's customer service centre.
- A claim form must accompany the presentation of scalps.

## Bounty Payments

- Bounty payments will only be made after a claim form has been approved by an authorised Council officer.
- Bounty payments will be in accordance with Council's current adopted fees and charges schedule.

- Bounty payments will only be made on sighted entire scalps. No payment will be made for partial scalps. The authorised officer's ruling shall be final.
- Council is not bound by legislation to provide bounty payments, however, does so under this policy to encourage landowners to participate in population reduction activities.

## Exceptions

Nil.

## Risk Management

Any identified risks will be evaluated and managed in accordance with the Enterprise Risk Management (ERM) Policy and the adopted ERM Framework.

The policy assists in addressing the objective of the ongoing population management of foxes and wild dogs by private landholders. Provision of a bounty is a recognised method of control in Queensland and has been practiced in Burdekin Shire Council for many years.

## Legislation

*Biosecurity Act 2014*

*Biosecurity Regulation 2016*

*Local Government Act 2009*

*Local Government Regulation 2012*

## Definitions and Abbreviations

<b>Fox</b>	refers to the introduced "Vulpes Vulpes" species.
<b>Wild Dog</b>	refers to purebred dingoes, dingo hybrids and domestic dogs that have escaped or been deliberately released and now live in the wild.

## Related Documents

Reference Number	Document Title
ENV-FRM-0003	Claim for Fox and Wild Dog Bounty Form

## Document History and Version Control

Title of Document	Fox and Wild Dog Bounty Policy
Document Reference Number	ENV-POL-0001 Rev 3
Review Schedule	<a href="#">[Review Timing]</a> 36 months
Council Meeting Date	13 December 2022
Council Resolution Number	<a href="#">Click or tap here to enter text.</a>

## 7.2.1. OPERATIONS

### 2022 Betterment Submissions

**File Reference:** 2568

**Report Author:** Sonya Batchelor, Project Administration Officer DFRA

**Authoriser:** Wayne Saldumbide, Manager Operations

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

1.2 A safe and resilient community.

1.2.3. Partner with State, District, and local agencies to coordinate disaster planning, preparedness, response and recovery to reduce the impact of disaster events.

3.3 Vibrant community assets

3.3.2 Plan, build and maintain infrastructure that enhances and extends the life of community assets.

3.4 Well-planned communities

3.4.5 Protect and improve the resilience of assets by utilising betterment programs and implementing flood and disaster mitigation strategies.

Burdekin Shire Council Operational Plan 2022-2023

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#### **Executive Summary**

Each year the Queensland Reconstruction Authority, through its Disaster Relief Funding Arrangements (DRFA), provides an opportunity for Councils to access Betterment funding to improve the resilience of infrastructure that is regularly impacted by natural disaster events.

The following three (3) roads have been selected for nomination under the above program.

Butler Road, Jarvisfield - It is proposed to construct a 20 metre concrete floodway over existing drainage culverts at an estimated total cost of \$81,000.00 ex GST.

Poopoonbah Road, Giru – It is proposed to complete 40 metres length of in-situ stabilisation and two (2) coat bitumen seal to the end of the road for an estimated total cost of \$30,929.00 ex GST.

Sandy Camp Road, Majors Creek – It is proposed to complete 100 metres length of in-situ stabilisation and two (2) coat bitumen seal near the last culvert under the road for an estimated total cost of \$43,500.00 ex GST.

## Recommendation

That Council endorses the DRFA Betterment applications for the following three (3) projects and approves the budget required as Council's contribution should each application be successful:

Butler Road, Jarvisfield	\$20,250.00 ex GST
Poopoonbah Road, Giru	\$10,875.00 ex GST
Sandy Camp Road, Majors Creek	\$ 7,732.25 ex GST
Total Council Contribution	\$38,857.25 ex GST

## Background

The Queensland Reconstruction Authority through the DRFA Betterment Program provides an opportunity for Councils to access Betterment funding to improve the resilience of infrastructure that is regularly impacted by natural disaster events.

Council has previously applied for and received funding under this program for a number of projects within the Shire.

## Consultation

Councillors were briefed on the projects under consideration for betterment funding applications at a workshop held on 1 November 2022.

## Budget & Resource Implications

Council application for Betterment funding from the Queensland Reconstruction Authority totalling \$116,571.75 ex GST with Council being required to make a contribution of \$ 38,857.25 ex GST.

## Legal Authority & Implications

Not Applicable.

## Policy Implications

Consistent with Council's Corporate Plan 2022-2027.

## Risk Implications (Strategic, Operational, Project Risks)

Council has determined the following risks are applicable to the Projects.

Risk will be control through the Projects Risk Register.

- Weather Delays
- Survey and Design Delays
- Project Cost overruns

## Attachments

None

### 7.3.1. PLANNING AND DEVELOPMENT

**MCU22/0006 - Development Application Material Change of Use for a Mental Health Hub (Community Facility) at 178-182 Edwards Street, Ayr (Lots 97-99 on RP707557)**

**File Reference:** 226

**Report Author:** Kellie Galletta, Manager Planning and Development

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

- 1.1.1: Support projects and activities to improve public safety, health, and inclusiveness through strategic partnerships.
- 1.1.2: Encourage equitable access to facilities and resources.
- 1.1.3: Provide ongoing support for art, culture, youth, seniors, and welfare activities.
- 1.1.4: Build active communities by delivering programs promoting regular physical activity and wellbeing.
- 1.2.1: Deliver regulatory and advisory programs.
- 1.2.2: Facilitate partnerships to improve community safety and wellbeing, including crime prevention initiatives.
- 1.3.1: Promote the benefits of living, working, playing, visiting, and investing in the Burdekin.
- 2.1.3: Promote opportunities and initiatives that encourage business to invest in research and diversification.
- 2.1.4: Encourage business establishment, development, and expansion.
- 2.2.1: Support business and industry networks.
- 2.3.3: Support development, value-adding, diversification, and expansion to provide a sustainable economic base.
- 2.4.1: Build relationships with educational institutions to identify gaps in skills, qualifications, and training programs valued in the Burdekin.
- 3.4.1: Support strategic projects that will contribute to liveability and economic growth in the Burdekin.
- 3.4.2: Review land supply and uses to meet community and business needs.
- 3.4.3: Design facilities that are adaptable and inclusive with consideration of the needs of all residents.
- 4.2.1: Maintain the balance between positive environmental outcomes and ongoing development.
- 4.2.5: Promote the implementation of environmental best practice by Council, residents, and business.

Burdekin Shire Council Operational Plan 2022-2023

- PD1 Ensure development approvals are fully compliant with relevant imposed development conditions.
- PD6 Facilitate pre-lodgement meetings with developers to support and encourage economic growth opportunities for the Burdekin Shire whilst balancing planning and environmental outcomes.
- PD7 Finalise adoption of new Planning Scheme.
- PD9 Ensure all new developments are assessed against provisions contained within Council's adopted Local Government Infrastructure Plan (LGIP), Planning Act 2016, Planning Scheme, legislative requirements and other relevant instruments.
- PD10 Implement the new Planning Scheme to achieve balanced environmental outcomes.

## Executive Summary

Council is in receipt of a development application lodged by BNC Planning on behalf of applicant, selectability Ltd for a Material Change of Use for a Mental Health Hub (Community Facility) across three parcels of residential zoned land, described as Lots 97-99 on RP707557 and located at 178-182 Edwards Street, Ayr.

The application proposes to convert the existing community hall building to establish a community facility use, termed the 'Burdekin Mental Health Hub and Suicide Prevention Safe Haven' that will provide:

- Clinical services;
- Accommodate existing services providers (e.g. NDIS services, CORES);
- Mental health hub (including a community kitchen and a 'bike-shed/clubhouse'); and
- A registered training organisation (Selectability Ltd).

A Community Facility use is an impact assessable development in the Residential Zone. Public Notification was undertaken, and a single submission was received. The application did not trigger referral to the North Queensland State Assessment and Referral Agency (NQSARA).

As the development application is impact assessable, officers have assessed it on its own merits and against the relevant assessment benchmarks of the Planning Scheme and all other relevant legislation and not withstanding any conflicts identified, have determined that any approval can generally comply through the use of reasonable and relevant development conditions.

## Recommendation

That Council approve the proposed Material Change of Use for a Mental Health Hub (Community Facility) on land described as Lots 97-99 on RP707557 and located at 178-182 Edwards Street, Ayr, subject to reasonable and relevant conditions, as included in **Attachment A** and infrastructure charges as set out in **Attachment B**.

## Background

### Proposed Development

The proposed development is to establish a mental health hub, being a free service operated by Selectability Ltd who advised in their application that they are North Queensland's largest and leading NDIS provider for mental health, wellbeing and suicide prevention services and are a registered training organisation that partners with state and federal governments and key health organisations to deliver community programs and training.

The applicant proposes to repair and convert the existing community hall building (being the former Caledonian Hall (a large open hall with a commercial kitchen and bar, approximately 363m<sup>2</sup> in area) to provide:

- 1x Community Space (large open plan area);
- 1x Consulting room;
- 2x Training rooms;
- Office space (including a separate Managers office);
- Kitchen, bar and storage;
- Lunchroom;
- Staff and customer/visitor amenities; and
- Formal carpark with 14 carparking spaces

A number of repairs to the building and a new storage shed (Class 10a) have already been completed, during the application process.

The proposed facility will operate between the hours of 8:30am to 4:30pm, Monday to Friday.

The number of staff on site at any one time is expected to be a between nine (9) to fifteen (15):

- NDIS (up to four (4) staff)
- Mental health hub (four (4) to five (5) staff)
- Clinical services (two (2) staff)
- Training (one (1) staff)

The application states that on average it is likely that four (4) staff for NDIS will be on site, as the other services are offered non-concurrently.

In addition to staff, the customers/community members anticipated on site are as follows:

- Mental Health Hub – maximum ten (10) community members.
- Clinical services – maximum two (2) customers.
- Training – maximum ten (10) community members.

The applicant has advised that two (2) – three (3) out of ten (10) customers will arrive via private vehicle with the balance collected by and transported to the site via a Selectability Ltd operated bus service.

The proposed development is depicted in the proposal plans provided in **Attachment C**.

A development application for building works for a change of classification will be required to change the building class from its current 9b – Hall use to Class 5 – Office use.

#### Subject Site and Surrounding Land Uses

A locality plan is provided at **Attachment D**. The subject site is three existing lots, totalling 3,215m<sup>2</sup> in area, with a relatively flat topography across the site.

The immediate surrounding area appears to be predominately single residential dwellings.

Nelsons Lagoon Park adjoins the site to the north. Ayr State High School is located across the road to the northwest of the site, Ayr golf course to the west and the Ayr Health Services (Hospital) is approximately 2.2km to the north.

#### Infrastructure and Servicing

The site is currently serviced by Council's reticulated infrastructure network for water and sewerage.

The engineering services report supplied with the application provides that the existing infrastructure is adequate to service the proposed development with no increased demand.

### Information Request

Council's assessment of the application determined that additional information was required, and an information request was issued to the applicant on the 3 May 2022. The requested information included:

1. Location, Proposed Use and Needs Justification
2. Details of the Operations
3. Access, Parking and Traffic
4. Infrastructure Provision
5. Flooding
6. Landscaping
7. Waste Management
8. Stormwater
9. Acoustic
10. Amended plans.

The applicant responded to this request on the 26 August 2022, providing a detailed response that allowed officers to accurately assess the development application.

### Public Notification

The applicant undertook Public Notification between 19 September 2022 – 12 October 2022, being a minimum period of at least 15 business days, in accordance with the relevant requirements of the *Planning Act 2016*.

One submission was received during the notification period from Mr. Bill Tait (Jnr.) Esq (refer **Attachment E**), in which he appeared to query the validity of the public notice and the dates the advertising was undertaken for.

Council must consider all properly made submissions in the assessment process in accordance with the provisions of the Planning Act 2016 and the Development Assessment Rules. Officers provided the applicant with a copy of the submission. The applicant responded, advising that the development application was advertised correctly, being fifteen (15) business days.

Council is satisfied with this response and has no further comment.

### Referral Agency Response

Not applicable, as the application did not trigger referral to the North Queensland State Assessment and Referral Agency (NQSARA) under the Planning Regulation 2017.

### Assessment Summary

Refer to **Attachment F** for the detailed assessment.

Based on the assessment of the development application, Council officers have determined that the proposed development can comply or can be conditioned to comply with the assessment benchmarks relevant to the assessment.

### Planning Scheme Definition

A mental health hub is considered to generally align with the current planning scheme use definition of **Community Facility** as follows:

*Premises used for any of the following purposes:*

- (a) *the delivery of community services whether or not such services are a function of government;*
- (b) *the holding of meetings by social or other groups;*
- (c) *community-based cultural, sporting, recreational or activities other than those defined elsewhere; or*
- (d) *any other community-based activity.*

*The term does not include "Educational Establishment", or "Sport, Recreation and Entertainment".*



### Residential Zone Code

The overall outcomes sought for the Residential Zone code relevant to this development application are the following:

*(xii) Development does not negatively impact on the amenity of the area in which it is situated and promotes high levels of physical amenity, visual character and safety;*

*(xiv) Residential development is protected from intrusion by other incompatible, non-residential uses;*

However impact assessable developments are individually assessed on their own merits in addition to relevant benchmarks. In particular, it should be noted that the proposed development:

- is to be located on a site and within an existing building that has been used historically for non-residential, community purposes and activities.
- can be managed and operated in a way that does not adversely impact on the surrounding residential uses.
- provides sufficient on site car parking and manoeuvring areas considered to maintain the safe and efficient operation of the surrounding road network and will be conditioned accordingly to ensure compliance.

### **Consultation**

All relevant Council Departments have been consulted with comments and development conditions included as part of the recommendation. The application was also workshopped with the Mayor and Councillors on 3 May 2022.

### **Budget & Resource Implications**

Possible legal fees associated with any Planning and Environment Court appeal.

### **Legal Authority & Implications**

A potential risk is present in that any decision made by the Assessment Manager may attract an appeal in the Planning and Environment Court.

### **Policy Implications**

Not applicable in concerning the acceptance of this report.

### **Risk Implications (Strategic, Operational, Project Risks)**

Minimal organisational risk is apparent given that the recommendation has considered all relevant outcomes associated with Strategic, Operational and Project risks.

Risk has been managed by undertaking a thorough assessment against the assessment benchmarks relevant to this application and identifying conditions that should apply to the approval.

### **Attachments**

1. 1 Attachment A - Recommended Conditions
2. 2 Attachment B - Infrastructure Charges Notice (ICN2022-008) - for Selectability MCU22 0006
3. 3 Attachment C - Proposal Plans
4. 4 Attachment D - Locality Plan
5. 5 Attachment E - Copy of Public Submission received
6. 6 Attachment F - Detailed Assessment

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p><b>1 General and Administration</b></p> <p><u>Compliance with Conditions</u></p> <p>1.1 The Applicant (and any contractor, agent, employee or invitee of the applicant) is responsible for carrying out the approved development and ensuring compliance with this development approval, the conditions of the approval and the relevant requirements in accordance with:</p> <p>1.1.1 The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the relevant technical reports.</p> <p>1.1.2 The development must comply in full with all conditions of this approval, and is to be designed, constructed and maintained in accordance with relevant Planning Scheme requirements, Council policies, guidelines and standards (except as otherwise specified by any condition) to Council's satisfaction, and best practice engineering.</p> <p>1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) of the development approval will prevail.</p> <p>1.3 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied, the role of the Council may be fulfilled in whole or in part by an officer acting under appropriate delegation.</p> <p><u>Works – Applicant's Responsibility/Expense</u></p> <p>1.4 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met by the applicant, at no cost to the Council.</p> <p>1.5 The applicant must repair any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may occur during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community must be repaired immediately.</p> <p><u>Infrastructure Conditions</u></p> <p>1.6 All development conditions contained in this development approval relating to infrastructure under Chapter 4 of the <i>Planning Act 2016 (the Act)</i>, should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.</p>		At all times.
<p><b>2 Approved Plans and Documents</b></p> <p><u>Approved Plans &amp; Documents</u></p> <p>2.1 The proposed development and use of the site must be completed, comply with and maintained generally in accordance with drawings/documents</p>	The approved development must be completed and maintained generally in	At all times.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p>identified in the table below, except as otherwise specified and/or amended by any condition of this approval.</p> <p>2.2 The development must generally accord with the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.</p>	<p>accordance with the approved drawings and documents.</p>	
<b>Approved Plans</b>		
Drawing/Plan Title	Number/Issue	Date
Coversheet	DA1, Issue A	1/6/2022
Site Plan	DA2, Issue A	1/6/2022
Existing Floor Plan	DA3, Issue A	1/6/2022
Proposed Floor Plan	DA4, Issue A	1/6/2022
Proposed Bike Shed	DA5, Issue A	1/6/2022
Elevations	DA6, Issue A	1/6/2022
Elevations	DA7, Issue A	1/6/2022
<b>Associated Reports</b>		
Development Application (including Response to Information Request) prepared by BNC Planning, dated August 2022.		
Engineering Services Report prepared by Langtree Consulting Engineers, dated 19 August 2022.		
<p>2.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.</p>		

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<b>3 Outstanding charges</b> All rates and charges (including infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use.		
<b>4 Operation of the Use/Limitations of the Approval</b> 4.1 This approval is limited to the 'Community Facility' use as defined by Schedule 1, Division 2 – Defined Uses and Use Classes of <i>Burdekin Shire IPA Planning Scheme</i> . 4.2 Specifically the approved use is to remain in accordance with the scale and intensity provided in the development application and as set out on the approved proposal plans listed in the table forming part of Condition 2. 4.3 No other operations and/or activities are allowed other than that approved by this permit. 4.4 The use may only operate between 8:00am to 5:00pm, Monday to Friday and must not operate on a Sunday or Public Holiday. 4.5 The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant. 4.6 The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.	The development must comply with all planning scheme requirements and definitions as approved, and as conditioned by this development permit.	At all times.
<b>5 Amalgamation of Allotments</b> The amalgamation of Lots 97, 98 and 99 on RP707557 into single parcel must be undertaken and the survey plan must be registered in accordance with the <i>Land Title Act 1994</i> or relevant legislation as amended.	The development application identified multiple lots were required to allow the approved use to commence and operate. Accordingly, the amalgamation of the lots is required to support the proposed use.	Prior to the commencement of the use.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p><b>6 Car Parking, Access, Roadworks and Traffic</b></p> <p>6.1 The use must be provided with a minimum of 14 car parks including a minimum of 4 dedicated accessible spaces provided for persons with a disability.</p> <p>6.2 Parking space layout must be generally in accordance with the provisions contained in the supporting material included in the plans submitted with the application by 'GVD Building Design'. All off-street parking bays must be designed in accordance with AS2890.1 (2004). All car parking facilities must be always maintained to a safe operating standard thereafter.</p> <p>6.3 The construction of any additional crossovers to give access to the site is the owner's responsibility and to the satisfaction of Council.</p> <p>6.4 Accesses to the property must be industrial crossovers with a minimum 6.0 metre width for dual access and minimum 3.6 metre width for single access.</p> <p>6.5 There must be appropriate signage and pavement marking to delineate the direction of traffic entering and exiting the site. All pavement marking must be in accordance with the MUTCD and to the satisfaction of the Council.</p> <p>6.6 Provide to Council prior to the commencement of works, a cross section 1:50 scale of all driveways, showing existing and design levels for the crossovers.</p> <p>6.7 Access to the premises, car parking and manoeuvring areas must be constructed in an all-weather, suitably sealed, low glare paving (bitumen, asphalt, concrete) to the satisfaction of Council.</p> <p>6.8 On-street parking bays must be line marked for the full Edwards Street frontage of the amalgamated lots. All on-street parking bays must be designed in accordance with AS2890.5 (2020).</p>	<p>To ensure development is appropriately serviced by parking and access facilities in accordance with relevant code/s and policy direction.</p>	<p>Technical details are to be submitted to Council as part of an application for Operational Work and maintained for the life of the development.</p>

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<b>7 Street Enhancements</b> <u>Pedestrian Pathway</u> <p>7.1 The applicant must, at no cost to Council, design and construct a new minimum 1.8m wide footpath that provides a connection to the existing footpath, located within the road reserve along the Edwards Street frontage for the entire length of the development site, in accordance with Council's requirements and the relevant standards.</p> <p>7.2 The pedestrian pathway design and location must be detailed as part the required Operational Works application.</p> <p>7.3 Construct and maintain the footpath at no cost to Council until the asset is accepted 'off maintenance' in accordance with Council's requirements and to the satisfaction of the Chief Executive Officer.</p> <u>On Street Carparks</u> <p>7.4 The applicant, at no cost to Council, must line mark on-street parking bays for the full Edwards Street frontage of the amalgamated lots. All on-street parking bays must be designed in accordance with AS2890.5 (2020).</p> <p>7.5 The applicant must maintain the on-street car parking spaces at no cost to Council, until the asset is accepted 'off maintenance' in accordance with Council's requirements and to the satisfaction of the Chief Executive Officer.</p>	<p>To achieve the desired streetscape character of the location in accordance with the relevant code/s and policy direction.</p>	<p>Technical details are to be submitted to Council as part of an application for Operational Work.</p>
<b>8 Infrastructure Services – Sewerage Supply</b> <p>8.1 Existing sewer main must be condition assessed for the full width of the development.</p> <p>8.2 Assessment is to be completed by Council or approved contractor. All costs associated with the condition assessment will be borne by the applicant.</p> <p>8.3 Relining of the sewer main may be required if in poor condition.</p> <p>8.4 Relining of the sewer will be completed by a contractor that is approved by Council. All costs associated with the relining of the sewer will be borne by the applicant.</p>	<p>To ensure that the development is appropriately serviced by reticulated sewer infrastructure in accordance with relevant code/s and policy direction.</p>	<p>Technical details are to be submitted to Council as part of an application for Operational Work and maintained for the life of the development.</p>

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
8.5 Any additional sewer connections within the development must be capped off.		
<b>9 Stormwater</b> 9.1 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads. 9.2 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system. 9.3 A grated trench drain is to be installed at the property boundary to catch stormwater before crossing the footpath. The stormwater is to be conveyed to the kerb, under the footpath, in suitable sized conduits as approved by Council. 9.4 Stormwater drainage from any new paved/sealed areas must be discharged under the footpath to kerb and channelling within the adjoining road reserves in accordance with AS3500.2.2003 or as otherwise required or agreed to in writing by Council.	To ensure the premises appropriately manages and conveys stormwater legally and in an environmentally responsible manner in accordance with relevant standards, code/s and policy direction.	At all times.
<b>10 Stormwater Quality Treatment</b> The approved development must achieve the applicable stormwater management design objectives listed in Part G, Appendix 2 of the <i>State Planning Policy, July 2017</i> .	To manage and to minimise the risk of causing environmental harm to receiving waters, damage to Council infrastructure, and unnecessary financial burdens to Council and the community in accordance with relevant code/s and policy direction.	At all times.
<b>11 Amenity Impacts</b> 11.1 Use of the site is to be operated in a way that protects the values of the existing residential environment and will not cause unacceptable impacts on surrounding areas as a result of dust, odour, noise or lighting.	To ensure that the use does not cause a nuisance in accordance with the relevant provisions of the <i>Queensland Environmental Protection Act 1994</i> .	At all times.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p>11.2 Any outdoor lighting fixtures must be installed and maintained so that they do not emit glare or light above the levels stated in <i>Australian Standard 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting</i>.</p> <p>11.3 In the event of a complaint being received by Council associated with the use, the developer/operator may be required to undertake an impact assessment addressing these matters in accordance with the provisions of the relevant legislation, regulations, Australian Standards and any other policies to the satisfaction of Council.</p> <p>11.3.1 The assessment must be accompanied by a report, inclusive of supporting calculations and site investigations and provide a recommended method of mitigation measures.</p> <p>11.3.2 The developer/operator must provide a copy of the report to Council and undertake any works outlined in the report (if required) within three (3) months at no cost to Council.</p>		
<p><b>12 Noise Management</b></p> <p>The proposed activity must be conducted in a manner that applies such reasonable and practicable means necessary to avoid, minimise or manage the emission or likelihood of emission of noise that constitutes an intrusive or noise nuisance.</p> <p>In the event of a complaint being received by Council in relation to noise associated with the use, the developer/operator must engage a suitably qualified acoustic consultant to undertake an assessment addressing noise emanating from the site for this use in accordance with the provisions of the <i>Environmental Protection Act 1994</i>, <i>Environmental Protection (Noise) Policy 2019</i>, <i>Environmental Protection Regulation 2019</i> and Australian Standard AS1055 Acoustics to the satisfaction of Council.</p> <p>The assessment must be accompanied by a report, inclusive of supporting calculations and site investigations and provide a recommended method and location of noise attenuation measures. The developer/operator must provide a</p>	<p>To ensure that the use does not cause a noise nuisance to nearby sensitive receptors, and to ensure that a nuisance is not caused to the use from other nearby noise sources in accordance with the <i>Queensland Environmental Protection Act 1994</i> Section 440.</p>	<p>To be maintained for the life of the development.</p>



## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
copy of the report to Council and undertake any works (if required from the report) within 3 months at no cost to Council.		
<b>13 Building Materials</b> The exterior surfaces of all buildings and structures associated with the use must be constructed from materials and/or painted or similarly treated with paint or pigment of a low reflective level which does not cause excessive glare.	To ensure protection of matters of public safety and amenity in accordance with relevant code/s and policy direction.	Prior to the commencement of the use and maintained for the life of the development.
<b>14 Landscaping</b> A landscape design plan shall be submitted and approved by Council, prepared by a suitably qualified person detailing the following: <u>Onsite:</u> <ol style="list-style-type: none"> <li>A minimum 3.0m wide landscaping strip is to be provided along the entire Edwards Street frontage of the site, excepting existing access points.</li> <li>Existing trees to be retained on the site and all proposed trees, shrubs and ground covers.</li> <li>The location of all areas to be covered by turf or other surface material including paving and surface treatment details.</li> </ol> <u>Other</u> <ol style="list-style-type: none"> <li>Landscaping and irrigation must be constructed in accordance with the approved landscaping plan(s) and constructed to the relevant standards in accordance with Council's specification.</li> <li>Appropriate signage is to be erected to direct visiting vehicles to visitor car parking spaces within the development site.</li> </ol>	To enhance the appearance of the development in accordance with Council's relevant code/s and policy direction.	Technical details must be submitted to Council as part of an application for Operational Work.  The landscaping must be provided in accordance with any approval issued and be maintained for the life of the development.
<b>15. Screen Fencing</b> 15.1 A minimum 1.8m high acoustic fence is to be provided for the full length of the property boundaries adjoining residential uses. 15.2 The type and design of the fencing must be submitted and approved by Council as part of the Landscaping Plan.	To ensure the development does not have a detrimental effect on the residential amenity of the surrounding area and to address crime prevention through environmental design principles in accordance with the relevant code/s and policy direction.	Prior to the commencement of the use and maintained for the life of the development.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<b>16 Screening of Plant and Utilities</b> All plant and utilities must be screened or located so as not to be visible from the street.	To ensure the development does not have a detrimental effect on the residential amenity of the surrounding area in accordance with relevant code/s and policy direction.	Prior to the commencement of the use and maintained for the life of the development.
<b>17 Building Works</b> A Development Permit for Building Works for a change of classification of building is to be obtained before commencement of the use.	To ensure the buildings and structures are correctly classified according to their use.	Prior to the commencement of the use and maintained for the life of the development
<b>18 Signage</b> 18.1 Any signage to be associated with the use must be designed to the satisfaction of Council. 18.2 To maintain amenity for the adjoining properties, no illumination of the signage is to occur unless otherwise approved by Council.	To maintain amenity for the adjoining properties.	Prior to the commencement of the use.
<b>19 Property Numbering</b> 19.1 Legible property numbers must be erected at the premises and must be maintained. 19.2 The site identification numbers should be of reflective material, maintained free from foliage and other obstructions, and be large enough to be read from the street.	To allow the general public, service and emergency service providers to effectively identify the property.	Prior to the commencement of the use and maintained for the life of the development.
<b>20 Storage</b> 20.1 Goods, equipment, packaging material or machinery must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare. 20.2 Where storage of chemicals is required, a bunded area with a non-porous base is to be provided. 20.3 Any storage on site is required to be screened from view from all roads and adjacent properties.	To ensure the development does not have a detrimental effect on the visual amenity of the surrounding area in accordance with relevant code/s and policy direction.	At all times following the commencement of the use.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<b>21 Earthworks and Soil Erosion Minimisation, Sediment Control</b> Should any works that involve the exposure of earth occur on site, appropriate erosion and sediment control management must be undertaken (including installation of site specific stormwater treatment devices) and maintained to the satisfaction of the Chief Executive Officer.	To ensure that receiving waters during construction of the development are managed from the effects of increased sediment run-off in accordance with relevant code/s and policy direction.	At all times during the construction phase.
<b>22 Refuse Facilities</b> Refuse collection arrangements must be provided by the developer to the satisfaction of Council. In particular: <ul style="list-style-type: none"> <li>a) The approved waste storage area is to be of sufficient size to house all garbage bins including recycling bins.</li> <li>b) Storage area is suitably paved, with a hose cock fitted in close proximity to the enclosure and drain to sewer via a legal sewer connection, provided.</li> <li>c) All waste generated as a result of the construction of the development is to be effectively controlled and contained entirely within the boundaries of the site prior to disposal.</li> <li>d) All waste is to be disposed of in accordance with the Environmental Protection Regulation 2019 and Council's waste management policy.</li> </ul>	To ensure the premises is appropriately serviced and to protect matters of public health and amenity in accordance with relevant code/s and policy direction.	Amended plans providing details for the refuse facilities are to be submitted to Council as part of an application for Operational Work.  Refuse facilities must be provided in accordance with any approval issued and be maintained for the life of the development.
<b>23 Notice of Intention to Commence the Use</b> Prior to the commencement of the use on the land subject to the application, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.		Prior to the commencement of the use.

## Attachment A – Recommended Conditions of Approval

<b>Advice</b>
<b>1 Infrastructure Charges</b> An Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.
<b>2 General</b> Council will not be obligated to upgrade any roads that provide access to the development as a result of increased vehicles numbers accessing the site.
<b>3 Further Approvals Required</b> <b>a) Operational Work</b> An Operational Work application associated with the following conditions must be submitted to Council for approval prior to the issue of a Development Permit for Building Works, unless otherwise approved by Council. Condition 6 - Carparking, Access, Roadworks and Traffic Condition 7 - Street Enhancements Condition 8 - Infrastructure Services – Sewerage Supply Condition 14 - Landscaping Condition 22 - Refuse Facilities All engineering, soil erosion and sediment control and landscaping designs and documentation associated with such an application must be prepared and, where necessary, certified by a suitably qualified/experienced person. <b>b) Building Works</b> A Development Permit for Building Works to change the classification of the building is required prior to the commencement of the use.
<b>4 Further Inspections Required</b> Compliance with Conditions The following inspections will be required to be undertaken by Council to determine compliance with conditions that are not subject to a further approval. Condition 5 - Amalgamation of Allotments Condition 13 - Building Materials Condition 15 - Screen Fencing Condition 16 - Screening of Plant and Utilities Condition 19 - Property Numbering Condition 20 - Storage
<b>5 Council Water Supply Connection</b> The site is currently connected to Council's reticulated water supply.

## Attachment A – Recommended Conditions of Approval

<b>6 Council Sewerage Connection</b> The site is currently serviced by Council’s reticulated sewerage infrastructure. Any modifications proposed to the property’s connection will need to be assessed as part of an application for Operational Work, and a subsequent plumbing application will also be required to be submitted to council.	
<b>7 Community Kitchen Use</b> The activity must be operated in accordance with the <i>Food Act 2006</i> . It is advised to contact the Environment & Health Department in regard to licencing in accordance with the <i>Food Act 2006</i> , if applicable.	
<b>8 Building Work Noise</b> The hours of audible noise associated with construction and building work on site must be limited to between the hours of: <ul style="list-style-type: none"><li>6.30 a.m. to 6.30 p.m. Monday to Saturday; with</li></ul> No work is permitted on Sundays or Public Holidays.	To ensure compliance with the <i>Environmental Protection Act 1994</i> .
<b>9 Dust Management</b> Dust control measures should be implemented onsite during the construction phase to prevent an environmental nuisance from affecting the occupiers and users of nearby premises.	
<b>10 Asbestos</b> All asbestos removed from the site must be handled, transported and disposed of in accordance with the relevant legislation.	
<b>11 Building Over/Adjacent to Services</b> All structures are to be built in accordance with Council’s ‘Erection of Structures Over or Adjacent to Sewers or Water Mains Policy’.	
<b>12 Clinical/Medical Waste</b> Clinical and medical related waste is to be handled in accordance with the relevant Australian Standards.	
<b>13 Waste Management</b> 13.1 Waste and recycling services must be provided in accordance with Council’s Waste Management Policy. 13.2 All regulated waste must be removed from the site by a regulated waste removal contractor. The records for this disposal must be kept on site and be available for viewing by an authorised officer.	
<b>14 Plant and Utilities Noise</b> All refrigeration equipment, pumps, compressors, air conditioning units and mechanical ventilation systems must be located, designed and installed to not exceed a maximum noise level of: <ul style="list-style-type: none"><li>5dB(A) above background level between the times of 7am to 10pm; and</li><li>3 dB(A) above background level between the times of 10pm to 7am.</li></ul>	To ensure the use does not have a detrimental effect on the amenity of nearby sensitive receptors in

**Attachment A – Recommended Conditions of Approval**

	accordance with the <i>Environmental Protection Act 1994</i> .
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## INFRASTRUCTURE CHARGES NOTICE

(Section 119 of the Planning Act 2016)

<b>APPLICANT:</b>	Selectability Ltd
<b>APPLICATION:</b>	Material Change of Use for Community Facility (Mental Health Hub)
<b>Notice Number:</b>	ICN2022-008
<b>DATE:</b>	13 December 2022
<b>FILE REFERENCE:</b>	MCU22/0006
<b>AMOUNT OF THE LEVIED CHARGE:</b> (Details of how these charges were calculated are shown overleaf)	\$7,450.00 Total  \$1,296.00 Water Supply Network \$1,296.00 Sewerage Network \$1,368.00 Transport Network \$0.00 Public Parks and Community Land Network \$3,490.00 Stormwater Network
<b>AUTOMATIC INCREASE OF LEVIED CHARGE:</b>	The amount of the levied charge is subject to an automatic increase. Refer to the General Information attached to this notice for more information on how the increase is worked out.
<b>LAND TO WHICH CHARGE APPLIES:</b>	Lots 97, 98 & 99 on RP707557
<b>SITE ADDRESS:</b>	178-182 Edwards Street, Ayr
<b>PAYABLE TO:</b>	<b>Burdekin Shire Council</b>
<b>WHEN PAYABLE:</b> (In accordance with the timing stated in Section 122 of the Planning Act 2016)	Material Change of Use – When the use commences
<b>OFFSETS OR REFUNDS:</b>	Not Applicable.

This charge is made in accordance with Council's **Charges Resolution (No. 2) 2018**

## DETAILS OF CALCULATION

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### Water Supply

#### Adopted Charges

Development Description	Number of Units	Units of Measure	Charge Rate	Reference	Amount
Places of Assembly (Community Facility)	473m <sup>2</sup>	\$ per m <sup>2</sup> GFA	\$18.00	CR Table 2.2	\$8,514.00

#### Discounts\*

Description	Number of Units	Units of Measure	Discount Rate	Reference	Amount
Existing Building	401m <sup>2</sup>	\$ per m <sup>2</sup> GFA	\$18.00	CR Table 2.2	\$7,218.00

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### Sewerage

#### Adopted Charges

Development Description	Number of Units	Units of Measure	Charge Rate	Reference	Amount
Places of Assembly (Community Facility)	473m <sup>2</sup>	\$ per m <sup>2</sup> GFA	\$18.00	CR Table 2.2	\$8,514.00

#### Discounts\*

Description	Number of Units	Units of Measure	Discount Rate	Reference	Amount
Existing Building	401m <sup>2</sup>	\$ per m <sup>2</sup> GFA	\$18.00	CR Table 2.2	\$7,218.00

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### Transport

#### Adopted Charges

Development Description	Number of Units	Units of Measure	Charge Rate	Reference	Amount
Places of Assembly (Community Facility)	473m <sup>2</sup>	\$ per m <sup>2</sup> GFA	\$19.00	CR Table 2.2	\$8,987.00

#### Discounts\*

Description	Number of Units	Units of Measure	Discount Rate	Reference	Amount
Existing Building	401m <sup>2</sup>	\$ per m <sup>2</sup> GFA	\$19.00	CR Table 2.2	\$7,619.00

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## Stormwater

### Adopted Charges

Development Description	Number of Units	Units of Measure	Charge Rate	Reference	Amount
Places of Assembly (Community Facility)	349m <sup>2</sup>	\$ per impervious m <sup>2</sup>	\$10.00	CR Table 2.2	\$3,490.00

### Discounts\*

Description	Number of Units	Units of Measure	Discount Rate	Reference	Amount
Existing impervious	0m <sup>2</sup>	\$ per impervious m <sup>2</sup>	\$10.00	CR Table 2.2	\$0.00

## Levied Charges

Development Description	Water Supply	Sewerage	Transport	Public Parks & Land for Community Facilities	Stormwater	Total
Commercial (Office)	\$1,296.00	\$1,296.00	\$1,368.00	\$0.00	\$3,490.00	\$7,450.00
<b>Total</b>	<b>\$1,296.00</b>	<b>\$1,296.00</b>	<b>\$1,368.00</b>	<b>\$0.00</b>	<b>\$3,490.00</b>	<b>\$7,450.00</b>

\* In accordance with Section 3.3 of the Charges Resolution, the discount may not exceed the adopted charge. Any surplus discounts will not be refunded, except at Council's discretion.

Yours faithfully

**Kellie Galletta**

**MANAGER PLANNING AND DEVELOPMENT**

## INFORMATION NOTICE

<b>Authority and Reasons for Charge</b>	This Infrastructure Charges Notice has been given in accordance with section 119 of the <i>Planning Act 2016</i> to support the Local government's long-term infrastructure planning and financial sustainability.
<b>Appeals</b>	Pursuant to section 229 of the <i>Planning Act 2016</i> a person may appeal an Infrastructure Charges Notice. Attached is an extract from the <i>Planning Act 2016</i> that details your appeal rights.
<b>Automatic Increase Provision of charge rate (\$)</b>	<p>An infrastructure charge levied by Council is to be increased by the difference between the Producer Price Index (PPI) applicable at the time the infrastructure charge was levied, and PPI Index applicable at the time of payment of the levied charge, adjusted by reference to the 3-yearly PPI Index average<sup>1</sup>. If the levied charge is increased using the method described above, the charge payable is the amount equal to the sum of the charge as levied and the amount of the increase.</p> <p>However, the sum of the charge as levied and the amount of the increase is not to exceed the maximum adopted charge the Council could have levied for the development at the time the charge is paid.</p>
<b>GST</b>	The Federal Government has determined that contributions made by developers to Government for infrastructure and services under the <i>Planning Act 2009</i> are GST exempt.
<b>To whom the charge must be paid</b>	<p>Payment of the Charge must be made payable to BURDEKIN SHIRE COUNCIL, PO Box 974, Ayr, Qld 4807.</p> <p>The Infrastructure Charge has been calculated in accordance with the charges stated in Council's Charges Resolution. This notice will be escalated to time of payment to the extent permitted under legislation in force at that time.</p>

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<sup>1</sup> 3-yearly PPI index average is defined in section 114 of the *Planning Act 2016* and means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters. PPI Index is the producer price index for construction 6427.0 (ABS PPI) index number 3101 – Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics.

It is requested that you contact Council's Town Planning Department to confirm that amount payable prior to making payment.

**Payment**

This notice is due and payable by the due time shown. Cheques, money orders or postal notes should be made payable to BURDEKIN SHIRE COUNCIL and crossed "Not Negotiable". Change cannot be given on cheque payments. Property owners will be liable for any dishonour fees.

**Overseas Payees**

Please forward your infrastructure charges payment by way of a bank draft for the required amount in Australian dollars.

**Method of Payment****PAYMENT BY MAIL**

Confirm the current Infrastructure Charge applicable and obtain an updated payment notice from Council's Town Planning Department.

Mail this updated payment notice immediately with your payment to: BURDEKIN SHIRE COUNCIL, PO Box 974, Ayr, Qld 4807.

**NOTE:** Cheques must be made payable to BURDEKIN SHIRE COUNCIL

**PAYMENT AT COUNCIL OFFICES**

Confirm the current Infrastructure Charge applicable.

Present written confirmation of charges with your payment to Burdekin Shire Council Chambers, 145 Young Street, Ayr.

**NOTE:** Cheques must be made payable to BURDEKIN SHIRE COUNCIL

**PAYMENT MADE BY CREDIT CARD**

Credit Cards accepted: Mastercard or Visa

**Enquiries**

Enquiries regarding this Infrastructure Charges Notice should be directed to the BURDEKIN SHIRE COUNCIL, Town Planning Department, during office hours, Monday to Friday by phoning (07) 4783 9800 or email at [planning@burdekin.qld.gov.au](mailto:planning@burdekin.qld.gov.au)

## Schedule 1 Appeals

section 229

### 1 Appeal rights and parties to appeals

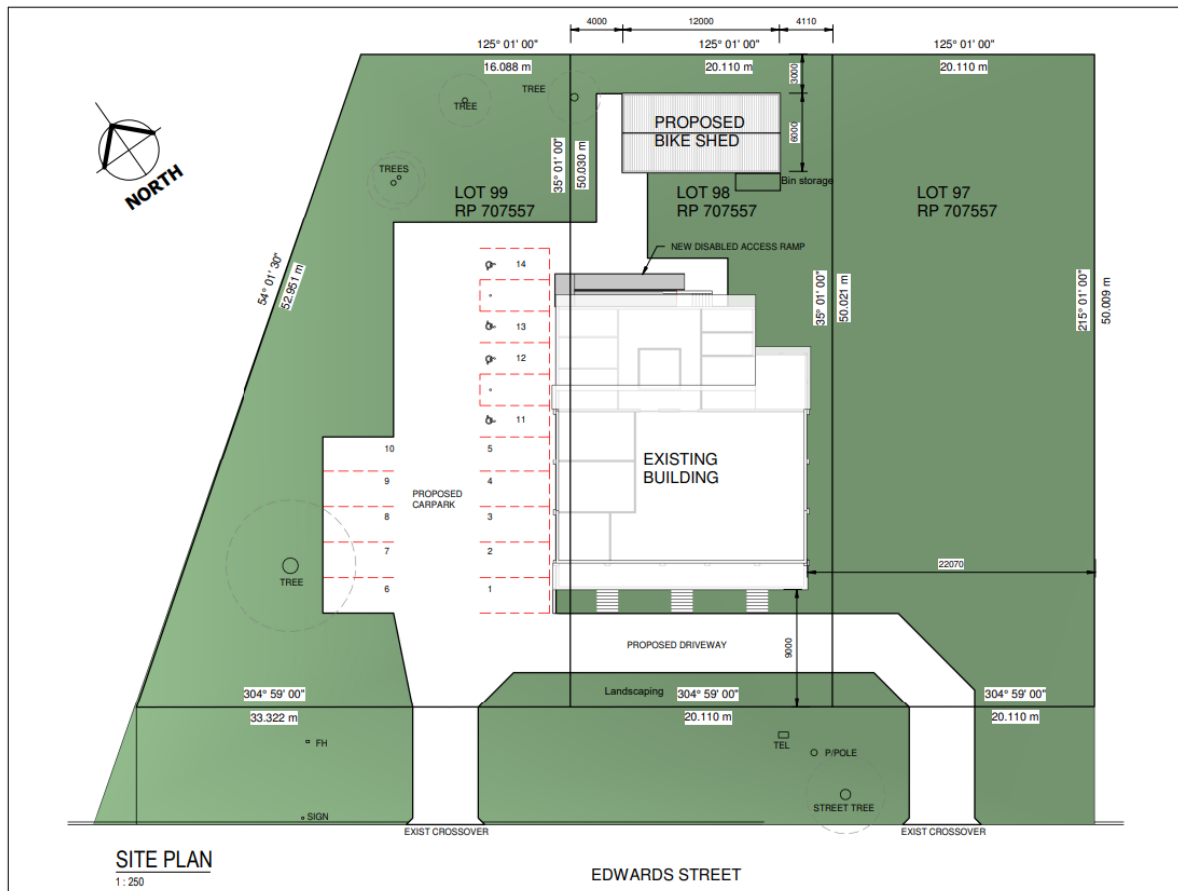
- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
  - (h) a decision to give an enforcement notice—
    - (i) in relation to a matter under paragraphs (a) to (g); or
    - (ii) under the Plumbing and Drainage Act; or
  - (i) an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
  - (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—  
*storey* see the Building Code, part A1.1.

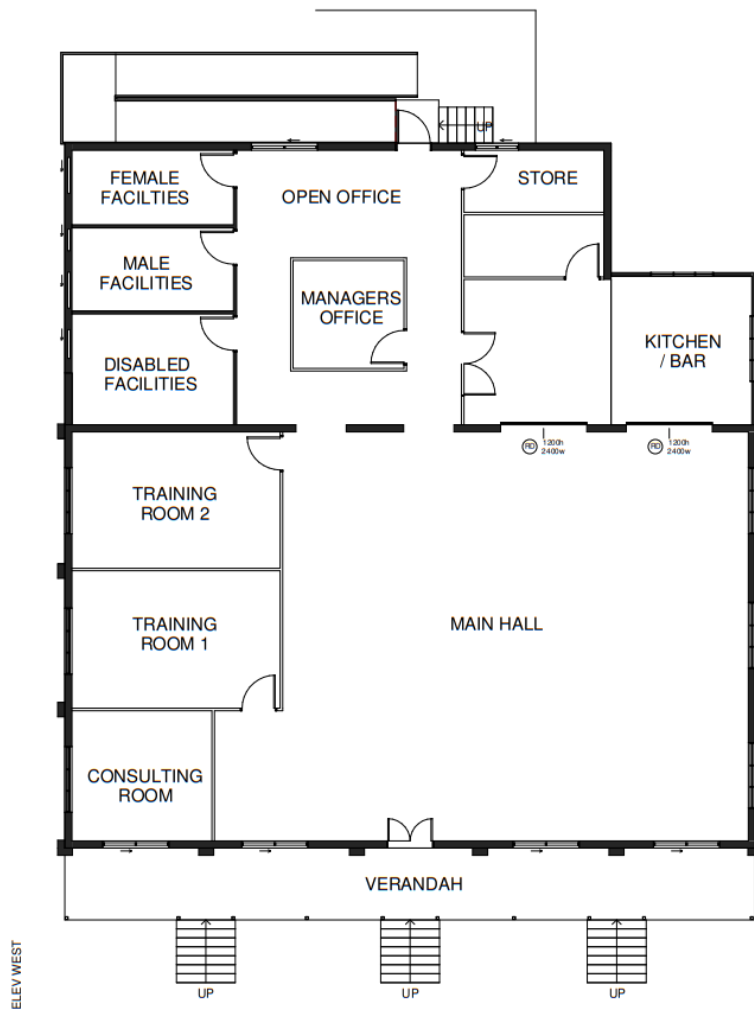
**Table 1**  
**Appeals to the P&E Court and, for certain matters, to a tribunal**

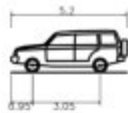
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds –</p> <ol style="list-style-type: none"> <li>(a) The notice involved an error relating to –           <ol style="list-style-type: none"> <li>i) The application of the relevant adopted charge; or</li> </ol> </li> </ol> <p><i>Examples of errors in applying an adopted charge –</i></p> <ul style="list-style-type: none"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <ol style="list-style-type: none"> <li>ii) The working out of extra demand, for section 120; or</li> <li>iii) An offset or refund; or</li> </ol> <ol style="list-style-type: none"> <li>(b) There was no decision about an offset or refund; or</li> <li>(c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</li> <li>(d) For an appeal to the P&amp;E Court – the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</li> </ol>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-

## Attachment C – Proposal Plans



PRELIMINARY DRAWING ONLY  
NOT TO BE USED FOR CONSTRUCTION PURPOSES





B99 Vehicle (Realistic min radius) (2004)	
Overall Length	5.200m
Overall Width	1.940m
Overall Body Height	1.878m
Min Body Ground Clearance	0.272m
Track Width	1.540m
Lock-to-lock time	4.00s
Curb to Curb Turning Radius	6.250m

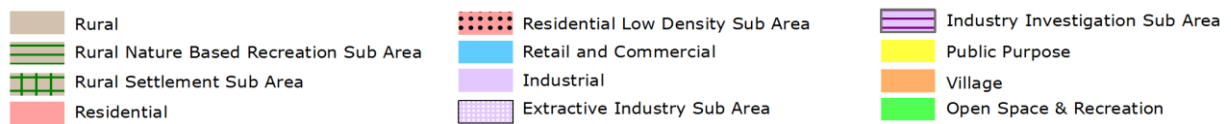
**Figure 14.** B99 Vehicle used for swept path checks



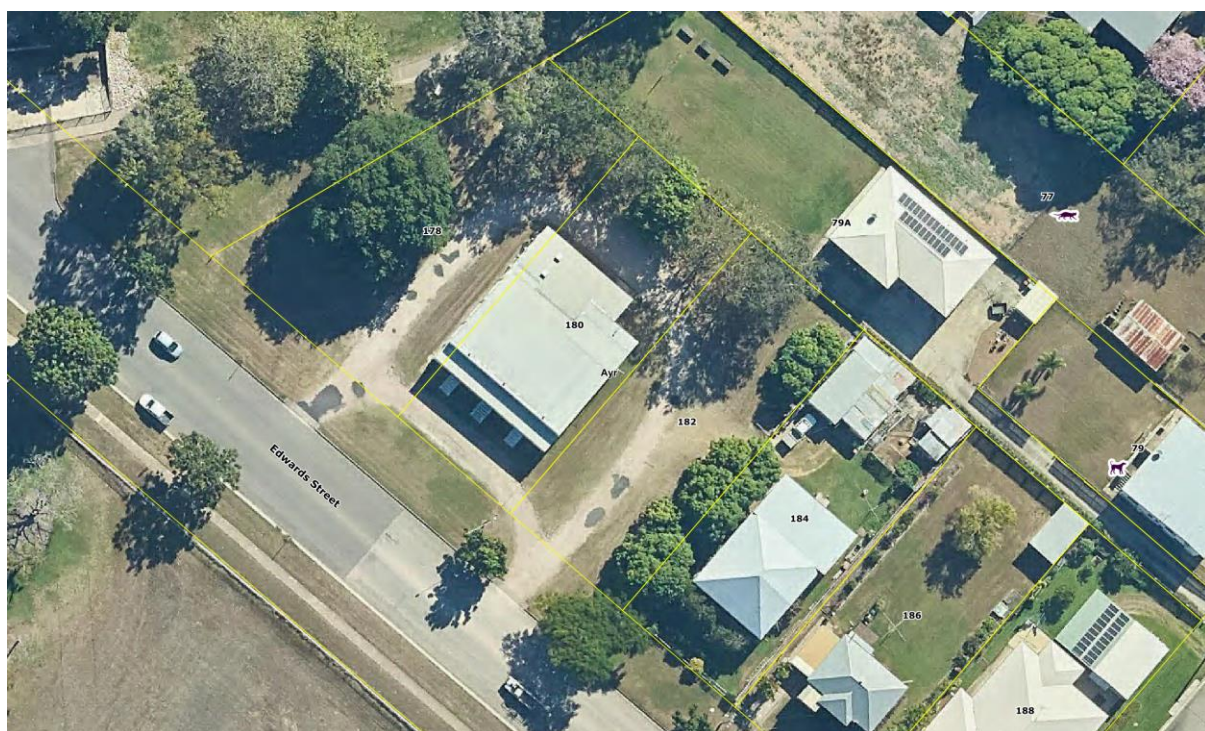
**Figure 15.** Vehicle entering through Access 1 and parking



## Attachment D – Locality Plan







**AN OPEN LETTER OF SUBMISSIONS MADE IN THE PUBLIC INTEREST**

Mr. Bill Tait (Jnr.) Esq.

No.151A Chippendale Street,

Parkside, AYR, QLD, 4807.

Monday, the 3<sup>rd</sup> day of October, 2022 CE.

Ms. Kellie Galletta (as the Assessment Manager),

The Manager,

Planning and Development,

Burdekin Shire Council.

BSC Administration Centre,

No. 145 Young Street,

AYR, QLD, 4807.

BURDEKIN SHIRE COUNCIL	
File ID No.	226
18 OCT 2022	
Document No.	.....
Retention Period	.....

VIEW	PLANDEV	AGENDA	
		DATE	
		APPLIC #	mcu22/0006
NOTED		PROP #	3003
TENDER		LAND #	31
ACTION		10751	10752
DEADLINE		CLASS	

**re: the public notice, published (i.e. practically *en bloc*, with various others, it seems) at page-No. 55, of the *Townsville Bulletin*-newspaper, on the 23<sup>rd</sup> of September, 2022, with reference to, the “Application ref: MCU22/0006”, and, purporting to give notice of, an application, for a Development Permit, in relation to a so-called “Mental Health Hub (Community Facility)”-to be operated at No. 178-No. 182 Edwards Street (i.e. on lots No. 97-No. 99 on Plan-No. RP707557) in Ayr; and seemingly related matters.**

Dear Ms. Galletta,

I enter, only upon a *conditional appearance*, in relation to the above mentioned matter, in order to disputing, the validity of the said proposed public notice.

Now, notwithstanding that, on the face of it, the said proposed public notice (of 23/09/22), appears to assert, to the effect of that, it might have been



issued in compliance with the very *public notification requirements... in accordance with the Planning Act 2016*, to the contrary, on my reckoning, that sort of thing<sup>1</sup>, would not be seen to be the case, for<sup>2</sup>;

1. to begin with, while, clause-(iii), of subsection-(4), of Section-No. 53, of the *Planning Act 2016* (the Act), literally provides that, the public notice, that an applicant for a *material change of use, must give*, under subsection-(1), thereof, *must state that... (a person may make a submission about the application to the assessment manager... and) any submission must be made by a stated day that is at least... 15 business days after the notice is given*; and;

2. given that, today, is the official *Queen's Birthday Holliday*-for Queensland<sup>3</sup>, on my calculations then<sup>4</sup>, the statutorially required

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<sup>1</sup> and that is to say, even aside from, how; i.e. whether inadvertently or not, like I say, your said notice (with the very application-reference-number of "MCU22/0006"), appears, in the said page-No. 55, of the very edition of the *Townsville Bulletin*-newspaper, published on the 23rd of September, 2022; as it were, simultaneously then; alongside three others (with the application-reference-numbers of, "MCU22/0012"-i.e. another BSC-matter, "MCU22/0009"-i.e. a Charters Towers Regional Council-matter, and, "MCU22/0024" and "RAL22/0007"-i.e. in a Townsville City Council-matter, and which, incidentally, and despite the different agencies [or very local governments involved then] seem characteristically, very similar, or, practically in identical formats then, and, well, that sort of thing, might just appear, to sort of *beg the very question* (as they say), to the effect of that, maybe, they were even, all, placed by, practically, the one and the same consultancy-or private firm (or the like), i.e. purporting to act as agent, on behalf of all three said local governments-in each matter respectively, then?...); not to mention, a seemingly somewhat unprecedented matter, of a public notification of, a proposed authorization meeting-in relation to federal court proceedings (for proposed-Torres Strait Island-sea claims-or *Applications for Native title Determinations* then, i.e. in relation to the proceeding-numbers of "QUD26/2019"-i.e. formerly "QUD266/2008", "QUD10/2019"-i.e. formerly "QUD267/2008", and, "QUD24/2019"-i.e. formerly "QUD362/2010", and by, a certain proposed representative-or *claim*- group-purportedly on behalf of the so-called *Kaurareg People* then)? ...

<sup>2</sup> and whilst, of course, I hasten to add-or just qualify my comments (herein) by stating for the very record, that I do not, purport to be, like, some sort of, *bush lawyer*, i.e. as if just maybe proffering *legal advice* (as such), herein, but merely, state my very own, personal, opinions, convictions, or beliefs, in a bona fide exercising of Free Speech, not to mention, in the very public interest-or I dare say (anyway), to boot then, and, that is to say, in the very course of defending my own rights, at law, as a citizen, and, as I seem to see such, anyway, then.

<sup>3</sup> and see, at the URL of "<https://publicholidays.com.au/queensland/2022-dates/>", then.

<sup>4</sup> and, see then;

1. the definition, of the very terms of, **business day**, in the Schedule 1, to the *Acts Interpretation Act 1954* (Qld) [the AIA], which provides, that such, *means a day that is not... a Saturday or Sunday... or... a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done*; moreover;
2. the provisions of, subsection-(1), of Section-No. 38, of the AIA, as regards the **Reckoning of time**, which provide, that;  
    “(1) If a period beginning on a given day, act or event is provided or allowed for a purpose by an Act, the period is to be calculated by excluding the day, or the day of the act or event, and—

period, for written submissions to be lodged, in response to a notice published on the said date, of the last 23<sup>rd</sup> of September, would run until, *at least*, twelve midnight, on the next 19<sup>th</sup> of October.

And so, I refer you then, to the very principles, espoused, e.g. from about paragraph-No. 165, in Tobias JA's judgement, in the case of, *Smith v Wyong Shire Council* [2003] NSWCA 322 (cf. paragraph-No. 23, of Stephen J's judgment, in the case of, *Pioneer Concrete (QLD) Pty. Ltd. V. Brisbane City Council* (1980) 145 CLR 485 {and see, also; *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30; 262 CLR 510; not to mention; *Scurr v Brisbane City Council* (1973) 133 CLR 242; but cf. *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28 (28 April 1998); (1998) 194 CLR 355, anyhow then...<sup>5</sup>}), well, whilst, e.g. none of this, would reasonably be seen to be argued to be, the sort of thing that was addressed, in the case of *MEPC Aust Ltd v Westfield Ltd* (1998) 100 LGERA 204, as apparently relied upon, by Judge Robin QC {see at paragraph-[26] thereof then} in the case of *Fernco Pty Ltd v Maroochy Shire Council* [2000] QPEC 092 {*Fernco*}-and while that

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(a) if the period is expressed to be a specified number of clear days or at least a specified number of days—by excluding the day on which the purpose is to be fulfilled; and

(b) in any other case—by including the day on which the purpose is to be fulfilled.”; and that is to say; wherein, in this very instance then;

3. as per, the pertinent terms, of the said provisions, of subsection-(4), of Section-No. 53, of the Act, i.e. as literally read, with their very *ordinary meaning* then, the *given day*, for the *beginning* of the *period*, is the very day, that, the proposed notice was published, which is then *excluded*, for the purposes of the said calculation; and what is more;

4. by way of, the clause-(a), of the said subsection-(1), of Section-No. 38, of the AIA, the proposed closing date, for submissions to be lodged, or, at any rate, the very *fifteenth business day after the notice is given*, must be excluded, from such calculation;

you see?

<sup>5</sup> and, in light of, things like; the very express purposes, of the Act; to provide for, achieving, truly Ecologically Sustainable Development (ESD), by way of, inter alia, public participation in the decision-making process; as set down in; e.g. clause-(b), of subsection-(2), of Section-No. 5; subclause-(iii), of clause-(f), of Section-No. 4; and, of course; Section-No. 3; of the Act; and what is more; the said case of *Project Blue Sky Inc v Australian Broadcasting Authority*; and see, moreover; paragraphs-No. 5-and-No. 6, out of the judgement, of the New South Wales Court of Appeal, in the case of *Tasker v Fullwood* [1978] 1 NSWLR 20, relied upon, at paragraph-No. 75, in Judge Brabazon QC's reasonings, in the report of, the case of, *Fox & Anor v Brisbane City Council* [2002] QPEC 049, not to mention, at paragraphs-[52]-through to-[55], of Morrison JA's judgement [i.e. with, Margaret McMurdo P, and, Douglas JA, concurring then], in the report of *Zappala Family Co Pty Ltd v Brisbane City Council & Ors; Brisbane City Council v Zappala Family Co Pty Ltd & Ors* [2014] QCA 147, and see, also, Andrews SC DCJ, quoting from, *Witheyman v Simpson* [2009] QCA 388, at paragraph-[17], in the report of, the case of, *Maher & Anor v Fraser Coast Regional Council* [2012] QPEC 67; in respect of, how matters, in instances, like this one; are to be seen to only-be and/or-remain, valid, when strict compliance is achieved, with the very particular stipulations of, the pertinent processes; as outlined in, the said subsection-(4), of Section-No. 53, of the Act; in order to providing for, meaningful public participation in the decision-making process; i.e. as so purportedly set afoot, by the said would-be public notice (of 23/09/22) then (and see, also then, footnote-No. 7, and the related discussions, in the said Endnotes, below, herein).



matter is only further distinguished-on the grounds that there is not the equivalent of the then Section-No. 4.1.53 of the then *Integrated Planning Act 1997* (Qld) in the Act, well, insomuch as that, the other cases, referred to in, the submissions of, Mr. J. Haydon, for the appellant, and summarised by Judge Robin, at paragraph-[21], in *Fernco*, would seem to be compelling, herein, given, how it was noted, in respect of truncated submissions-periods, in particular, Wilson J said, at page-No. 518, in *Pioneer Concrete (Qld) Pty Ltd v Brisbane City Council* (1980) 145 CLR 485;

“One may never know whether a proper application, and adequate advertisements would have alerted other citizens who would have exercised their right to participate as objectors.”; and;

what is more, to that very same sort of point, especially herein (i.e. wherein, whilst it was argued, to the effect of that, *substantial compliance* would have been sufficient, therein, the-soon to be mentioned-case turned on, the very interpretation of, the plain intent of, Section-No. 84, of the EPBC Act, in respect of its making, similar minimum requirements, for inviting public comments...), Stein J said, at page-No. 130, in *Curac v Shoalhaven City Council* (1993) 81 LGERA 124;

“The problem for the respondents on the issue of discretion is that while they can point to a lack of prejudice to the applicant, and many others, caused by the breach, they cannot be sure that some members of the public would not have come forward with objections if there had been compliance with the requirements of the statute. One would never know. As Mr Maston, appearing on behalf of the applicant, submits, it is the rights of the unknown objectors which the applicant presses.(i.e. with the red underlines added, herein, for particular note then)”;

with all due respect then, I would only submit, that, the proponent, and/or, the Burdekin Shire Council (as Assessment Manager then) has-have, no recourse to, any applicable law, in order to seeking, any remedy, whatsoever, to this sort of predicament, whilst, moreover, there is no need for judicial proceedings [i.e. in order to, such entities, just accepting, that, the proposed notice, did not comply with, the said provisions, of subsection-(4), of Section-No. 53, of the Act etc.], in light of, things like, the case of *Minister for Immigration and Multicultural Affairs v Bhardwaj* [2002] HCA 11; (2002) 187 ALR 117 (whilst, I just hasten to add, that; in the context of the very

statutory scheme-of the Act, overall<sup>6</sup>; there's apparently, only no opportunity for, a subsequent public notice, to be kind of re-issued, i.e. in order to, sort of supplanting-and/or even merely kind of supplementing, the said one [of 23/09/22], publicised, now, already then; under, things like, subsection-(1), of Section-No. 23; nor even, Section-No. 24AA; of the AIA, either then<sup>7</sup>).

Now, without waiver, form anything said, above, herein, already, and that is to say, the said sort of *conditional* appearance-as just outlined (*on the very papers*) herein (then), and naturally, without prejudice, to myself, whatsoever then, moreover, merely as an exercise in Free Speech, and, in the very public interest then, whilst I've, sort of *got your ear* (so to speak), I might kind of *haver* (if you like), i.e. just before, signing off, on this bit of a

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<sup>6</sup> which, as I'll go on to outline, in more technical details, and suchlike, and so forth, in the said Endnotes, below, herein, i.e. if it ever really did, well, nowadays, anyhow, certainly doesn't provide, any power or authority (i.e. even for the very Planning and Environment Court of Queensland) to sort of *excuse-or* otherwise set aside (i.e. even on any so-called *substantial compliance* basis) then-any kind of *non-compliance-* or the like-with respect to the said-so literally mandatorily expressed then-minimum public notification-requirements, of subsection-(4), of Section-No. 53, of the Act. ...

<sup>7</sup> and, that is to say, just looking at the said statutory scheme, in its very modern form then (and, please see, the very discussions, in point, in the Endnotes, below, herein, then), the said entities (i.e. the applicant/proponent, and, the BSC), would now seem to be only sort of *locked in* (as it were, anyhow), with the very consequences of, a seemingly only, fatally defective, proposed public notice, leaving, no option, now, but to withdraw, the entirety of, the said development application (with the said Reference-No.MCU22/0006), or alternatively, recognise such, as only having gone, so absolutely, and irretrievably then, *ultra vires*, altogether, now, much like, in the very case of, *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30; 262 CLR 510, wherein, the judges took into account, the very *absence of any provision authorising the warden to excuse non compliance with any of the provisions of s 74 of the Mining Act 1978 (WA)*-or i.e. to allude to the very procedural requirements of the said statutory provisions that {failure to adhere thereto} ultimately resulted in the matter at issue being declared null and void, not to mention, of course, the very principles, espoused in, *Scurr v Brisbane City Council* (1973) 133 CLR 242, as to the great importance of- more strict-compliance generally, with the procedural aspects of statutory provisions requiring public participation (but, again, similarly, cf. *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28 (28 April 1998); (1998) 194 CLR 355, moreover, paragraphs-No. 5-and-No. 6, out of the judgement, of the New South Wales Court of Appeal, in the case of *Tasker v Fullwood* [1978] 1 NSWLR 20, relied upon, at paragraph-No. 75, in Judge Brabazon QC's reasonings, in the report of, the case of, *Fox & Anor v Brisbane City Council* [2002] QPEC 049, not to mention, at paragraphs-[52]-through to-[55], of Morrison JA's judgement [i.e. with, Margaret McMurdo P, and, Dougla JA, concurring then], in the report of *Zappala Family Co Pty Ltd v Brisbane City Council & Ors; Brisbane City Council v Zappala Family Co Pty Ltd & Ors* [2014] QCA 147, and see, also, Andrews SC DCJ, quoting from, *Witheyman v Simpson* [2009] QCA 388, at paragraph-[17], in the report of, the case of, *Maher & Anor v Fraser Coast Regional Council* [2012] QPEC 67, anyhow then...}, in respect of, how matters, in instances, like this one (i.e. wherein, as I say [see the said Endnotes, below, herein], there are apparently, no powers (even in the Planning and Environment Court), nor any other authority (under the Act or otherwise then), to set aside and/or excuse the said apparent sort of *non-compliance* of the said proposed public notice (of 23/09/22), i.e. purportedly set afoot, under the Act), are to be seen, to only-be and/or-remain, valid, when strict compliance is achieved, with the very particular stipulations of, the pertinent processes, outlined in the said statutory scheme, in order to providing for meaningful public participation, in the very respective decision-making processes, so purportedly afoot, under the relevant provisions of the said legislative scheme then (re the said expressly stated purposes, and related provisions, therein, providing specific requirements, for a particular kind of process, designed by the very legislator, to enable effective and meaningful public participation).



proposed set of submissions then, to express, a few kind of heartfelt opinions, as regards, even, the very seemingly proposed<sup>8</sup>, more substantive sorts of issues-or (if you like) would-be *merits*, purported to have been raised, by the said (once proposed, now, anyhow) Development Application (i.e. with the very said application-reference-No. MCU22/0006), herein, and, towards such ends then, I might just note, for example;

1. to begin with then, the very name of, the proponent's company<sup>9</sup>, i.e. Selectability Ltd. (ABN 27 174 635 449), which, despite currently being an Australian Public Company, with varying names<sup>10</sup>-not to mention a multitude of operating handles<sup>11</sup>, since the 11<sup>th</sup> of May, 2000, might seem, to just bear an uncanny kind of similarity then, with the very name of, the once international *employment placement agency*, or, now defunct<sup>12</sup>, U.K. based *private limited company* then, i.e. Selectability Ltd (Company-No. 11928915)<sup>13</sup>, that was formally *dissolved on* the 27<sup>th</sup> of July, 2021<sup>14</sup>; moreover;

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<sup>8</sup> although, that's not to say, to the effect of that, the said-technically speaking-more kind of *procedural* issues, that I've so raised, first and foremost, above, herein, would not be seen as, of some sort of real-and *substantive* then-content, in and of themselves, for, aside from, just things like, constitutional implications, guaranteeing Free Speech, as I say, *public participation in the decision-making process*, is an essential element of, the achieving of, only ESD, that the whole statutory scheme, of the Act, is directed at ensuring, then (and see, for further details then, the very introduction to, the footnote-No. 5, above, herein), you see. ...

<sup>9</sup> or, maybe I should just say, that, that is, the very *proponent* then, whilst, the very name of, the actual *applicant*-or so-called *Project Manager* (i.e. on behalf thereof), might seem to bear, an uncanny sort of similarity with, that of, one of the once Directors of, the now *dissolved*, (and then) U.K. registered company, by name of *AFO Consultancy Service Limited* (Company-No. 05929670) [see at the URL of "<https://find-and-update.company-information.service.gov.uk/company/05929670>" then], I mean, is this guy, even from northern Queensland, or maybe, Tasmania, or further afield (or overseas), perhaps even, then?..

<sup>10</sup> i.e. starting with, *Supported Options in Lifestyles & Access Inc*, and then, going to, *Supported Options in Lifestyles and Access Inc*, the very next day, and then, *Supported Options in Lifestyles & Access Services Limited*, from 31 Jan 2014, and finally *Selectability Ltd*, from 13 Jul 2017.

<sup>11</sup> See the *business names*, including *North Queensland mental Health Alliance* (current), *Mental Illness Fellowship NQ* (current), *Mental Illness Fellowship of North Queensland* (current), *Mental Illness Fellowship NQ* (from 30<sup>th</sup> March, to 5<sup>th</sup> June, 2017) *Select NDIS* (from 11<sup>th</sup> May 2017, to 18<sup>th</sup> March 2021), *Select NDIS Plan Management* (from 11<sup>th</sup> May 2017, to 18<sup>th</sup> March 2021), etc..

<sup>12</sup> i.e. as *Dissolved on 27 July 2021*, and, I'll just kind of haver, to add then, whose former primary Director, one Mr. Adam Paine, having *resigned on* the 13<sup>th</sup> of November, 2020 (see at the URL of "<https://find-and-update.company-information.service.gov.uk/company/11928915>" ), seems to have, sort of rebirthed, on the 24<sup>th</sup> of September, 2020, no less (see at the URL of "<https://find-and-update.company-information.service.gov.uk/company/12903105/filing-history>" then), subsequently-or shortly thereafter then, in the very form of, yet another so-called *employment placement agency*, or U.K. *private limited company* then, by name of *Evolution Sales Recruitment Ltd* (Company number 12903105, with the *registered office address* of, No. 71-No. 75 Shelton Street, Covent Garden, London, United Kingdom, WC2H 9JQ ).

<sup>13</sup> with the *registered office address* then, of, Unit 3, The Wireless Station, Kneesworth, Royston, Herts, England, SG8 5JH.

<sup>14</sup> and see, at the URL of "<https://find-and-update.company-information.service.gov.uk/company/11928915>", then.



in that sort of light then;

2. how<sup>15</sup>, the so-called *Mental Health Hub*-to be set up in the said old community hall, is to, basically put, primarily become, some sort of veritable *conduit* for, kind of plugging into, various governmentally funded programs-and/or associated budgetary *line-items* then, such as, the so-called National Disability Insurance Scheme (the NDIS)<sup>16</sup>, and/or, as a so-called *Employment Services Provider*-i.e. tapping (by hook or by crook then) into (the very so apparently constitutionally questionable operations of) the ad hoc would-be privatised federal unemployment services sector<sup>17</sup>; and;

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<sup>15</sup> and see, e.g. at page-No. 2, of the application, itself, (i.e. located at the URL of: “<https://www.burdekin.qld.gov.au/downloads/file/2489/mcu22-0006-material-change-of-use-for-mental-health-hub-community-facility-at-edwards-st-ayr-application>”), not to mention, the related sort of blurb, set down in the *owner’s* consent, a copy, of which, is reproduced at, page-No. 30, of the Appendix 1, to the said application-documentation, how it is proposed, to the effect of that, the said proposed redevelopment, is generally, for the purposes of accessing funding, through the Commonwealth-government’s so-called NDIS scheme, and *other funded programs*, with some additional focus, on enabling-or (i.e. maybe I could just say) kind of bolstering then-it’s very own so-called *registered training organisation*. ...

<sup>16</sup> and, I mean, what do you reckon, about, maybe, the very NDIS-scheme-rollouts, having being (i.e. characteristically *quietly* then) used-or abused then (and while, I hasten to note, in my albeit unqualified opinion then, to the very effect of that, well, it’s, *all*, prima facie *abuse*-or to [only ethically] be presumed to potentially be nothing more than such, at practically every sort of *squirm*-or unsavoury twist and turn [along the way] then-i.e. of [the purported administration of] this or that programme-and/or particular project [or supposed *treatment program*-of would-be *interventions*-then], and that is to say, notwithstanding, there having (once, maybe) been some sort of imprimatur-or would-be official kind of sanction of approval-given, and, be that as it may, as I was going to say, then)-for the unsavoury purposes of, so-called *involuntary coercive treatment interventions*, and suchlike, and so forth, and so on then? ...

<sup>17</sup> or, you know, i.e. to allude to how, for decades on end now, the Everymen-and woman’s been apparently only unlawfully set upon, by way of questionable bureaucratic goings on-and worse, and thereby, at the whims of, conservative political Party aligned, would-be privateers, or, all, manner of *shell companies*-and their *fly-by-night* associates, paternalistically masquerading as, well-meaning NGOs-or what have yous, apparently operating (at times then, anyhow) in cahoots with, a kind of disinterested (i.e. at least in respect of, the very basic human rights etc., of their lesser privileged *subjects*-or kind of underlings-then) set of commonwealth and States-based-bureaucracies, of so-called SES (or *Senior Executive Staff*-i.e. by hook or by crook reaching across the ordinary *boundaries*-of even governmental departmental authorities then-in something [maybe] apparently akin to the said notions of a so-called *Deep State*-theory), and suchlike, and so forth, then, in the pursuit of, a seemingly, so unchecked, and fraudulent, Zeitgeist-of sorts, and thereby, rolling out, over time, this or that two-bit program-or scheme, or never ending kind of projects-or outright scams then-i.e. with (to say the very least) questionable *objectives* (i.e. in terms of, the very public interest, not to mention, said basic human rights, anyhow), under the banner of, the old seemingly only so unconstitutional old-Commonwealth-so-called “Social Security Legislation Amendment (Work for the Dole) Act 1997”, and associated notions (i.e. see the very-seemingly only so unconstitutionally then-proposed *objects* expressed in Section-no. 4 of same said Work for the Dole-Act) of so-called *mutual obligations* [i.e. like I say, seemingly only so unconstitutionally, purported to apply, these days, in respect of the very payment of benefits under the *Social Security Act 1991* (Cwlth)], in order to operating, apparently so unlawfully then, what might basically-or on closer inspection anyhow-seem to amount to, nothing other than, like I say, fraudulent programs, of modern day slavery {i.e. not necessarily to be just confused then, with the seemingly only more limited notions [re: the international treaties-against slavery and the like-and e.g. **Division 270—Slavery and slavery-like offences** in the Schedule to the *Criminal Code Act 1995* (Cwlth)], of so-called *modern slavery*, proposed to be kind of prescribed by, the so-called *Modern Slavery Act 1918* (Cwlth), these days}?...

be that as it may, whilst it might seem, only sort of trite, of me, to express concerns, about, the potential for, kinds of *corralling* effects-of this proposal<sup>18</sup>, well;

3. all the while, for example;

- (i) as opposed to, the calling of a fresh inquiry, and, contrary to (i.e. as I seem to be informed anyhow) the then well-established conventions, subsequent to, when the inquiry, of the *Community Affairs References Committee*-of the Commonwealth of Australia, into the matter of, *Indefinite detention of people with cognitive and psychiatric impairment in Australia*, formally *lapsed*-with (the *double dissolution* of the Parliament and) the calling of the 2016-federal elections then, well, the Senate, in all its wisdom, *agreed to re-adopt-the* former materials of-the said lapsed *inquiry*, whilst, *the*-i.e. (then) members-of the said parliamentary *committee*, subsequently *resolved not to call for new submissions but only*, to sort of press on, on the seemingly only limited basis then, of those previously *received during the 44th Parliament*<sup>19</sup>, effectively then, locking out, the general public, even from the subsequent four public hearings<sup>20</sup>, and kind of-like I say-pressed on regardless then, with sort of<sup>21</sup> cobbling together-or kind of *stitching up* then-of a, seemingly only more perfunctory-or kind of *half-baked* then, so belatedly proposed *report*-(as I say) in the hands of only some few submission-makers (mostly with vested kinds of interests) and practically no involvement of the general public (or ordinary citizens)-or

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<sup>18</sup> e.g. wherein, under the very said banner, of (you know, *rounding up* a few more sycophantic kinds of *confidants*, just for the purposes, maybe, and, in order to pleasing, only their Party-political masters, and suchlike and so forth, not to mention, *lining the pockets* of a select few, again, then, and be that as it may, as I was about to say then, the guise of) said Zeitgeist's *usual* kinds of *modus operandi*, the whole thing, might seem to smack, more of, practically then, some kind of program of *segregation*?...

<sup>19</sup> and, see then, the details, at the URL of:

"[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/IndefiniteDetenInde45](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IndefiniteDetenInde45)".

<sup>20</sup> for, as I seem to be informed, it is, generally, only those, who are specially invited, and/or have actually lodged, a formally accepted submission, that would be given leave to appear, before a parliamentary committee, in such sorts of matters-or inquiries then.

<sup>21</sup> I say, only with all due respect, not to mention, in a bona fide exercise of free Speech, in the very public interest, then.



i.e. broader ranging (and/or-truly all encompassing-social justice orientated) purview-then; and;

let's not forget;

- (ii) the seemingly only so prolix kind of proliferation of *labels* (so to say)-or very (would-be anyhow) described so-called *disorders*-and/or mental health *disabilities* (and suchlike and so forth and so on), purportedly set down, these days<sup>22</sup>, in things like the DSM-5-TR (i.e. the current sort-of *Bible*-or very so-called *Diagnostic and Statistical Manual of Mental Disorders*, of the American Psychiatric Association), and even, the (as I seem to have been informed then) once more laudable ICD-11 (i.e. the current sort-of [like I say] *Bible*-or very so-called *International Classification of Diseases 11th Revision*, of the World Health Organization); and that is to say; the kinds of *aetiologies*, or very political historical developments, of which, might just be seen, to sort of have, revolved around, questionable *sample sizes*, biased, to boot then, by merely being selections from, existing list of *patients*<sup>23</sup>, not to mention then, the political influences of governmental funding models-or very so-called *universal health care* (systems) then, and suchlike, and so forth; and that; as I seem to be informed, contrary to, all the usual notions of, our constitutionally implied-and otherwise established-rights to Free Speech, nowadays, both, even kind of sport, some kind of proposed criteria, practically for, the working up<sup>24</sup> of, proposed *diagnoses* of, some sort of proposed cases of, *pathological querulents*-or some such thing then<sup>25</sup>,

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<sup>22</sup> I mean, in terms of, the growing trends, of ever increasing would-be criteria, in the said *Bibles* then, practically anyone, and everyone, might just have, this or that *diagnosable* so-called *mental health disorder*-or other sort of *condition* then, if not, some degree of *co-morbidity*, to boot then?...

<sup>23</sup> which is to say nothing, about e.g. the (then not so notorious) so-called *obedience experiments* in the *basement*-or the *Milgram experiments* then, moreover, the Stanford prison experiment (i.e. conducted by none other than the notorious Philip Zimbardo), much less-or more then, other (to say the very least) *ethically challenged* cult-like origins, not to mention, at times, anyhow, somewhat bizarre and/or callously paternalistic practices [e.g. the old catch-as-catch-can-or maybe {to coin a phrase} I could just say sort of say *try-as-you-like*, ad hoc doctrines of so-called *connation* in even earlier *schools of thought* etc.), of would-be psychiatric dogma, and suchlike, and so forth, published, down through the years?...

<sup>24</sup> i.e. by any old would-be wannabe-or what-have-yous, then. ...

<sup>25</sup> and, you know, against, just about any somewhat independent-or (if you like) seemingly a little *eccentric*-individual (or citizens then), merely on the basis of their heartfelt political, convictions, opinions, or beliefs,

which, in my view, for what it might just be worth then, anyhow<sup>26</sup>, would seem to be, like, somewhat reminiscent of, the very abuses (albeit in actual legal proceedings-more directly [or brought, in the very first instance]-then) of, the notorious so-called *S. L. A. P. P. writs*, and/or, other, even more abhorrent tactics-or manoeuvres, of old, involving more sinister and underhand *methods*, of the outright oppression of legitimate dissent<sup>27</sup>.

Now, as we all know-or just seem to be so recently informed, thanks to, our illustrious Australian brand, of the so-called *Free Press*, much like (i.e. in my own personal view then) the once much touted (i.e. now, seemingly, practically so unhelpful<sup>28</sup>) *legal aid*-programmes-around the country, well, it seems, from all-said sorts of-reports, in recent times then, that the Australian medical system, itself, has become thoroughly incompetent<sup>29</sup>, and/or, in some part, anyhow, outright corrupt, whereupon, in the very modern era then, e.g. the sort of parochial operations, of even, the various northern Queensland medical services etc., might, somewhat, anyhow then, be seen to, *leave a bit to be desired*, in terms of, e.g. so-called *ethical conduct*, and/or general levels of

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and/or related (lawful and all peaceable even) conduct-or *behaviour* (if you like-or *they* might just prefer-then), not to mention, to the very detriment of their exercising their rights to Free Speech, in a, purportedly so, free, fair, and democratic, society, and all, then?...

<sup>26</sup> although, of course, neither do I purport to hold any sort of *medical qualifications*, myself, either (and, just see, again then, the bit of a discussion in, the very footnote-No. 2, above, herein).

<sup>27</sup> e.g. wherein, outspoken-albeit (like I say) apparently somewhat eccentric characters-or colleagues (or merely, like, *fellow lecturers*, with *competing views*, and the like, maybe then?...), were met-or veritably confronted then (i.e. as I seem to have been [once] reliably informed)-at their very own respective office doors, at this or that American university hall (which shall remain *unnamed* then) with (maybe even, a burly police officer, or two, with straitjacket in tow, to boot, and anyhow, or be that as it may, as I was about to say, set upon), by a more senior *colleague*-and/or their very *henchmen*, waving about, some kind of hastily slapped (no pun intended then) together, piece of would-be official documentation, only to be, rather unceremoniously whipped away, or sectioned-or *regulated*-or what-have-you (or whatever) then, and thereby, said dissenter, would be practically *disappeared* off-of the academic scene-or very campus anyhow, never to return (and/or, only to be subjected to, this or that form of, ongoing defamatory humiliations-in and out of their once field of study-or very faculty-or profession-or whatever then, and thereby, unfairly discredited, losing their careers, if not-on occasion-taking their own life-eventually anyhow then), and, but, anyhow, in short order, by hook or by crook then, subjected to the whims of (like) corrupt *confidants*, in the very so-called *mental health system*-of the day, and sometimes, to be just-like forever more-*institutionalised* thus, and suchlike, and so forth, and so on. ...

<sup>28</sup> i.e. in terms of, true social justice outcomes, then?...

<sup>29</sup> or, you know, may indeed, seem e.g. to be kind of labouring with (i.e. no pun intended then), broader conceptualizations of, some sort of paternalistic (partially privatised-or with inescapable sorts of *community-based* partnerships [between certain privileged-or maybe just Party politically aligned-NGOs and government] then) so-called *socialized medicine*-models, the likes, of which, I hasten to add, just for good measure-and in the said exercising of Free Speech (in the very public interest then), might just appear, to have little, real regard for, the modern day legal implications, of the individuals' rights to privacy, then?...



competence-or incompetence then, and, be that as it may, well, whereas, like I say, in my own, personal view<sup>30</sup>, things might, indeed, be kind of endemic, across-the-board, or, that is to say, seem to even, to go back, a lot further<sup>31</sup>, than just, those, more locally-or (as they say) *domestically* then-focused, proposed sorts of observations, and, especially so, in respect of, even the would-be modern day *practices*<sup>32</sup>, of so-called *mental health treatment*, around the region. ...

Oh, look, for I'm, not really interested, myself, in what, this or that, kind of, like, *ethically challenged*, would-be wannabe medical practitioner, might just be up to, *around the ridges* (so to speak)<sup>33</sup>, but, well, obviously, I, for one, and that is to say, in my role as, an albeit, admittedly then, merely somewhat self-professed, *public interest-advocate* (like I say, of sorts then), would express then, some heartfelt, or, sort of (if you like) *grave concerns*, for Free Speech, not to mention, basic human rights-e.g. to only *informed consent* etc., in respect of, this very proposal, being kind of touted as, or as if then, a so innocuous, sort of, only potentially beneficial one, for the local community-or region around-then, and, I mean<sup>34</sup>, this all seems, a bit *premature*, to say

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<sup>30</sup> although; whilst (like I say) I; do not purport to be formally qualified, to give, either, medical, or legal, *professional advice* (as such); and, naturally then; merely make these comments, in a bona fide, exercising of, Free Speech, not to mention, in the very public interest, or I dare say, to boot, anyway; and be, all that, as it may; on the basis of, my very own, personal, convictions, opinions, or (if you like) beliefs then; but, of course; without waiver, from any of my rights, e.g. to only *informed consent*, not to mention, the very confidentiality of, my own *personal information*, which, e.g. in the terms of the *privacy* principles-of the States' and federal *privacy Acts*, is not necessarily just limited to, protecting my rights to, the privacy of professional/client communications; and that is to say; without prejudice to myself, whatsoever then.

<sup>31</sup> and just see, then, the said discussion, in point, above, herein, e.g. at page-No. 9, and, in footnote-No. 27.

<sup>32</sup> i.e. whatever, those, might just be, in fact, these days (although, given said media reports, e.g. kind of [like] *parking* people-or the proverbial *chronically ill patients* then-up, in the mental health system, in lieu of, more helpful sorts of, *hands on* [if you like] treatment, *at the coalface* [as they say]-or in the seemingly so flailing GP-sector then, might just, appear to be, one area, like, *of concern*, or, I suppose then?...).

<sup>33</sup> or, i.e. (you know) about to try to utilise-and/or outright abuse then-this very *opportunity*-[albeit, as I say, only so fatally truncated then, and, kind of] for a bit of public participation in the (albeit, like I say, now, already even, only so-altogether-defunct) would-be decision making-process-(of the very BSC and) under the Act then; as if just kind of open for, the purposes of some sort of broad and wider ranging enquiry into the ins and outs of-even just in the more immediate surrounds then-the very machinations, and suchlike, and so forth, of the Australian health system, but, the fact is that, what with, such media reports-or (now) very publicly aired said general questions (in point) raised, well, the very *assessment manager* veritably would seem to have, at least some sort of *fiduciary* kind of *duty*, in such circumstances then, towards, the public interest-and/or in respect of the very rights of individual citizens (i.e. generally speaking then), to have (otherwise, i.e. if only, things had of, not, already, gone so *ultra vires*, then) consideration, in respect of such said matters of *general importance*, for a wider view, in terms of, e.g. the very *social equity* aspects, if not, also, with regards to the *precautionary principle*, and especially given, the so-called *triple bottom line* approach, to achieving, only true ESD, then.

<sup>34</sup> while, well, there's apparently, not really, much in, the so-called *information request*, or, you know, in comparison, sort of thing, then, it's not like, they're proposing to put, a well-resourced lawyers office-or the like, in the middle of a residential suburban landscape (with no previously designated parking areas, for

the least<sup>35</sup>, and, what with, like I say, the said once federal inquiry, so seemingly only aborted-albeit to be so latterly *stitched back up* again, and, no broader ranging, comprehensive, independent review, ever having been performed, in respect of, the operations of, the said would-be partially privatised federal social services-sector, let alone, the (now not necessarily so fledgling) NDIS related roll outs, etc., which, yes, I suppose, is to say, or just allude then, to the effect of, how, upon the information to hand, publicly, anyhow, for all, we-or 'I'-would really know, well, it's not necessarily, so frankly evident, as to just, what sort of purposes, more in particular, that it is intended, this space-or others like it (i.e. *around the ridges*), might just, end up being put to, or, what is more, to the point, how superfluous-and/or unproductive (not to mention, e.g. in terms of social justice then, *undesirable*), such sorts of possibly undisclosed things, might just turn out to be, or, you know, e.g. if the *practices* -and/or *interventions* (if you-or [like I say] *they*-might just like, then) adopted, there, might be seen as, just archaic, or otherwise, outmoded and/or unethical-or (maybe even) outright illegal- (like I say) perhaps even-then?

Well, that's, just about all, that I can manage to put down, herein, for now then, and while, I certainly would have liked to say more, or, at any rate, to have, maybe had, the time, to sort of go over it all, at greater length, in order to just ensuring that, if nothing else then, my proposed submissions, herein, would be only more diplomatically expressed, and suchlike, and so forth, well, like I say, as the very *assessment manager*, you've not-yet anyhow-chosen, to allow, the public-or myself then-even, the minimum statutorily required time, for lodging submissions, on this matter, and, besides that, well, I'm truly, a very busy man, these days, ma'am, so that, or this then, will just have to suffice, as my set of submission, herein, like I say, for the very time being, anyhow.

Thank you then, for your consideration of these matters.

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that sort of thing, to boot), is it... oh, uh, so, that sort of thing's, like I say, in comparison, more of, a mere *storm in a teacup*, or, don't you just think, too, ma'am?

<sup>35</sup> and, that is to say, maybe somewhat *predictably*-or just characteristic then, I guess, not to mention, seemingly only, going to be, *one-sided*, again?...



Yours sincerely

Bill Tait

William “Bill (Billy)” Peter Tait (*The only Honourable and Most Rightful Queensland Pretender*)

ps. please, also see, the following five Endnotes.

**Endnote-No. 1:**

And see, as I say, e.g. the said case of *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30 [especially, at paragraph-No. 81, of the joint judgment, of Kiefel CJ, Bell, Gageler and Keane JJ, therein], and especially then, the case followed, therein, of *Scurr v. Brisbane City Council* (1973) 133 CLR 242, insofar as<sup>36</sup>, that, wherein, like, how, there are no specific provisions allowing for mere *substantial compliance*-or the like, statutory regulations, of these types-of legislative provisions, must be strictly adhered to, or else, matters simply become *ultra vires* (moreover, fatally [or, null and void, altogether, then], and, i.e. for even, the initial application {once made, anyhow}, in its entirety, then); and, what is more, to the very point-or said seemingly so damning points, then; even in respect of the said matter-or issue-of the lack of an *address for service* being specified, in the said proposed public notices then, there would seem to be, a kind of direct analogy, that may be drawn, from the pertinent case law (albeit then, with the *rationes decidendi*, therein, focusing, more simply, like, down on, matters of, sort of truncated proposed submissions-periods, but nonetheless, such-only reasonably then-seems, like, directly transferrable-on both counts, herein, and, as I was going to say), insofar as, see e.g. then, how, Wilson J said (albeit, as I say, more in particular then, in relation to, proposed submissions-periods, already judicially determined, to have been somewhat truncated), at page-No. 518, in the report of, the case of, *Pioneer Concrete (Qld) Pty Ltd v Brisbane City Council* (1980) 145 CLR 485;

“One may never know whether a proper application, and adequate advertisements would have alerted other citizens who would have exercised their right to participate as objectors.”; and;

what is more, to that very same sorts of points, and like (i.e. wherein, whilst it was argued, to the effect of that, *substantial compliance* would have been sufficient, therein, the-soon to be mentioned-case turned on, the very interpretation of, the plain intent of, Section-No. 84, of the *Environment Protection and Biodiversity Conservation Act 1999* {Cwlth}, in respect of its-similarly-making *minimum* requirements, for inviting public

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<sup>36</sup> and see, the following **Endnote-No. 2**, then. ...

comments...), over and above, and beyond, the pertinent legislative schemes, herein (i.e. which, like I say<sup>1</sup>, don't have specific provisions, for the waiving of, some *non-compliance*-or the like, i.e. of these very said sorts of statutory requirements, anyhow, on the basis of, so-called *substantial compliance*-or what-have-yous, or whatever then), well, Stein J said, at page-No. 130, in *Curac v Shoalhaven City Council* (1993) 81 LGERA 124;

“The problem for the respondents on the issue of discretion is that while they can point to a lack of prejudice to the applicant, and many others, caused by the breach, they cannot be sure that some members of the public would not have come forward with objections if there had been compliance with the requirements of the statute. One would never know. As Mr Maston, appearing on behalf of the applicant, submits, it is the rights of the unknown objectors which the applicant presses.”;

you see.

## Endnote-No. 2:

For, like I say, these are no mere ordinary run-of-the-mill kinds of-or purely procedural sorts of-breaches of statutory requirements (or everyday examples, of so-called *noncompliance*-if you like), but indeed, fatal errors, bound up then, in the very substantive purposes, intrinsic in the very overarching legislative framework, for achieving only Ecologically Sustainable Development (ESD), or, *conditions precedents*-if you like, i.e. rendering the would-be development assessment process, in its entirety then, practically *ultra vires*, and (as I say) seemingly-technically speaking anyway-incurably, and, in terms of, the apparently only applicable case law, as I read such then, i.e. notwithstanding, the said supposed legislative intent, of sort of setting aside, the said problems-or hurdles (for the very powers of the Planning and Environment Court [the P&E Court] then), in particular types of instances (and, i.e. not to be confused with, then, any kind of more widely scoping legislative effect, of maybe, being seen, as if, to have-additionally-like-then, overturned, the very time-honoured, and generally applicable then, fundamental common law principles, of e.g. the usual processes of statutory interpretation, applied, in such circumstances), of certain case law (i.e. e.g. as alluded to, in addition to the very case of *Maher & Anor v Fraser Coast Regional Council* [2012] QPEC 67 (*Maher*) then, by Rackemann DCJ, in footnote-No. 6, to paragraph-[38], in the report, in the case of *Beerwah Land Pty Ltd v Sunshine Coast Regional Council* [2016] QPEC 55 (*Beerwah*), or even, the case of *Lamb v Brisbane CC & Anor* [2007] QCA 149, for those sorts of matters then, to boot), that I'm about to refer to, below, and, that is to say, that, despite, things like, paragraphs-[70]-and-[174]-and-[175], in the report of *Bon Accord Pty Ltd & v Brisbane City Council & Ors* [2008] QPEC 119 (*Bon Accord*), wherein, Rackemann DCJ, seems to have, ultimately, proposed to determine, to the very effect of that, he might just have had, a discretion to exercise, under Section-No. 4.1.5A-and/or-No. 4.1.53, of the (now repealed) *Integrated Planning Act 1997* (Qld) [the IP Act], a determination, that, clearly appears, to have been made, *per incuriam*, i.e. with respect to, the very prevailing precedents, canvassed prior to that, by Rackemann DCJ, himself, in paragraphs-[56]-through to-[69], in the very said case, of *Bon Accord* (and see, especially at, paragraphs-[67]-through to-[69], thereof, then), for;

1. while, at paragraph-[66], in *Bon Accord*, Rackemann DCJ proposed, that;  
“The Court of Appeal did not, either in *Chang v Laidley Shire Council* or in *Gold*



*Coast City Council v Fawkes Pty Ltd*, expressly overrule the earlier decision in *Oakden Investments Pty Ltd v Pine Rivers Shire Council*.”; and;

2. it’s true that, e.g. even in his judgement, delivered in *Gold Coast CC v Fawkes P/L & Ors* [2007] QCA 444 (*Fawkes*), de Jersey CJ (with whom Holmes J concurred completely then) did not, more overtly, in so many explicit terms, simpliciter, like, then, propose to have overruled, the pertinent principle, purportedly once found, in the said earlier case, of *Oakden Investments Pty Ltd v Pine Rivers Shire Council & Anor* [2002] QCA 470 (*Oakden*);

well, with de Jersey J, having first, referred to, *Chang & Anor v Laidley Shire Council* [2006] QCA 172 (*Chang*) etc., in paragraph-[6], of his reasonings, in *Fawkes*, and then, gone on, in paragraph-[8], thereof, to set out the said principle in *Oakden*, saying, more simply-like, then, that he “would not regard *Oakden* as determining the outcome of” the said case-of *Fawkes*, moreover, ultimately decided (at paragraph-[11], of *Fawkes*, then) that, the decision on appeal, ought to only be set aside, *on the basis* that *discretion* (i.e. whether under the new Section-No. 4.1.5A, of the IP Act, then in force, or, its predecessor, Section-No. 4.1.53, as previously in force, at the time in question) *did not arise because there was no “properly made application”*, in light of the particular provisions of (the then) s 3.2.1, clearly then, the very Queensland Court of Appeal, had-i.e. in *Fawkes* then-already set aside, or, if you like, overruled, its own previous judgement, of *Oakden*, to the extent that, it might otherwise have been read, so as to provide that, the predecessors, to the now Section-No. 37, of the PEC Act, anyhow, i.e. said Sections-No. 4.1.5A-and-No. 4.1.53, of the IP Act, etc., might have allowed for, a discretion, to excuse noncompliance, with any and all requirements of the legislation-i.e. even if such failures effectively rendered the assessment manager concerned with no jurisdiction (or authority) under the statutory scheme (itself) [and where there would appear to be no {or no longer a} matter validly afoot, before an assessment manager, then] {and see, how, at paragraphs-[84]-to-[86] especially, in the case of *Barro Group Pty Ltd v Redland Shire Council* [2009] QCA 310 {*Barro*}, Keane JA (with, McMurdo P, and, Margret Wilson J, concurring) expressly states, ultimately, to the effect of that, for the very same reasons, “*Oakden* should no longer be followed”}; and so; whilst (i.e. compared with those alluded to herein then) the failure-of the applicants (*Fawkes Pty Ltd* and *Ronbar Enterprises Pty Ltd*) was (technically speaking anyhow) of somewhat of a different character, in *Fawkes*, then; moreover; notwithstanding even, the now, somewhat more particular provisions, of said Section-No. 37 of the PEC Act (as compared with, their predecessors, in the said old provisions, of Sections-No. 4.1.53-and/or-No.4.1.5A, of the IP Act, then), or even, how, e.g. at paragraphs-[45]-through to-[48] especially, in the case of *Ramsgrove P/L v Beaudesert SC & Ors* [2005] QCA 434 {*Ramsgrove*}, it seems to have been established, to the very effect of that, an exercise of, the Queensland Planning and Environment Court (the P&E Court)’s, discretions, may not necessarily be, like, an analogy for, how an assessment manager might propose to exercise a discretion, under, e.g. the said subsection-(3), of Section-No. 53, of the Act (moreover, despite, e.g. what Keane J [albeit, with, McMurdo P, and, Williams J, concurring, even then], ultimately, proposed to find, at paragraph-[43], in the report of, the said case of *Ramsgrove* {which, I hasten to add, as I’ll just go onto explore, in greater detail, below, herein, is actually distinguished, from the modern day circumstances-of the very pertinent legislative provisions (and, see then, as discussed in, the **Endnote-No. 3**, the **Endnote-No. 4**, and, the **Endnote-No. 5**, below, herein)}, it is, of particular note, here, how, at paragraph-[34], of Keane J’s reasonings {with, McMurdo P, and, Margret Wilson J, concurring then}, in the said case of *Barro*, it

was declared, that *the authority of the P & E Court to decide an application is no more extensive than that of the local authority*); well, as I was just going to say then, very similarly, and like I say (although, I hasten to just add, that, in saying as much, I'm not, at all, to be taken, as if to, maybe, be sort of agitating towards, and/or, inviting, the initiating of proceedings, in any Court-or tribunal, about such matters, and only quite to the contrary then...), these matters, would, only reasonably, I say, naturally, only with respect, i.e. for the very institution, of the P&E Court, itself, then, and, but, as I was about to say then, these matters, herein, seem to, only reasonably, be about, very special, and specific, literally made requirements, on the face of the said subsection-(4), of Section-No.53, of the Act, etc. (i.e. or, as I say, necessarily implied ones, inherent therein, then), which, especially on a purposive approach, in light of the said principles of statutory interpretation espoused by the High Court, in *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28; 194 CLR 355 (*Project Blue Sky*), etc., would not appear to be amenable, at all, whatsoever, really, to the very-still (or I dare say then) only somewhat-generally applicable powers, of the P&E Court, itself, even, to otherwise excuse, any so-called *noncompliance*, whatsoever, you see... [and, see then, i.e. as pertinent context, to inform, as to, just where, the very limits, of the discretion granted by Section -No. 37, might only reasonably be seen to lie, e.g. subsection-(1), of Section-No. 7, and, clauses-(a)-and-(b), of subsection-(1), of Section-No. 11, of the *Planning and Environment Court Act 2016* (Qld) [the PEC Act]... (see also at paragraphs-[64]-and-[65] of the said case of *Barro*...)] {and see, also then, how, at paragraph-No. 21, of his Judgement, in the case of, *JP Whitter (Water Well Engineers) Limited (Appellant) v Commissioners for Her Majesty's Revenue and Customs (Respondent)* [2018] UKSC 31, Lord Carnwath [with whom Lord Mance, Lord Sumption, Lord Lloyd Jones and Lord Briggs agreed] spoke of *the basic principle that any statutory discretion must be exercised consistently with the objects and scope of the statutory scheme*, in indicating, to the effect of that, no discretion, granted under an enactment, is truly completely unfettered (see also, the concluding comments, of Rackemann DCJ, in paragraph-[39], in *Beerwah*)}

### Endnote-No. 3:

and, I'll just hasten to add then, whilst, like I say, not seeking to invite, any proceedings, in any Court, whatsoever then, moreover, only with all due respect, for such institutions, and their own powers, and discretions etc., then, of course, well, to the effect of that, at all events, there would appear to be, no useful purpose, in the BSC (nor any other then), now proposing, to go, sort of running off, to such, in order to, so belatedly, maybe curing, these seemingly only so fatal defects, in the said (once anyhow) proposed assessment processe; for; e.g. notwithstanding even, things like, what I said, in the very **Endnote-No. 2**, above, herein then, about, paragraphs-[45]-through to-[48], in the report of, the case of *Ramsgrove*, in making comparisons, between, the now, albeit somewhat more particular-and broadly ranging then-provisions, of said Section-No. 37 of the PEC Act, and, their predecessors (of the said old provisions, of Sections-No. 4.1.53-and/or-No.4.1.5A, of the IP Act), for, as I also alluded to, in that said **Endnote-No. 2**, it is, of particular note, how, at paragraph-[34], of Keane J's reasonings {with, McMurdo P, and, Margret Wilson J, concurring then}, in the said case of *Barro*, it was declared that, *the authority of the P & E Court to decide an application is no more extensive than that of the local authority*, moreover, well, I would tentatively (i.e. not the least of all, because, it refers also to, the case of *Oakden*, which {as I also noted- in the said **Endnote-No. 2**} was overruled, by the earlier



case of *Fawkes*, as confirmed in the later one of *Barrow*, then, but anyhow, as I was about to say, I would still cautiously) allude (further then) to, the seemingly somewhat analogous (said then) case, of *Lamb*, wherein, at paragraphs-[50]-and-[52], thereof, the judges, ultimately, seem to have found, to the effect of that, an *occasion for the exercise of the discretion conferred (albeit) by the old preceding provisions of Section-No. 4.1.5A of the IP Act, had not arisen*, on account of, there having been, no opportunity, for the assessment manager concerned, to exercise, any powers-or authority, under the legislation, in the very first place, then, and, whilst, as I say, despite having, all but seen the light, at paragraph-[69], in *Bon Accord*, after a detailed examination, of the said points, in the previous cases, of *Chang* and *Fawkes*, and notwithstanding, the more vague sort of, proposed considerations, alluded to, in paragraphs-[70]-[71], in *Bon Accord*, while, it seems that, it may be inferred, anyhow, to the effect of that, in *Bon Accord*, Rackemann DCJ's proposed judgment, might only erroneously have been rested upon, things like, a more quiet kind of assumption that, *Oakden*, itself, might have only remained as, *good law* (so to speak), well, despite, neither, the Court of Appeal's said judgement, in *Barro*, nor, Searles DCJ's decision, in *Barro Group Pty Ltd v Redland Shire Council and Others* [2009] QPEC 9, before it, making any express mention, of *Bon Accord*, in all probability, *Barro*, would only be seen to have overruled, any precedent, in point, that might, otherwise have been argued, to arise, out of *Bon Accord*, moreover, while, (and, notwithstanding then, the-likely only correct-assumption, by Rackemann DCJ, at paragraph-[41], in *Beerwah*, that, such notes, were only referencing, the said case of *Maher*, I say, only without waiver then, from e.g. the particular sort of concluding arguments, in point, set down in, the very **Endnote-No. 4**, below, herein) it seems arguable, to the effect of that, the particular sort of finding, at paragraph-[48], of the Court's reasonings, in *Lamb* {i.e. which may not necessarily be presumed to have been overcome by, the insertion of the said old Section-No. 4.1.5A, into the IP Act, on account of how, at the heart of it, it was not about, what would, then, have been seen as, a requirement of the legislation, and see at paragraph-[50] thereof then}, would, now, no longer, support a case, against the application of Section-No. 37 of the P&C Act, on account of, the discussions, about its ambit, in pages-No. 23-and-No. 24, in the explanatory notes, thereto, tabled on 12/11/15; well, I might refer, all the way back then, to things like, paragraph-[77], in Kean J's said leading judgment, in *Chang*, or even, paragraph-[50], in *Lamb*, and/or, the very last sentences especially, in paragraphs-[57]-and-[62], moreover, e.g. paragraphs-[58]-[59]-and-[61], of *Barro*, then, not to mention, i.e. notwithstanding the distinctions (as regards these very matters then), that may be drawn, on the basis of, the comments in, paragraphs-[42]-and-[43], thereof, paragraphs-[29]-[36]-and-[40], in Jerrard J's said leading judgement, in *Fawkes*; in order to, alluding to, the said maxim, of statutory interpretation (i.e. so cited in paragraph-[61] of *Barro*, and, obviously alluded to, in paragraph-[36], in *Fawkes*), of *generalia specialibus non derogant*, even in respect of, the said more expansive modern provisions, of Section-No. 37, of the PEC Act, to say, again, that, these sorts of matters, would, only reasonably seem to be about, very special, and specific, literally made requirements, on the face of the said subsection-(4), of Section-No.53, or (as I say) necessarily implied, therein; which; especially on a purposive approach (and that is to say, as so reinforced then, by the said fundamental elements, of ESD-{as I say} requiring meaningful *opportunities* for public participation, evidenced in, the very overarching legislative framework etc.), in light of the said principles of statutory interpretation espoused by the High Court, in *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28; 194 CLR 355 (*Project Blue Sky*), would not appear to be amenable, at all, whatsoever, really, to the very-still (or I



dare say then) only somewhat-generally applicable powers, of the PEC Court, itself, even, to otherwise excuse, any so-called *noncompliance*, whatsoever (and see, again then, the further comments, in the last set of brackets, in the **Endnote-No. 2**, above, herein), which, I'll just hasten to add, would seem to see, things like, the very case of *Lewani Springs Resort P/L v Gold Coast CC & Anor* [2010] QCA 145 (*Lewani*), not to mention, the string of cases (i.e. *Grummitt Planning Pty Ltd v Gold Coast City Council* [2009] QPEC 47, *DTS Group Queensland v Brisbane City Council* [2005] QPEC 085, and apparently also, *Ramsgrove Pty Ltd v Beaudesert Shire Council & Ors* [2005] QPEC 101, moreover, *Lagoon Gardens Pty Ltd v Whitsunday Shire Council* [2006] QPEC 14, *Kunapipi Springs Pty Ltd v Whitsunday Shire Council* [2006] QPEC 34, *Consolidated Properties Group Pty Ltd v Brisbane City Council* [2008] QPEC 87, *Stockland Developments Pty Ltd v Thuringowa City Council* [2007] QPELR 430 at 441-442, and, *Jahnke v Cassowary Coast Regional Council* [2009] QPEC 36 at [30]: [2009] QPEC 39), cited at paragraphs-[66]-and-[72], of Atkinson J's judgment, in *Lewani*, and even, *Burnett v Isaac Regional Council* [2008] QPEC 71 (albeit, like I say, already, *per incuriam* etc.), *Stevens & Ors v Pine Rivers Shire Council & Anor* [2005] QPEC 112, and, *Rathera* (i.e. to the extent that it might have assumed the sort of jurisdiction and powers that the primary judge purported to exercise-at first instance-then), moreover, *MLJ Accommodation Pty Ltd v Gladstone Regional Council* [2012] QPEC 79, *Multus v Rockhampton Regional Council* [2013] QPELR 301: [2012] QPEC 85, and, *Warner Village Pty Ltd v Moreton Bay Regional Council (No 2)* [2014] QPELR 1: [2013] QPEC 74, more or less, sort of swept aside, as binding precedents, anyhow, and, that is to say, that, whilst, I might just accept, that, by explicitly enacting, the very terms of, the subsection-(3), of Section-No. 37, of the PEC Act, into the legislation itself-i.e. on the very face of the instrument then, the legislator, effectively responded to, the very problem, with the wordings of the previous Sections-No. 440-and-No. 820, of the SPA, identified, at paragraphs-[17]-through to-[19], of Andrews SC DCJ's reasonings, in *Maher*, and that is to say, for the purposes of like cases, the current power, of the said Section-No. 37, to provide *relief against non-fulfilment of a provision...* (i.e. put in the very form of Andrews SC DCJ's words, at paragraph-[14], of *Maher*) *would arguably* assist, however, I would only hasten, to note, how (just prior to those words), in the first part of paragraph-[14], of Andrews SC DCJ's reasonings, in *Maher*, literally said;

“Notably, the explanatory notes suggest the power in ss 440 and 820 is exercisable to relieve against **non-fulfilment** of a provision or non-compliance with a provision. SPA ss 440 and 820 each refer to provisions not “complied with” but neither refers to a provision not “fulfilled”. ... (and, it is to be noted that, the emphasis-or very bolded text, herein, was indeed, as it reads, in the original)”; and; whilst, no doubt, some will say, to the effect of that, it might be only, an exercise in, sort of *splitting hairs* (although, I would counter, saying that, what we're doing here, is interpreting law, and what is more, while some may say-or just quip then, to the effect of that, its oft only to be seen as, a pedantic sort of process, to boot, at times, overly concerned with technicalities, well, I would hasten, to suggest, that it's, more of matter of, precision-or *good jurisprudence* then...), and, I'll just add, only with respect, of course, that it, does seem, like, unfortunate, that a more concise sort of grammar, wasn't used, well, an argument appears to arise, to the effect of that, where, in that passage, Andrews SC DCJ says, *but neither refers to a provision not “fulfilled”*, he's not merely alluding to, the immediately preceding words-in the same sentence then, of, *SPA ss 440 and 820 each refer to provisions not “complied with”*, but, arguably, at any rate, both, the said Sections-No. 440-and-No. 820, of the SPA, and also, *the explanatory notes*, thereto, that he previously



referred to, in the said passage, then, you see, uh, and so, in that very sort of light then, while, as I say, they're apparently, only really, going around in circles (i.e. on account of how *Mahe*r was apparently only wrongly decided-i.e. *per incuriam* the true provision of *requirement*-i.e. the said subsection-(4) of the old Section-No. 3.5.21 of the IP Act), still, neither, the current provisions, of the said Section-No. 37, of the PEC Act, nor, the explanatory notes, thereto, expressly-or otherwise-provided the P&E Court with a power to excuse a failure to comply with a provision-or requirement (in the Act, itself, or the regulations, thereunder, then)-that has simply not been fulfilled at all then (whilst, I hasten to just add, further then, whether we're talking about, one day, or some number of days, i.e. practically adding up to, most of the required notification period, and/or, the period for which material is required to be publicly notified, under the regulations, then, well, those sorts of things, would, all, only reasonably, be veritably seen as, instances of the said legislative requirements being not fulfilled, ultimately, i.e. despite the very purportedly prescribed provisions of, Section-No. 31, in Part 7, of the so-called "Development Assessment Rules-Version 1.3 {the DAR}"", the very said defects, identified herein, are only, not curable, at all then), so, it seems like, that, we've only kind of gone, full circle, and, all the way back then, to the very laudable principles, first espoused in, the said case of *Scurr v Brisbane City Council* (1973) 133 CLR 242, i.e. with even *Ridgewood Development Pty Ltd v Brisbane City Council* [1984] QSCFC 115 effectively set aside, by the said legislative developments (see also, paragraphs-[51]-to-[52]-and-[54]-[55], in *Zappala*, the last sentence in page-No. 23 {i.e. paragraph-[81]}, and at page-No. 24, in *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30, paragraphs-[73]-and-[75], in *Fox*, etc.), and what is more, with even, the considerations, for so-called *substantial compliance*, alluded to in paragraphs-No. 24-through to-No. 31, in *Scurr*, being now beyond the P&E Courts jurisdiction, i.e. seeing how e.g. the said preceding provisions, of Section-No. 4.1.5A, of the IP Act, where once entitled, ***How court may deal with matters involving substantial compliance***, i.e. thereby, effectively seeing, such matters, once now, codified into, the very statute law (i.e. as in, *covering the whole field*-as they say), and but, which have, now, been removed (at least, as regards, the very said sorts of issues, at stake, herein then), you see, ma'am. ... (and, please, hasten to just refer, further, then, to the very details of, the **Endnote-No. 4**, set down, below, herein)

#### **Endnote-No. 4:**

Moreover, as to, subsection-(12), of said Section-No. 53, of the Act, well, I'll just, sort of have, to note, i.e. only without prejudice, to myself, whatsoever, then, how; whilst, it might seem, very tempting then, on this very point, to just, sort of, more simply, allude to, the very context of, the provisions of, subsection-(3), of Section-No. 37, of the *Planning and Environment Court Act 2016* (Qld) {the PEC Act}, which, are apparently proposed then, to overturn certain principles-of statutory construction, in particular {then preceding} case law (and, see then, the references to, later amendments, and, the case of *Mahe*r & *Anor v Fraser Coast Regional Council* [2012] QPEC 67 {*Mahe*r}, at paragraph-No.41, in Rackemann DCJ's reasonings, in the report of, *Beerwah Land Pty Ltd v Sunshine Coast Regional Council* [2016] QPEC 55 {*Beerwah*}), in order to, just arguing, to the effect of that, even a definition-or defining provisions {that, the very said subsection-(12), may just be argued (by some), to merely be (i.e. read only in isolation) then...}-may be seen to be, one-or ones-containing, a *requirement* of the Act {i.e. to be

complied with-or *fulfilled* then}; well, the truth is, that, with all due respect, and whilst, moreover then, I'm not convinced, myself, that, as Rackemann DCJ proposes, in the very footnote-No. 6, to paragraph-[38] in the report of *Beerwah*, *the legislature* might have *acted to further broaden the scope of the power and to remove constraints*, in enacting the preceding Section-No. 440, of the *Sustainable Planning Act 2009* (Qld) [the SPA], *including those which the Court of Appeal found to be inherent in its immediate predecessor*, in e.g. the very case of, *Metrostar Pty Ltd v Gold Coast City Council* [2007] 2 Qd R 45 (*Metrostar*}, in particular, at any rate (for, even Jerrard J, at paragraphs-[20]-and-[21], in the report of *Metrostar*, seemed to acknowledge, that there was some confusion, as to what was actually under consideration, cf. at the paragraph-No. 34, thereof, and the orders ultimately made, therein, also then [and, see also, the introduction to, the very **Endnote-No. 5**, set down, below, herein then]), but anyhow, in regards to how, Rackemann DCJ, proposed to go on then, and refer to, the very comments of, the then Minister for Infrastructure, Local Government and Planning. The Honourable Jackie Trad, at pages-No. 23-and-No. 24, in the explanatory notes (i.e. tabled on 12/11/15), relating to the (then still not commenced) provisions of, Section-No. 37, of the PEC Act, and even, that is to say, taken only somewhat in isolation, and out of the context of the very preceding words in that paragraph etc. then (and, see then, the discussion of; the use of, the term of, *prescriptive*, as regards, the former portions of the old *integrated development assessment system* [or IDAS], i.e. in the notes to, Section-No. 297, of the [now repealed] *Sustainable Planning Act 2009* (Qld) [the SPA], not to mention, Section-No. 3.4.4, of the [now repealed] *Integrated Planning Act 1997* (Qld) [the IP Act], cf. the notes to, Sections-No. 298-and-No. 3.4.5, to each said old legislative scheme, respectively then; at footnote-No. 46, etc., below, herein), the would-be unqualified-or (by design perhaps) seemingly potentially more generally ranging then-sort of throwaway line, in page-No. 24, of the said notes, to the effect of that, *the intent is to include other matters that may not otherwise be valid, for example, timeframes that have not been complied with...* (etc., i.e. what-in context-appears to merely be, a-inconsequential [herein] then-reference, back to, the contents of, the *Development Assessment Rules*, etc. then [cf. the reference to *timeframes* in, the second paragraph, to the notes about, *Clause 68*, moreover, those about, the sixth paragraph, to *Clause 29*, the third paragraph to, *Clause 64*, *Clause 58*, and, the definition of the **appeal period**, in Schedule 2, i.e. in the Explanatory Notes to the Planning Bill 2015-tabled on 12/11/15, and, whilst, those to, *Clause 257*, would be distinguished, what is more, there is no mention of, the word of, timeframe, at all, in relation to, the very Clause 53, therein, nor-for that matter-in the pertinent supplementary explanatory notes then) [and, see also, the latter set of points, set down in, the said **Endnote-No. 5**, below, herein, then], and, whilst I would agree, to some extent, anyhow, with the previous assertion, in *Beerwah* then, of Rackemann DCJ, to the effect of that, the preceding Section-No. 440, of the SPA, conferred a... *broad discretion*, and, was somewhat, then, *the product of a process of evolution from its predecessors under previous legislation* (although, even there, the cases cited, i.e. in the footnote-No. 6, to the paragraph-[38], in *Beerwah*, may not necessarily seem to be on point, e.g. see how, ultimately, Rackemann DCJ, himself, seems to have had. all the powers necessary, to make the orders, that were most just and equitable, in all of the circumstances then, in *BBDM Pty v Brisbane City Council* [2012] QPEC 30? ...), moreover, that the case of *Maher*, was most likely the primary sort of focus of, the sort of



tweaking up of, the more particular sorts of provisions, ultimately put into, the subsection-(3), of the said Section -No. 37, of the PEC Act, well, I would only respectfully disagree with, things like, the very approach of, Andrews SC DCJ, in *Maher*, insofar as, it only logically seems, in hindsight anyhow, to have been unnecessary, for him to, go to, the very lengths, that he did, in proposing to consider, as to, whether or no he had power, to excuse non-compliance with, the (even then) repealed subsection-(7) of Section-No. 3.5.21, of the IP Act, whereas, the real issue, to my mind, would seem to have been, that the applicants (i.e. the Mahers then), had actually failed to comply with, the preceding subsection-(4), thereof, for, as Andrews SC DCJ himself alluded to, at paragraph-[20], in *Maher*, and, as Barwick CJ, and, McTiernan and Taylor JJ, advised, in paragraph-[10] in *Gibb v Federal Commissioner of Taxation* (1966) 118 CLR 628, while, *such defining clauses are... no more than an aid to the construction of the statute, and do not operate in any other way, and the function of a definition clause in a statute is... to indicate that when particular words or expressions the subject of definition, are found in the substantive part of the statute under consideration, they are to be understood in the defined sense (or... taken to include certain things which, but for the definition, they would not include)*, and, like I say then, it was the preceding subclause-(4), of the old Section-No. 3.5.21, of the IP Act, read, only as so modified, by the latter subsection-(7), thereof, that was, really, the operative clause, to be addressed (despite even, the Applicants' mistake, in focusing down, otherwise, in their submissions then), and, in my view, while, that sort of argument, would only remain *good law* (so to speak), to the very day, in any analogous circumstance (like those herein then), well, the said additional purview, of the said now Section-No. 37, of the PEC Act, would largely seem to be, of no real consequence-or maybe even somewhat confused and impracticable (or irrelevant anyhow)-in any event then, however, as I think I've already alluded to, in the very **Endnote-No. 3**, above, herein, i.e. at the very kind of crux, of certain matters, all of that's, not to say that, the very exercise, in paragraphs-[14]-through to-[19], in *Maher*, might not represent *good law*, nor, for that matter, as I'll endeavor to explain, in more detail, below, herein, to the very effect of that, the observations-or very (kind of set of) complications, that Andrews SC DCJ proposed, in the said paragraph-[14], in *Maher*, would now (i.e. even-or especially so then-in light of Rackemann DCJ's comments-or observations [or *advice*, maybe then], at paragraph-[40], in *Beerwah*), be seen to be, like, entirely overcome, by the enactment of, the said Section-No. 37, of the PEC Act, then. ...

#### **Endnote-No. 5:**

So, beginning, where I sort of, left off, in about the middle, of the very **Endnote-No. 4**, above, herein<sup>37</sup>, saying then, that;

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<sup>37</sup> and see, also then, at the conclusion to, the **Endnote-No. 3**, above, herein. ...

... the truth is, that, with all due respect, and whilst, moreover then, I'm not convinced, myself, that, as Rackemann DCJ proposes, in the very footnote-No. 6, to paragraph-[38], in the report of *Beerwah*, the legislature might have acted to further *broaden the scope of the power and to remove constraints*, in enacting the preceding<sup>38</sup> Section-No. 440, of the *Sustainable Planning Act 2009* (Qld) [the SPA], *including those which the Court of Appeal found to be inherent in its immediate predecessor*<sup>39</sup>, in the very case of, *Metrostar Pty Ltd v Gold Coast City Council* [2007] 2 Qd R 45 (*Metrostar*}, in particular, at any rate... ;

well, whilst;

1. firstly, I would only hasten to note, with all due respect, to the effect of that, in the context of, the very immediately preceding words, in the text, in the said paragraph-[38], Rackemann DCJ, was merely proposing, his own opinions, that the very cases cited, in the said footnote-No. 6, might have been the intended targets, of the said amendments<sup>40</sup>, and be that as it may, what is more then<sup>41</sup>, there does not appear have been, any express, nor even necessarily implied, references, in the very explanatory notes<sup>42</sup>, to the Sustainable Planning Bill 2009 (which was ultimately enacted to become the SPA), to the said cases<sup>43</sup>, cited at the said footnote-No. 6, for, all, that the said notes, provided, in point, were far more generalised references, such as<sup>44</sup>, e.g. at page-No. 229, the references to the old Section-No. 440, of the SPA, appeared, saying;

**“How court may deal with matters involving non-compliance**

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<sup>38</sup> i.e. to Section-No. 37, of the PEC Act.

<sup>39</sup> i.e. Section-No. 4.1.5A, of the IP Act.

<sup>40</sup> i.e. up to the very point of, the enacting of, the old Section-No. 440 etc., in the SPA.

<sup>41</sup> moreover, the exercise, overall, i.e. of purporting to give consideration for, the then, yet to be commenced provisions, of Section-No. 37, of the PEC Act, was merely a hypothetical one, at best. ...

<sup>42</sup> i.e. which were tabled, by The Hon. Stirling Hinchliffe, on the 19<sup>th</sup> of June, 2009, then.

<sup>43</sup> i.e. *Metrostar Pty Ltd v Gold Coast City Council* [2007] 2 Qd R 45, *Gold Coast City Council v Fawkes Pty Ltd* [2008] 2 Qd R 1, and, *Barro Group Pty Ltd v Redland Shire Council* [2010] 2 Qd R 206, then.

<sup>44</sup> i.e. as I'll just go on to outline, with underlines added, for emphasis-or particular note-then.



Clause 440 provides the court with broad discretionary powers to relieve against any non-compliance, partial non-compliance or non-fulfilment of any provision of the Bill.”; and;

continued then, at page-No. 230, saying;

“This clause enables the court to give relief in response to proceedings commenced for that purpose or in the context of other proceedings; and to give that relief notwithstanding any other provision of the Bill, including provisions which would otherwise provide that an application had lapsed.

The purpose of this clause is to ensure a person’s rights to hearings are not compromised on the basis of technicalities concerning processes. The term “provision” is intended to be interpreted broadly and is not limited to circumstances where there is a positive obligation to take a particular action.

The court’s power is not restricted to proceedings before it. This allows access to the court for declarations and orders about procedural disputes which do not form part of wider proceedings.

Subclause (3) makes it clear that the clause applies in relation to a development application which has lapsed or is not a properly made application.”<sup>45</sup>; and;

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<sup>45</sup> and whilst, clearly, the latter comment, about the said subsection-(3) then, is apparently, albeit, in such general terms then, directed at, things like, the said cases *Fawkes* (and those, other cases, e.g. *Chang*, relied upon, therein) and *Barro*, or even *Lamb* (which, I’ll just hasten to note, Rackemann DCJ did not so reference, expressly, anyhow, although, I hasten to add, that, like *Maher*, *Lamb* seems to have only been made *per incuriam* , and, likely then, wasn’t so much, in the legislator’s sights [so to speak], anyhow), moreover, even *Metrostar* might-conceivably (and, in part then, at any rate) anyhow-be seen to be caught, by the preceding reference, to *where there is a positive obligation to take a particular action*, well, *Ramsgrove*, is not necessarily, at issue then; moreover; like I say, these supposed changes, do not set aside, the fundamental common law principles, of statutory interpretation, and/or, the basic logic, and reasonings, underpinning the said cases [of e.g. *Barro*, *Chang*, *Lamb*, and, *Fawkes*], but merely, change the legislative policy, itself, to the extent that, provides additional powers, for the P&E Court, to kind of move things along, regardless, in particular instances then (which, by the bye, may-or may not-have certain implications, insofar as, arguments about *the institutional integrity* {cf. the so-called *Kable* principle,

further, at page-No. 370;

**“Proceedings for particular declarations and appeals**

**Clause 820:** Subclauses (1) and (3) are intended to give the Planning and Environment Court the same broad excusatory power, in relation to transitional issues, as clause 440.”; moreover;

in case you’re just wondering then, at page-No. 155, the said notes said;

**“Assessment manager may assess and decide application if some requirements not complied with**

**Clause 304** provides discretion for an assessment manager to assess and decide a development application even if there has not been full compliance with the requirements of this division. The assessment manager may only exercise that discretion if the assessment manager considers the non-compliance has not:

- adversely affected the awareness of the public of the existence and nature of the application; or
- restricted the opportunity of the public to make submissions during the notification period.”; that is;

continuing, at page-No. 156, then, with;

**“The notification requirements are detailed and prescriptive. It is considered that unnecessary and costly litigation could result from**

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summarised, at about paragraphs-[122]-through to-[135] in *Assistant Commissioner Michael James Condon v Pompano Pty Ltd* [2013] HCA 7}, of the very District Court, itself, may be concerned, I only have to add, in the very public interest, and, of course, with all due respect then, but... well, that’s another matter then, I guess).

technical non-compliances even though no one has been adversely affected by the non-compliance.

*Example - The notices published in the newspaper and sent to adjoining owners correctly showed the property description of the land, but the notice placed on the land contained an error in the description. In this case, the assessment manager might consider exercising the given discretion because the sign was located on the correct land, all other notices were correct and the application clearly applied to the land on which the notice was erected.*

Subclause (2) makes it clear that, unless a lapsed application is revived, the assessment manager cannot assess and decide that application.”;

whereas, whilst, as I say, such sorts of provisions, have now been removed, altogether, from the legislation, as you would no doubt only reasonably appreciate, yourself then, ma’am, even, those latter said references, in the notes to the SPA, did not make any express reference to, an assessment manager being empowered to, sort of carry on, with *business as usual* (as they say)-or as if then (anyhow), wherein, there had been, a failure to comply with, the very Section-No. 298, of the SPA, i.e. setting out the notification periods-for applications thereunder then<sup>46</sup>;

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<sup>46</sup> Cf. then, at page-No. 151, of the said notes, wherein, in relation to, the then IDAS-process (i.e. under the SPA), it was said, further;

**“Part 4 Notification stage  
Division 1 Preliminary  
Purpose of notification stage**

**Clause 294** describes the purpose of the notification stage. Public notification under this part gives a person the opportunity to make submissions about a development application, and also secures for that person the right of appeal to the court about the assessment manager’s decision.

Public involvement in the planning and development assessment system is an essential component of the system.

The Bill provides many opportunities for public involvement in the overall system. For example, the processes for making planning instruments include opportunities for public involvement in framing these policy and regulatory instruments.

2. secondly then, similarly, the provisions of, the former Section-No. 3.4.4, of the IP Act, provided, expressly, for how notices were to be given, for the purposes of

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This part sets out the requirements for formal public notification in relation to development applications. IDAS has been designed to reflect this high level of public involvement in planning and development assessment.”; and;

further, at page-No.152;

“Applications that are specified to require assessment of the environmental effects of the development (i.e. impact assessments) require public notification.”; and;

also, at page-No. 153;

**“Applicant or assessment manager to give public notice of application**

Clause 297 describes the requirements for public notification. In the interests of consistency and certainty, the requirements are prescriptive.

Provision is made for the assessment manager to carry out the notification on behalf of the applicant.

For the purposes of subclause (1)(c) (giving notices to adjoining owners), the term owner is defined. It is a more specific definition that overcomes potential uncertainties regarding who is an adjoining owner in certain situations, particularly situations where there are complex titling and ownership arrangements in place.

The applicant or, with the applicant’s agreement, the assessment manager, must carry out the notification. If the assessment manager carries out the notification for the applicant, the assessment manager may require the applicant to pay a fee.

#### **Notification period for applications**

Clause 298 specifies the notification period. Generally, it must be at least 15 business days. However, the notification period must be at least 30 business days if any of the following apply:

- there are 3 or more concurrence agencies;
- all or part of the development is assessable under a planning scheme and is prescribed under a regulation;
- all or part of the development is the subject of an application for a preliminary approval mentioned in clause 242.

The notification period does not include the period immediately before and after Christmas to overcome any reduced effectiveness which may result from notification over this significant holiday period.”; and;

it is of particular note then, how, whilst, the word of, *prescriptive* (i.e. as similarly employed, in the said discussion about, Section-No. 304, of the SPA, at page-No, 156 of the said notes, which, whilst not necessarily conclusive then, obviously, to some extent, anyway, would be somewhat informative of, the very scope of the powers, granted to the P&E Court, itself, under Section-No. 440 etc. ...), well, otherwise, it is only used, in reference to, Section-No. 297, of the SPA. then, and, that is to say, the literally provided for, specific requirements, for the notification periods, are set down, separately, in the Section-No. 298, then, you see, ma’am!?! ...



publicly notifying development applications, whilst, those of, the former Section-No. 3.4.5, thereof, explicitly provided for, the minimum notification periods, in respect of such matters, and, whereas, at page-No. 108, of the explanatory notes, to the Integrated Planning Bill 1997 (i.e. which were tabled, by the then Minister for Local Government and Planning, Di McCauley, on the 30/10/97), it was said;

#### **“Notification period for applications**

*Clause 3.4.5* specifies the “notification period”. It must be not less than 15 business days and it does not include the period immediately before and after Christmas. The latter requirement has been included to overcome any reduced effectiveness which may result from notification over this significant holiday period.”; and;

at page-No. 107, it was said;

#### **“Public notice of applications to be given**

*Clause 3.4.4* describes the requirements for public notification. In the interests of consistency and certainty, the requirements are prescriptive.”;

whilst, the only other reference, to the term of *prescriptive*, therein, was, in relation to *a measure of discretion for an assessment manager* to waive non-compliance with the *division*-of the legislation-concerned, overall then, at the bottom of page-No. 108-over to-the top of page-No. 109, therein, saying;

#### **“Circumstances when applications may be assessed and decided without certain requirements**

*Clause 3.4.8* provides a measure of discretion for an assessment manager to assess and decide a development application even if there has not been full compliance with the requirements of this division. The assessment manager may



only exercise that discretion if the assessment manager considers the noncompliance has not:

- adversely affected the awareness of the public of the existence and nature of the application; or
- restricted the opportunity of the public to make a submission during the notification period.

The notification requirements are detailed and prescriptive. It is considered that unnecessary and costly litigation could result from technical noncompliances even though no one has been adversely affected by the noncompliance. An example of such a noncompliance might include a situation where the notices published in the newspaper and sent to adjoining owners correctly showed the property description of the land, but the notice placed on the land contained an error in the description. In this case, the assessment manager might consider exercising the given discretion because the sign was located on the correct land, all other notices were correct and the application clearly applied to the land on which the notice was erected.”; and;

what is more;

3. even when the *Integrated Planning and Other Legislation Amendment Act 2001* (Qld) [the IPOLA Act] later replaced the said Section-No. 4.1.53, with, the (sort of revamped then) Section-No. 4.1.5A<sup>47</sup>, whilst, at page-No. 3, of the explanatory notes, thereto<sup>48</sup>, under the heading of, ***Adverse effect on rights and liberties (including retrospective application)***, it was said;

“Many provisions in the Bill are designed to clarify and enhance the rights and liberties of individuals. Examples include: ...”;

before continuing on, in the very third dot-point, at page-No. 4 then, saying;

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<sup>47</sup> i.e. with *Fawkes, Chang, Barro, Lamb*, etc., coming later then. ...

<sup>48</sup> i.e. tabled, by the Hon. Nita Cunningham, on 28/11/2001.

“The powers of the Planning and Environment Court to make findings of substantial compliance with procedures have been expanded to apply to all proceedings, instead of only appeal proceedings (section 4.1.5A). This will ensure person’s rights to hearings are not compromised on the basis of technicalities concerning processes.”;

while, moreover, at page-No. 79, it was said;

**“New section 4.1.5A (How court may deal with matters involving substantial compliance)**

*Clause 28* inserts new section 4.1.5A to provide the Court with the power to deal with any proceeding before it, if the Court is satisfied there has been substantial compliance with procedural requirements.

In particular, the Court may have before it an appeal about a development decision and may become aware that some procedural requirement for the application has not been complied with, for example, the proponent may have failed to comply in some respect with the public notification requirements of IDAS. Provided the Court is satisfied that despite any failure in compliance, the public has been made sufficiently aware of the existence and nature of the proposed development and has had the opportunity to make submissions, the Court may proceed to decide the appeal.”

moreover, for what it might be worth then, under the heading of, ***Amendment of s 4.1.52 (Appeal by way of hearing anew)***, at Page-No. 86, the said notes added;

“*Clause 42* omits s 4.1.53. The effect of this section has been effectively replaced and superseded by the more general power under section 4.1.5A which allows the Court to deal with any matter of non-compliance, including in an appeal, if the Court is satisfied no persons rights have been compromised.”; and;

well, so, whilst, that, is all, obviously, somewhat anyhow, to be informed by, the-(as I say) somewhat so restricted<sup>49</sup>-powers of assessment managers, again, there's no explicit mention of, power to excuse failures (i.e. no matter what) to satisfy the minimum notification requirements, of the then Section-No. 3.4.5, of the IP Act<sup>50</sup>, and, well, at all events, on the basis of the reasonings in *Maher*, similarly, whilst the said notes may be excluded, and, the amended provisions, only, literally said, what they said, which has been ruled upon in the said cases<sup>51</sup>, while, I'm not aware, myself, of any cases, of any great substance anyhow, that were taken, to the P&E Court, let alone the Court of Appeal then, in the interim<sup>52</sup>, i.e. between the enactment of the SPA, and now, as regards,

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<sup>49</sup> i.e. apparently, not so as to include, power to waive non-compliance. with the then Section-No. 3.4.5, of the IP Act. ...

<sup>50</sup> see also, in the second line, at the top of page-No. 3934, of the Queensland HANSARD, of the 28<sup>th</sup> of November, 2001, wherein, in her maiden speech, to the Bill, which ultimately became, the IPOLA Act, the then Minister for Local Government and Planning, the Hon. J. I. Cunningham, merely referred to, how  
 “The bill includes several minor changes to enhance the clarity and efficiency of dispute resolution processes. For example, the powers of the planning and environment court to excuse minor non-compliance with procedures has been expanded to apply to all proceedings under chapter 4 of the IPA, not merely appeals. (underline added, for emphasis, accordingly then)”.

<sup>51</sup> e.g. *Fawkes, Chang, Barro, Lamb*, etc., coming later then. ...

<sup>52</sup> well, the latter, anyway, whereas, whilst, as I say, such would only seem to be practically set aside (as once were precedents) now (see, the mentions of same, in the **Endnote-No. 3**, above, herein), just quickly, for what the very exercise, of it all, might just be worth, and, naturally, only with all due respect, then, I might refer to, the very matters of;

1. *MLJ Accommodation Pty Ltd v Gladstone Regional Council* [2012] QPEC 79, i.e. which, whilst seemingly only erroneously (or *per incuriam* then) relied upon, in *Townsville City Council v Queenston Pty Ltd; Townsville CC v Lautaret Pty Ltd* [2017] QPEC 68, was;
  - (a) notably, somewhat rushed and confused, being only-purportedly decided-*ex tempore*, apparently at very short notice, with the orders-purportedly made-by consent, then; and what is more;
  - (b) there was apparently, no conclusion to the matter, afterwards-or none that I could find (online anyhow)-with the matter apparently having never gone any further then; whereas;
  - (c) according to the third order, so purportedly made therein, the appeal was listed for review, on the 14<sup>th</sup> of December, 2012, however, it seems to have only merely disappeared-from the courts' lists, altogether then;
2. *Multus v Rockhampton Regional Council* [2013] QPELR 301; [2012] QPEC 85, i.e. in which;
  - (a) well, whilst contrary to, the sorts of implications in, things like, the comment in the conclusion to the said paragraph-[81] in *Forrest & Forrest Pty Ltd v Wilson* [2017] HCA 30, Long SC DCJ, seems to have kind of descended into the arena, in *Multus v RRC*, as if to act as, some kind of apologist for, both, the proponent/applicant (Multus P/L), and/or, the very legislator (i.e. raising further questions then, as regards, the constitutionality of, the delegation of legislative powers...), insomuch as, that, he appears to have purported to practically excuse, everything and anything, in a great sort of saga-or a veritably long list of breaches of the very ordinary statutory requirements then; and;
  - (a) whilst, similarly, these were consent orders, more importantly, there is really, no way of knowing, if there might, otherwise have been, other objectors (see at paragraph-No. 180, of Spigelman CJ's judgment, delivered on behalf of the entire Court, in *Smith v Wyong Shire Council* [2003] NSWCA 322, wherein, quoting from Stein J, out of, *Curac v Shoalhaven City Council* 81 LGERA 124, it was reiterated;



any dispute, about the length of a notification period<sup>53</sup>, under the legislation (i.e. the SPA or the Act), moreover, as I say, the introduction of, Section-No. 37, of the PEC Act, did not, itself, seem to address, nor be impliedly directed at such matters, well, arguably anyhow, it only seems to logically follow, then, to the very effect of that, there was, no existing power, as such, of like nature, to be expanded upon, or even merely carried over, therein, you see, ma'am? ...

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“The problem for the respondents on the issue of discretion is that while they can point to a lack of prejudice to the applicant, and many others, caused by the breach, they cannot be sure that some members of the public would not have come forward with objections if there had been compliance with the requirements of the statute. One will never know. As Mr Maston, appearing on behalf of the applicant, submits, it is the rights of the unknown objectors which the applicant presses. (underline added)”; moreover;

- (b) this matter was purportedly decided under, the now defunct provisions, of Section-No. 820, i.e. somewhat distinguished then, even from, those of, Section-No. 440, of the SPA (see at, paragraphs-[50]-and-[51]-and also-[53], in the report, not to mention, how, the cases, relied upon in, the very footnote-No. 60, thereto, like I say [see in the **Endnote-No. 3**, above, herein, then], have apparently already been set aside, by subsequent legislative developments, now); and finally;
- 3. *Warner Village Pty Ltd v Moreton Bay Regional Council* (No 2) [2014] QPELR 1; [2013] QPEC 74, i.e. in which;
  - (a) while it seems to have been, only a, kind of blasé decision, itself, i.e. ‘without reference to *Maher*, and what is more, with little-or no-regard for e.g. what Rackemann DCJ said, at paragraph-[39], in *Beerwah* (and see, also, paragraph-[40], thereof, then), i.e. obviously intimating, to the every effect of that, no discretion, is ever fully *unfettered* then; well
  - (b) e.g. whatever happened to, *Pioneer Concrete*, and, *Scurr*, etc., then!?!

<sup>53</sup> or, for that matter, even said the said provisions of, clause-(a), of subsection-(1), moreover, clause-(c), of subsection-(5), of Section-No. 264, of the Act (etc.).

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## Attachment C – Detailed Assessment

### Assessment Summary

Based on the assessment of the development application, Council officers have determined that the proposed development can comply or can be conditioned to comply with the assessment benchmarks relevant to the assessment.

### Detailed Assessment

The timeframes for assessing and deciding applications is set in the *Planning Act 2016* and *Development Assessment Rules* (s.60 and 61(3)). A day referred to in the timeframe below means a business day as defined by the *Planning Act 2016*.

The assessment timeframes applicable to this application are as follows:

ASSESSMENT TIMEFRAMES			
Application Process		Timeframe	Date
1.0	Application lodged with Council (properly made)		5 April 2022
1.1	Action Notice issued	5 days (from 1.0)	Not applicable
1.2	Confirmation Notice issued	10 days (from 1.0)	20 April 2022
2.0	Application referred (properly referred)	10 days (from 1.2)	Not applicable
2.1	Referral agency response	25 days (from 2.0)	Not applicable
3.0	Council Information Request	10 days (from 1.2)	3 May 2022
3.1	Extension of Time for Information Request		Not applicable
3.2	Further Extension of Time for Information Request		30 September 2022
3.3	Response to Information Request	3 months (from 3.2)	26 August 2022 (received)
4.0	Public Notification commences	20 days (from 3.3)	26 September 2022
4.1	Public Notification completed	Min. 15 business days	18 October 2022
4.2	Consider submissions	10 days (from 4.1)	19 October 2022
5.0	Further Advice Request		Not applicable
5.1	Response to Further Advice Request		Not applicable
6.0	Decision making period starts	1 day (after last applicable)	19 October 2022
	Council Meeting		22 November 2022
6.1	Decision making period ends	35 days (minus up to 10 days from 3.0)	23 November 2022
6.2	Issue Decision Notice	5 days (after decision is made)	30 November 2022

## Attachment C – Detailed Assessment

### Level of Assessment

The development proposal is assessable under the *Burdekin Shire IPA Planning Scheme* (the planning scheme) in accordance with Section 43 (1) of the *Planning Act 2016*. The Assessment Manager is the Burdekin Shire Council as determined by Schedule 8 of the *Planning Regulation 2017*. In accordance with the planning scheme, the Material Change of Use application was subject to impact assessment.

Council, as the Assessment Manager, has undertaken assessment of the application against the planning scheme making the decision pursuant to s. 60 of the *Planning Act 2016*, as outlined in s. 45 (3) and s.26 to 28 of the *Planning Regulations 2017*.

Assessment against the relevant provisions of the planning scheme has been undertaken:

Development	Zone	Overlays	Assessment Benchmarks
Material Change of Use – Mental Health Hub (Community Facility)	Residential (Low Density Sub Area)	The following overlays are applicable to the assessment of the proposed development: <ul style="list-style-type: none"><li>• Natural Features or Resources Overlay Code (Drainage Problem Area)</li></ul>	The following assessment benchmarks are applicable in the assessment of the development application: <ul style="list-style-type: none"><li>• Strategic Framework</li><li>• Desired Environmental Outcomes</li><li>• Residential Zone Code</li><li>• Flooding (Drainage Problem Areas) and Coastal Processes Code</li><li>• Schedule 2 – Vehicle Parking Rates and Standards</li></ul>

ASSESSMENT		
Benchmark	Purpose	Assessment
Strategic Framework	The strategic framework sets the policy direction for the planning scheme and forms the basis for ensuring appropriate development occurs in the planning scheme area for the life of the planning scheme.	The proposed development is considered to be consistent with the overall intent of the Strategic Framework and its strategies, despite being a non-residential use located within a residential zoning, as: <ul style="list-style-type: none"><li>▪ It is to be located on a site and within an</li></ul>

ASSESSMENT		
Benchmark	Purpose	Assessment
MCU22/0006	<p>The strategic framework forms part of the criteria for impact assessable development and is structured in a way that:</p> <ul style="list-style-type: none"> <li>Establishes the broad context and strategies by which sustainable growth in the Burdekin Shire shall occur.</li> <li>Outlines three strategies that collectively represent the policy intent of the scheme, including <ol style="list-style-type: none"> <li>Flooding and Coastal Processes</li> <li>Integrated Catchment Management; and</li> <li>Land and Water Management.</li> </ol> </li> <li>The specific outcomes sought for each, or a number of, these strategies.</li> </ul>	<p>existing building that has historically been used for a non-residential, community purpose and activities.</p> <ul style="list-style-type: none"> <li>It can be managed and operated in a way that does not adversely impact on the surrounding residential uses.</li> <li>It provides sufficient onsite car parking and manoeuvring areas considered to maintain the safe and efficient operation of the surrounding road network.</li> </ul> <p>It is noted that the scheme may consider non-residential development in the residential zone.</p> <p>The proposed development can be conditioned accordingly to ensure any non-residential use is managed appropriately and compliance with the outcomes sought by the strategic framework is achieved to ensure that the residential amenity of the existing surrounding areas is appropriately maintained.</p> <p>Further given the proposed use is expected to provide a community service (as purported by the applicant) that is to be a direct social benefit for the Burdekin community in providing a preeminent mental health support service in a location that is highly accessible and in a building that is relatively suitable and readily available now, is considered to support the positive</p>

ASSESSMENT		
Benchmark	Purpose	Assessment
		<p>consideration of a non-residential use in the residential zone in this circumstance.</p> <p>The use in this location is not expected to adversely impact upon any Flooding and Coastal Processes, Integrated Catchment Management and Land and Water Management.</p>
Desired Environmental Outcomes	<p>The Desired Environmental Outcomes are the basis for the measures of the planning scheme, and are structured in a way that:</p> <ul style="list-style-type: none"> <li>▪ Outlines the four (4) outcomes sought, including: <ul style="list-style-type: none"> <li>(a) Economic Development</li> <li>(b) Biodiversity and Conservation Areas</li> <li>(c) Urban Development and Infrastructure</li> <li>(d) Community Wellbeing</li> </ul> </li> <li>▪ Outlines the elements that refine and further describe the desired environmental outcomes</li> </ul>	<p>The proposed development is considered to be consistent with Desired Environmental Outcomes, in particular, Outcomes (a) Economic Development and (d) Community Wellbeing, noting that:</p> <ul style="list-style-type: none"> <li>▪ The proposed use is expected to provide a community service (as purported by the applicant) that is to be a direct social benefit for the Burdekin community in providing a preeminent mental health support service in a location that is highly accessible and in a building that is relatively suitable and readily available now.</li> </ul>
	<b>APPLICABLE ASSESSMENT BENCHMARKS</b>	
<b>Residential Zone Code</b>	outcomes.	
<ol style="list-style-type: none"> <li>1. The overall outcomes are the purpose of the Residential Zone code.</li> <li>2. The overall outcomes sought for the Residential Zone code are the following:</li> </ol>		

- (i) A range of housing types are available to meet community needs including accommodation buildings, dwelling houses, dual occupancies, duplex units, multiple unit development, caravan parks, relative's apartment and retirement villages;
- (ii) The design and siting of housing considers the location, flood potential, the surrounding land uses and the intensity of the proposed use;
- (iii) Development does not negatively impact on the amenity of the area in which it is situated and promotes high levels of physical amenity, visual character and safety;
- (iv) Incorporates landscaping which provides shade, enhances the appearance of any development and effectively buffers incompatible development;
- (v) Residential development is protected from intrusion by other incompatible, non-residential uses;
- (vi) The convenience, privacy and safety of all residential activities is protected; and
- (vii) The function of the rail, state-controlled road and heavy vehicle by-pass corridor is protected. Noise sensitive development in proximity to these corridors is located or designed to reduce the infiltration of noise emissions.

**Officers Comment**

The overall outcomes sought for the Residential Zone code relevant to this development application given it is a non-residential use, are the following:

*(xii) Development does not negatively impact on the amenity of the area in which it is situated and promotes high levels of physical amenity, visual character and safety;*

*(xiv) Residential development is protected from intrusion by other incompatible, non-residential uses;*

As impact assessable developments are individually assessed on their own merits in addition to relevant benchmarks, in particular, it is noted that the proposed development:

- is to be located on a site and within an existing building that has been used historically for a non-residential, community purpose and activities.
- can be managed and operated in a way that does not adversely impact on the surrounding residential uses.
- provides sufficient on-site car parking and manoeuvring areas considered to maintain the safe and efficient operation of the surrounding road network and will be conditioned accordingly to ensure compliance.

Further given the proposed use is expected to provide a community service (as purported by the applicant) that is to be a direct social benefit for the Burdekin community in providing a preeminent mental health support service in a location that is highly accessible and in a building that is relatively suitable



and readily available now, this is considered to support the positive consideration of a non-residential use in the residential zone in this circumstance.

Specific assessment against the relevant provisions of the Residential Zone Code is provided below:

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
<b><i>Building Siting and Design</i></b>		
Building design for residential buildings and siting maintains the residential amenity and safety of the area in which it is located.	Residential buildings do not exceed the site coverage thresholds of 50%.	<p>Not applicable but considered to comply.</p> <p>While the building is not for residential purposes, it is existing and with the new class 10a shed built taken into consideration, the site coverage still does not exceed 50%.</p>
<b><i>Site Areas</i></b>		
Residential buildings are provided with suitable site areas capable of accommodating the proposed use.	Residential buildings have a minimum site area in accordance with Table 19.1.	<p>Not applicable.</p> <p>While the building is not for residential purposes, it complies with the minimum lot size and frontages required for both a commercial and a residential premises in a residential zone.</p>
<b><i>Infrastructure Provision</i></b>		
Premises have an appropriate level of infrastructure for the efficient functioning of the use while not impacting on adjoining land uses or the environment.	<p>Premises are connected to a reticulated water supply or a reliable supply of potable water.</p> <p>Premises are either-</p> <p>a) Connected to reticulated sewerage system where one exists in the locality of the site; or</p> <p>b) Provided with an onsite sewerage treatment</p>	<p>Considered to comply.</p> <p>The site currently serviced by Council's reticulated infrastructure network for water and sewerage.</p> <p>The engineering services report supplied for the</p>

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
	and disposal system. The premises has frontage to a sealed road.	application provides that the existing infrastructure is adequate to service the proposed development with no increased demand.
<b>Development of small lots</b>		
Small lot development preserves existing residential amenity.	Development on lots of less than 700m <sup>2</sup> is in accordance with Part 4 – Subdivision of the Queensland Residential Design Guidelines (QRDG), having regard to the scale and intensity of the proposal.	Not applicable, as the subject site is over 700m <sup>2</sup> .
<b>Lighting Nuisance</b>		
The operation of the activity does not cause undue disturbance to any person or activity because of the light it emits.	The vertical illumination resulting from direct, reflected or incidental light coming from a site does not exceed 8 lux when measured at any point 1.5m outside of the boundary of the property at any level from ground level up.	Can be conditioned to comply.  Any development approval will be conditioned to comply in this regard.
<b>Site Density</b>		
Residential buildings are provided at suitable site densities in keeping with the character of the locality.	Residential buildings have maximum site densities in accordance with the following – a) Low Density Residential Sub-Area - 80 persons per hectare of site area based upon the occupancy rate specified below in Table 2.1; and Residential Zone - 180 persons per hectare of site area based upon the occupancy rates specified	Not applicable as the use is non-residential nor is the building residential in nature.

Assessable Development		
Specific Outcomes	Acceptable Solutions	Comment
	below in Table 2.1	
<b><i>Building Siting, Form and Design</i></b>		
To maintain privacy, sunlight and breezes to adjoining properties, residential buildings are set back from side and rear boundaries in proportion to the height of the building.	None specified.	<p>Considered to comply, as no new buildings are required as part of this approval.</p> <p>A new class 10a shed that will be associated with this use has already been approved and this matter addressed as part of the building application.</p>
Residential buildings achieve an adequate level of privacy for inhabitants and neighbours.	<p>The habitable rooms and balconies of residential buildings (except dwelling house) do not overlook a habitable room or private open space of an adjoining dwelling unit or are screened to prevent the loss of privacy.</p> <p>Residential buildings (except dwelling house) are provided with a screen fence on the side and rear boundaries of at least 1.8m in height, which does not impede the free flow of flood waters.</p>	<p>Not applicable.</p> <p>However, any development approval will be conditioned to comply to ensure an adequate level of privacy and the existing residential amenity of the surrounding area is achieved and maintained.</p>
Noise sensitive development in proximity to the rail, state-controlled roads and heavy vehicle bypass corridor is located or designed to reduce the infiltration of noise emissions.	Noise sensitive development is sited 80m away from the common property boundary of any residential zoned land and rail, state controlled road and heavy vehicle bypass corridor.	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
Residential development abutting existing rural land must demonstrate how the proposal will have adequate separation or buffers from agricultural land uses to avoid adverse environmental effects from spray drift, dust, noise and odours.	Appropriate buffering or separation distances are provided in accordance with the <i>Guidelines for Separating Agricultural and Residential land uses</i> .	Not applicable.
<b>Landscaping and Recreation Areas</b>		
Landscaping and recreation space is provided on the premises, other than for dwelling houses, and is at an appropriate scale relative to the street and the height and bulk of buildings and structures on site.	Each Dwelling unit provides – a) 30m <sup>2</sup> landscaped area per bedroom with at least 40% of the total space in one useable parcel being not less than 5m in width; and b) a 2m wide landscape strip or fencing of 1.8m in height to side and rear boundaries to block views of and from adjoining uses.	Not applicable in terms of providing recreational areas however the provision of suitable landscaping is applicable, and it is considered the development can be conditioned to comply in this regard.  Any development approval will be conditioned to comply with respect to landscaping.
<b>Car Parking and Access</b>		
All vehicles will be able to access the site in a safe and efficient manner.	Car parking areas for residents and visitors are provided in accordance with Schedule 2 – Vehicle parking Rates and Standards.	Considered to comply.  Any development approval will be conditioned to comply in this regard.  The parking assessment supplied as part of the Traffic Impact Assessment prepared by Langtree Consulting Engineers on behalf of the applicant,

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
		provides that the 14 car spaces provided on site will satisfy the parking demand generated by the use.
<b><i>Air Quality Maintenance</i></b>		
<p>All activities maintain the air quality and consequently, public health standards, including –</p> <ul style="list-style-type: none"> <li>a) minimising emission and odour levels; and</li> <li>b) preventing the generation of dust.</li> </ul>	<p>Activities are provided with –</p> <ul style="list-style-type: none"> <li>a) adequate physical measures for removing pollutants from emissions prior to discharge to the atmosphere;</li> <li>b) adequate physical measures for reducing the temperature gradient between emissions and the atmosphere prior to discharge; and</li> </ul> <p>effective operational systems, including monitoring systems for industry, which maintain emissions within ANZECC guideline standards.</p>	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>
<b><i>Sediment and Erosion Control</i></b>		
<p>Development prevents erosion occurring on the site or to allow sediments to leave the site.</p>	<p>Development incorporates soil erosion and sedimentation management by:</p> <ul style="list-style-type: none"> <li>a) avoiding extensive land clearing and earthworks of land with a slope steeper than 15% (or 1:5);</li> <li>b) minimising the extent of disturbance on slopes steeper than 10% (1:10); and</li> <li>c) managing and controlling surface drainage by using natural flow paths wherever possible; and</li> </ul> <p>incorporating sediment traps to prevent the movement of sediment off site.</p>	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>



<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
<b><i>Liquid Waste Management</i></b>		
<p>All premises make adequate provision for stormwater and liquid wastes to be managed so that the –</p> <ul style="list-style-type: none"> <li>a) environmental values of surface and ground water resources are not diminished; and</li> <li>b) health and wellbeing of the Shire's residents is maintained.</li> </ul>	<p>All liquid wastes are contained and discharged to a sewer or removed from the site for treatment and disposal to an approved facility.</p>	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>
<b><i>Energy Efficiency</i></b>		
<p>Buildings are designed and sited to:</p> <ul style="list-style-type: none"> <li>a) maximise indoor climatic comfort;</li> <li>b) minimise energy requirements for cooling during the summer months by minimising the need for air-conditioning;</li> <li>c) have adequate access to breezes and daylight in habitable rooms;</li> <li>d) incorporate lighting to meet usage requirements while minimising energy usage; and</li> <li>e) minimise the climatic environmental impact on adjoining properties.</li> </ul>	<p>Where possible, private open space and habitable rooms have a northerly aspect.</p> <p>East-west facing windows of habitable rooms are shaded by awnings, projections, solar window film, adjustable external opaque louvres or roller blinds.</p> <p>Buildings do not cast a shadow over an adjoining residential lot between the hours of 9am and 3pm on the 22 June.</p>	<p>Not applicable as the building is existing.</p> <p>However energy efficiency provisions may form part of the design considerations when the application for change of classification for the use of the building is submitted to Council for assessment.</p>
<b><i>Water Quality Maintenance</i></b>		

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
All activities maintain the water quality of Burdekin Shire's groundwater, waterways and surface water storages.	Premises: a) with activities which involve the handling of water-borne pollutants are provided with bunded, impervious surfaces linked to an integrated drainage and treatment system; b) with activities which involve the storage of wastewater are provided with properly designed and constructed, secure, sealed storage facilities; and contain all liquid wastes and discharge them to a sewer or removed from the site for treatment and disposal to an approved facility.	Can be conditioned to comply.  Any development approval will be conditioned to comply in this regard.

**APPLICABLE ASSESSMENT BENCHMARKS**
**Flooding (drainage problem areas) and Coastal Processes code**

1. The overall outcomes are the purpose of the Flooding (drainage problem areas) and Coastal Processes code.
2. The overall outcomes sought for the Flooding (drainage problem areas) and Coastal Processes code is the following:
  - (a) minimise damage, risk and loss to property due to inundation by storm surge, tidal surge or floodwaters upon new development in the Shire;
  - (b) restrict development in drainage problem areas and other identified flood prone areas.
  - (c) restrict development encroaching into the flood plain; and
  - (d) provide a clear corridor for the conveyance of floodwaters.

**Officers Comment**

The site is mapped as being within a Flooding (drainage problem area).

Design officers have considered and assessed the proposed use in this location. Given the site of the subject site and that there are no new habitable buildings or fill proposed as part of this development application, the officers do not consider the use will have a net worsening affect or adversely affect flood levels or flows on the site, upstream and downstream of the site. i.e. no net loss in flood storage or increase in flood levels is expected as a result of the use.

Further the existing location of the access to the premises is considered to be able to provide appropriate immunity for the uses of the site, should a flood event occur over the site.

Given this, no further assessment against the provision of the Specific outcomes of the Flooding (drainage problem areas) and Coastal Processes code was considered necessary.

**APPLICABLE ASSESSMENT BENCHMARKS**
**Schedule 2 – Vehicle parking rates & standards**

Use Definitions	Minimum Car Parking Spaces Required	Additional Standards	Officers Comment
Commercial Premises - Otherwise	1 space per 50m <sup>2</sup> gross floor area	Not applicable	<p>The total floor area of the building is 380m<sup>2</sup> excluding the verandah with two doctors expected to be present at any one time.</p> <p>Given this, a minimum of five (5) spaces and six (6) spaces respectively (total of 11 spaces), is required to be provided on site in accordance with the scheme provisions.</p> <p>The parking assessment supplied as part of the Traffic Impact Assessment prepared by Langtree Consulting Engineers on behalf of the applicant, provides that the 14 car spaces provided on site will satisfy the parking demand generated by the use on site.</p>
Professional Rooms	3 spaces per practitioner		

### State Interest Considerations

An assessment against the ‘applicable’ provisions of the relevant State Interests has been undertaken as reflected below. *The State Planning Policy (SPP)* is a key component of Queensland’s planning system. The SPP (July 2017) expresses the State’s interests in land use planning and development.

The SPP has effect throughout Queensland and sits above regional plans and planning schemes in the hierarchy of planning instruments under the Act.

The SPP clearly focusses on delivery of outcomes and applies to:

- i. a local government in assessing a development application.
- ii. an assessment manager or referral agency in assessing a development application.

<b>STATE PLANNING POLICY (JULY 2017)</b>				
<b>Liveable Communities and Housing</b>	<b>Economic Growth</b>	<b>Environment and Heritage</b>	<b>Safety &amp; Resilience to Hazards</b>	<b>Infrastructure</b>
Housing supply and diversity	Agriculture	Biodiversity	Emissions and hazardous activities	Energy and water supply
<b>Liveable Communities</b>	Development and construction	Coastal environment	Natural hazards, risk and resilience	Infrastructure Integration
	Mining and extractive resources	Cultural heritage		Transport Infrastructure
	Tourism	Water quality		Strategic airports and aviation facilities
				Strategic ports

The *Burdekin Shire IPA Planning Scheme 2011* does not currently integrate the relevant State Planning Policies; however it is considered that the following are relevant to the development:

- Liveable Communities and Housing (Liveable Communities).



Despite the proposed use being a non-residential use located within a residential zoning:

- It is to be located on a site and within an existing building that has historically been used for non-residential, community purposes and activities.
- It can be managed and operated in a way that does not adversely impact on the surrounding residential uses.
- It provides sufficient on-site car parking and manoeuvring areas considered to maintain the safe and efficient operation of the surrounding road network

It is noted that the scheme may consider non-residential development in the residential zone and officers consider that the proposed development can be conditioned accordingly to ensure any non-residential use is managed appropriately and compliance with the relevant outcomes is achieved to ensure that the residential amenity of the existing surrounding areas is managed and maintained.

Further given the proposed use is expected to provide a community service (as purported by the applicant) that is to be a direct social benefit for the Burdekin community in providing a preeminent mental health support service in a location that is highly accessible and in a building that is relatively suitable and readily available now, which may support the positive consideration of a non-residential use in the residential zone in this circumstance.

The use in this location is not expected to adversely impact upon any Flooding and Coastal Processes, Integrated Catchment Management and Land and Water Management.

However for the purposes of this report and the proposed development, no further assessment of these matters is required, with all relevant matters considered to be dealt with under the provisions of the Planning scheme and all other relevant legislation and policies.

### **North Queensland Regional Plan**

*The North Queensland Regional Plan (NQRP)* establishes strategic planning framework intended to guide the region's development and grow the local economy. The NQRP introduces assessment benchmarks for the assessment of proposed development within a Priority Agriculture Area (PAA) and also applies as a 'matter to have regard to' under the *Planning Regulation 2017*, where the NQRP or aspects of the NQRP are identified as having not been appropriately integrated in a local planning instrument. The proposal is considered to be generally consistent with the relevant goals, regional outcomes and regional policies of the plan.

The proposed development is not located in a Priority Agriculture Area and therefore the Development Assessment Benchmarks for PAAs are not applicable.

### **Public Submissions**

The applicant undertook Public Notification between 19 September 2022 – 12 October 2022, being a minimum period of at least 15 business days, in accordance with the relevant requirements of the *Planning Act 2016*.

One submission was received during the notification period from Mr. Bill Tait (Jnr.) Esq, in which he appeared to query the validity of the public notice and the dates the advertising was undertaken for.

Council must consider all properly made submissions in the assessment process in accordance with the provisions of the *Planning Act 2016* and the Development Assessment Rules.

Officers provided the applicant with a copy of the submission, and they responded, advising that the development application was advertised correctly, being fifteen (15) business days.

Council is satisfied with this response and has no further comment.

### Infrastructure Charges

A Material Change of Use is a development type which triggers infrastructure charges. A Community Facility use is considered a 'Place of Assembly' use.

The adopted charge for a 'Place of Assembly' use is the charge that Council determines should apply for the use at the time of assessment, based on use and demand.

Detail of the calculated infrastructure charge is reflected hereunder:

### **Levied Charges**

<b>Development Description</b>	<b>Water Supply</b>	<b>Sewerage</b>	<b>Transport</b>	<b>Public Parks &amp; Land for Community Facilities</b>	<b>Stormwater</b>	<b>Total</b>
Commercial (Office)	\$1,296.00	\$1,296.00	\$1,368.00	\$0.00	\$3,490.00	\$7,450.00
<b>Total</b>	<b>\$1,296.00</b>	<b>\$1,296.00</b>	<b>\$1,368.00</b>	<b>\$0.00</b>	<b>\$3,490.00</b>	<b>\$7,450.00</b>

### 7.3.2. PLANNING AND DEVELOPMENT

#### MCU22/0010 - Development Application Material Change of Use for a Mechanical Workshop at 13 Ross Street, Ayr (Lot 3 on RP723877)

**File Reference:** 226

**Report Author:** Kellie Galletta, Manager Planning and Development

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

- 1.1.1: Support projects and activities to improve public safety, health, and inclusiveness through strategic partnerships.
- 1.1.2: Encourage equitable access to facilities and resources.
- 1.1.3: Provide ongoing support for art, culture, youth, seniors, and welfare activities.
- 1.1.4: Build active communities by delivering programs promoting regular physical activity and wellbeing.
- 1.2.1: Deliver regulatory and advisory programs.
- 1.2.2: Facilitate partnerships to improve community safety and wellbeing, including crime prevention initiatives.
- 1.3.1: Promote the benefits of living, working, playing, visiting, and investing in the Burdekin.
- 2.1.3: Promote opportunities and initiatives that encourage business to invest in research and diversification.
- 2.1.4: Encourage business establishment, development, and expansion.
- 2.2.1: Support business and industry networks.
- 2.3.3: Support development, value-adding, diversification, and expansion to provide a sustainable economic base.
- 2.4.1: Build relationships with educational institutions to identify gaps in skills, qualifications, and training programs valued in the Burdekin.
- 3.4.1: Support strategic projects that will contribute to liveability and economic growth in the Burdekin.
- 3.4.2: Review land supply and uses to meet community and business needs.
- 3.4.3: Design facilities that are adaptable and inclusive with consideration of the needs of all residents.
- 4.2.1: Maintain the balance between positive environmental outcomes and ongoing development.
- 4.2.5: Promote the implementation of environmental best practice by Council, residents, and business.

Burdekin Shire Council Operational Plan 2022-2023

- PD1 Ensure development approvals are fully compliant with relevant imposed development conditions.
- PD6 Facilitate pre-lodgement meetings with developers to support and encourage economic growth opportunities for the Burdekin Shire whilst balancing planning and environmental outcomes.
- PD7 Finalise adoption of new Planning Scheme.
- PD9 Ensure all new developments are assessed against provisions contained within Council's adopted Local Government Infrastructure Plan (LGIP), Planning Act 2016, Planning Scheme, legislative requirements and other relevant instruments.
- PD10 Implement the new Planning Scheme to achieve balanced environmental outcomes.

## Executive Summary

Council is in receipt of a development application, lodged by Milford Planning on behalf of applicant, John Desisto, for a Material Change of Use for a Vehicle Repair Station (Mechanic Shop) on residential zoned land described as Lot 3 on RP723877 and located at 13 Ross Street, Ayr.

The application proposes to convert an existing commercial/light industrial building to establish a mechanic shop use.

A vehicle repair station is an impact assessable development in the Residential Zone. Public Notification was undertaken, and three (3) submissions were received.

The application did not trigger referral to the North Queensland State Assessment and Referral Agency (NQSARA).

As the development application is impact assessable, Officers have assessed it on its own merits and against the relevant assessment benchmarks of the Planning Scheme and all other relevant legislation and not with standing any conflicts identified, have determined that any approval can generally comply through the use of reasonable and relevant development conditions.

## Recommendation

That Council approve the proposed Material Change of Use for a Vehicle Repair Station (Mechanic Shop) on Residential zoned land described as Lot 3 on RP723877 and located at 13 Ross Street, Ayr, subject to reasonable and relevant conditions, as included in **Attachment A**.

## Background

### Proposed Development

The proposed development is proposing to establish a small-scale mechanic shop (236m<sup>2</sup> in total gross floor area) within the vacant portion of the existing building complex that is currently used in part by Burdekin Distributors as a warehouse and for storage and packaging purposes.

The applicant has stated that the operations will be conducted by himself and one other employee (who will also assist with the administration and management of the business) and will service a limited number of vehicles per day, completing maintenance, upgrades and repairs on one (1) vehicle at a time.

The site currently has two (2) existing concrete crossovers, a formed footpath and a number of informal (unmarked) carparks.

The applicant states that Burdekin Distributors will require a minimum of two (2) spaces and that all cars being serviced at the mechanic workshop will be prebooked and worked on within the workshop, limiting the demand for dedicated car parks outside of the workshop.

The proposal plans indicate that two (2) hoists and three (3) internal vehicle spaces will be provided within the workshop area.

The proposed development is depicted in the proposal plans provided in **Attachment B**.

A Development Application for Building Works for a Change of Classification will be required to change the building class from its current Class 7 – Warehouse use to a Class 8 – Mechanical Workshop.

The applicant states that the use is expected to generate some noise however given the limited scale of the operations with only a sole mechanic using tools, they believe that the noise generated from the use will be no greater than that already experienced in the locality.

### Subject Site and Surrounding Land Uses

A locality plan is provided at **Attachment C**. The subject site is a regularly shaped lot, 794m<sup>2</sup> in area, with frontage to Ross Street. The lot is fully built to boundary and concrete sealed.



The surrounding area is a mixture of residential, commercial and industrial uses including other mechanic and automotive businesses. The wider locality includes the East Ayr Primary School and the Burdekin Catholic High School campuses to the north. The Ayr CBD is approximately 1km to the west of the subject site.

#### Infrastructure and Servicing

The site is currently serviced by Council's reticulated infrastructure network for water and sewerage.

The applicant provides that the existing infrastructure is considered adequate to meet the demands of the proposed development service, with the existing amenities currently in place to remain as is. No infrastructure charges are applicable to this development due to the building being existing (and therefore having a credit in place) with no additional demand placed on Council's network as a result of the new use.

#### Information Request

Council's assessment of the application determined that additional information was required, and an information request was issued to the applicant on the 27 July 2022. The requested information included:

1. Access, Parking and Traffic.
2. Noise Impacts.
3. Infrastructure Provision.
4. Waste Management.
5. Amended Planning Report.
6. Amended plans.

The applicant responded to this request on the 6 October 2022, providing a detailed response that allowed officers to accurately assess the development application.

#### Public Notification

The applicant undertook Public Notification between 14 October 2022 – 8 November 2022, being a minimum period of at least 15 business days, in accordance with the relevant requirements of the *Planning Act 2016*.

Three (3) submissions were received during the notification period (refer Attachment D), raising concerns with hours of operation, noise impacts, environmental concerns regarding trade waste and parking and traffic control.

The submissions were made by:

- Wassmuth Automotive – adjoining business.
- Glen and Kristy Wassmuth – adjoining landowner and operator of Wassmuth Automotive; and
- Robyn Blundell – adjoining landowner.

Council must consider all properly made submissions in the assessment process in accordance with the provisions of the *Planning Act 2016* and the Development Assessment Rules.

Officers provided the applicant with a copy of the submission and at the time of drafting this report, Council officers had not received a response from the applicant addressing the concerns raised in the submissions, though it was indicated that one was to be provided.

The concerns raised by the submitters are acknowledged by officers and the conditions of approval are recommended to include those to manage any potential for adverse impacts including those arising from traffic, noise and environmental nuisance as result of the use in this location.

### Referral Agency Response

Not applicable, as the application did not trigger referral to the North Queensland State Assessment and Referral Agency (NQSARA) under the *Planning Regulation 2017*.

### Assessment Summary

Refer to **Attachment E** for the detailed assessment.

Based on the assessment of the development application, Council officers have determined that the proposed development can comply or can be conditioned to comply with the assessment benchmarks relevant to the assessment.

### Planning Scheme Definition

The proposed mechanic shop development is considered to generally align with the current planning scheme use definition of **Vehicle Repair Station** as follows:

*Premises used for the repair of vehicles, plant and machinery, including such activities as panel beating, spray painting and the machining and reconditioning of automotive or machinery parts.*

### Residential Zone Code

The overall outcomes sought for the Residential Zone code relevant to this development application are the following:

*(xii) Development does not negatively impact on the amenity of the area in which it is situated and promotes high levels of physical amenity, visual character and safety;*

*(xiv) Residential development is protected from intrusion by other incompatible, non-residential uses;*

However impact assessable developments are individually assessed on their own merits in addition to relevant benchmarks. In particular, it should be noted that the proposed development:

- is to be located on a site and within an existing building that has been used historically for a non-residential, light industrial activity.
- can be managed and operated in a way that does not adversely impact on the surrounding uses including those residential in nature.
- Provides a use that is in keeping with the immediate surrounding uses existing along Ross Street.
- Can provide sufficient on site car parking (a minimum of three (3) on site) and manoeuvring areas that should maintain the safe and efficient operation of the surrounding road network with appropriate conditions that can be applied to ensure compliance.

### **Consultation**

All relevant Council Departments have been consulted, with comments and development conditions included as part of the recommendation.

The application was also workshopped with the Mayor and Councillors on 29 November 2022.

### **Budget & Resource Implications**

Possible legal fees associated with any Planning and Environment Court appeal.

### **Legal Authority & Implications**

A potential risk is present in that any decision made by the Assessment Manager may attract an appeal in the Planning and Environment Court.

### **Policy Implications**

Not applicable in concerning the acceptance of this report.

**Risk Implications (Strategic, Operational, Project Risks)**

Minimal organisational risk is apparent given that the recommendation has considered all relevant outcomes associated with Strategic, Operational and Project risks.

Risk has been managed by undertaking a thorough assessment against the assessment benchmarks relevant to this application and identifying conditions that should apply to the approval.

**Attachments**

1. Attachment A - Recommended Conditions
2. Attachment B - Proposal Plans
3. Attachment C - Locality Plan
4. Attachment D1 - Wassmuth Automotive Pty Ltd
5. Attachment D2
6. Attachment D3
7. Attachment E - Detailed Assessment

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<b>1 General and Administration</b> <u>Compliance with Conditions</u> 1.1 The Applicant (and any contractor, agent, employee or invitee of the applicant) is responsible for carrying out the approved development and ensuring compliance with this development approval, the conditions of the approval and the relevant requirements in accordance with: 1.1.1 The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the relevant technical reports. 1.1.2 The development must comply in full with all conditions of this approval, and is to be designed, constructed and maintained in accordance with relevant Planning Scheme requirements, Council policies, guidelines and standards (except as otherwise specified by any condition) to Council's satisfaction, and best practice engineering. 1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) of the development approval will prevail. 1.3 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied, the role of the Council may be fulfilled in whole or in part by an officer acting under appropriate delegation. <u>Works – Applicant's Responsibility/Expense</u> 1.4 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required are met by the applicant, at no cost to Council. 1.5 The applicant must repair any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may occur during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, must be repaired immediately. <u>Infrastructure Conditions</u> 1.6 All development conditions contained in this development approval relating to infrastructure under Chapter 4 of the <i>Planning Act 2016 (the Act)</i> , should be read as being non-trunk infrastructure conditioned under Section 145 of the Act, unless otherwise stated.		At all times.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing												
<b>2 Approved Plans and Documents</b> <u>Approved Plans &amp; Documents</u> 2.1 The proposed development and use of the site must be completed, comply with and maintained generally in accordance with drawings/documents identified in the table below, except as otherwise specified and/or amended by any condition of this approval. 2.2 The development must generally accord with the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines. The approved development must be completed and maintained generally in accordance with the approved drawings and documents.		At all times.												
<b>Approved Plans</b> <table border="1"> <thead> <tr> <th>Drawing/Plan Title</th><th>Number/Issue</th><th>Date</th></tr> </thead> <tbody> <tr> <td>Proposed Layout Plan</td><td>M1988-SK-04, Issue A, Sheet 1</td><td>6/10/2022</td></tr> <tr> <td>Traffic Movement, Access and Parking External Areas</td><td>M1988-SK-05, Issue B, Sheet 1</td><td>6/10/2022</td></tr> <tr> <td>Traffic Movement, Access and Parking Internal Areas</td><td>M0000-SK-05, Issue B, Sheet 1</td><td>6/10/2022</td></tr> </tbody> </table>			Drawing/Plan Title	Number/Issue	Date	Proposed Layout Plan	M1988-SK-04, Issue A, Sheet 1	6/10/2022	Traffic Movement, Access and Parking External Areas	M1988-SK-05, Issue B, Sheet 1	6/10/2022	Traffic Movement, Access and Parking Internal Areas	M0000-SK-05, Issue B, Sheet 1	6/10/2022
Drawing/Plan Title	Number/Issue	Date												
Proposed Layout Plan	M1988-SK-04, Issue A, Sheet 1	6/10/2022												
Traffic Movement, Access and Parking External Areas	M1988-SK-05, Issue B, Sheet 1	6/10/2022												
Traffic Movement, Access and Parking Internal Areas	M0000-SK-05, Issue B, Sheet 1	6/10/2022												
<b>Associated Reports</b> Development Application (including Response to Information Request) prepared by Milford Planning, dated June 2022 and 6 October 2022, respectively.														
2.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.														
<b>3 Outstanding charges</b> All rates and charges (including infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use.														
<b>4 Operation of the Use/Limitations of the Approval</b>	The development must comply with all planning scheme requirements and	At all times.												



## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p>4.1 This approval is limited to the 'Vehicle Repair Station' use as defined by Schedule 1, Division 2 – Defined Uses and Use Classes of <i>Burdekin Shire IPA Planning Scheme</i>.</p> <p>4.2 Specifically the approved use is to remain in accordance with the scale and intensity provided in the development application and as set out on the approved proposal plans listed in the table forming part of Condition 2.</p> <p>4.3 No other operations and/or activities are allowed other than that approved by this permit.</p> <p>4.4 The use may only operate between 8:00am to 5:00pm, Monday to Friday and must not operate on a Sunday or Public Holiday.</p> <p>4.5 The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.</p> <p>4.6 The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.</p>	<p>definitions as approved, and as conditioned by this Development Permit.</p>	
<p><b>5 Car Parking, Access, Roadworks and Traffic</b></p> <p>5.1 The use must be provided with a minimum of three (3) on site car parks including a minimum of one (1) dedicated accessible spaces provided for persons with a disability.</p> <p>5.2 All on-site parking spaces sizes and layout must be designed in accordance with AS2890.1-2004 generally in accordance with the supporting material included in the plans submitted with the application.</p> <p>5.3 All pavement marking is to be in accordance with the Transport Operations (Road Use Management) Act 1995 (TORUM Act) and must be read alongside the Manual of Uniform and Traffic Control Devices (MUTCD).</p>	<p>To ensure development is appropriately serviced by parking and access facilities in accordance with relevant code/s and policy direction.</p>	<p>Prior to the commencement of the use and maintained for the life of the development.</p>

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p>5.4 The construction of any additional crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.</p> <p>5.5 Access to the premises, car parking and manoeuvring areas must be constructed in an all-weather, suitably sealed, low glare paving (bitumen, asphalt, concrete) to the satisfaction of Council.</p> <p>5.6 All vehicles must enter and exit the site in a forward motion.</p> <p>5.7 Appropriate signage is to be erected to direct vehicles to the car parking spaces within the development site.</p> <p>5.8 Prior to the commencement of the use on the site, the applicant must lodge with Council an "Aspect Inspection Certificate" (Form 12) signed by an RPEQ Engineer certifying that all internal accesses, parking bays and manoeuvring areas comply with the applicable Australian Standards and Council's requirements.</p>		
<p><b>6 Environment and Health</b></p> <p><u>General Environmental Duty</u></p> <p>6.1 All activities must be carried out within the confines of the workshop.</p> <p>6.2 An Environmental Management Plan (EMP) shall be developed and submitted to Council for approval. The approved EMP is to be implemented and complied with for the proposed use.</p> <p>6.3 The operator must investigate and address all environmental nuisance and/or environmental harm complaints. The following details must be recorded and provided to Council upon request:</p> <ul style="list-style-type: none"> <li>a) time, date, name and contact details of the complainant;</li> <li>b) reasons for the complaint;</li> <li>c) any investigations undertaken;</li> <li>d) conclusions formed; and</li> <li>e) any actions taken.</li> </ul> <p>6.4 When requested by Council, an assessment, including monitoring and/or sampling must be undertaken by a suitably qualified person(s) to</p>	<p>To ensure that the use does not cause a nuisance and/or environmental harm in accordance with the relevant provisions of the <i>Queensland Environmental Protection Act 1994</i>.</p>	<p>At all times.</p>

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p>investigate any complaint of environmental nuisance and/or environmental harm (which in the opinion of an authorised person is not frivolous, vexatious nor based on mistaken belief). Upon completion of the assessment, the results must be submitted to Council within ten (10) business days. This must be undertaken in accordance with any direction given by Council at the time.</p> <p>6.5 If the results of the assessment indicate, or where it is determined by an authorised person, that environmental nuisance and/or environmental harm is being caused, abatement or control measures must be implemented as recommended by a suitably qualified person and/or Council.</p> <p>6.6 No change, replacement or operation of any plant or equipment is permitted if the change, replacement or operation of the plant or equipment increases, or is likely to substantially increase, the risk of environmental nuisance and/or environmental harm above that expressly provided by this development approval/ environmental authority.</p> <p>6.7 The washing down of the workshop, the cleaning of waste containers or the washing of any other items that generate contaminated water, is not permitted unless the contaminated water is directed to an approved wastewater treatment system prior to release.</p> <p>6.8 Spray painting is not permitted to be conducted at the site other than for minor touch-ups.</p> <p>6.9 Abrasive blasting is to be conducted within a fully enclosed chamber, vented to the atmosphere through an effective dust extraction system and designed to enable frequent or continuous recovery of spent abrasives.</p> <p><u>Storage</u></p> <p>6.10 Any storage of flammable and/or combustible liquids must comply with the minor storage provision of 'Australian Standard AS:1940 The Storage and Handling of Flammable and Combustible Liquids.'</p>		

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing												
<p>6.11 Any hazardous materials (e.g. oil and fuel) must be stored in a covered and bunded area.</p> <p><u>Spills</u></p> <p>6.12 Any liquid spills must be cleaned up immediately and disposed of in an appropriate manner that ensures environmental harm does not occur. An appropriate spill kit for the management of wastes and hazardous liquids associated with the activity must be readily available at the site. Anyone operating under this approval must be trained in the use of the spill kit.</p> <p><u>Regulated Waste</u></p> <p>6.13 Regulated wastes are to be removed for disposal by a licenced waste transporter.</p> <p><u>Noise Management</u></p> <p>6.14 Where a complaint is made about noise from the activity, which is considered reasonable by an authorised officer and cannot be resolved by the operator of the activity subject of this approval, the emission of noise from the development must not result in levels greater than those specified in Table 1 until circumstances which gave rise to the complaint are resolved.</p> <p>Table 1: Noise Limits (dBA) NOISE LIMITS MEASURED AT THE FACADE OF THE NEAREST NOISE SENSITIVE PLACE</p> <table> <tr> <th>Period</th><th>Measured as LAeq</th><th>Measured as maxLpA</th></tr> <tr> <td>7am - 6pm</td><td>55</td><td>60</td></tr> <tr> <td>6pm - 10pm</td><td>50</td><td>55</td></tr> <tr> <td>10pm - 7am</td><td>45</td><td>50</td></tr> </table>	Period	Measured as LAeq	Measured as maxLpA	7am - 6pm	55	60	6pm - 10pm	50	55	10pm - 7am	45	50		
Period	Measured as LAeq	Measured as maxLpA												
7am - 6pm	55	60												
6pm - 10pm	50	55												
10pm - 7am	45	50												
<b>7 Stormwater</b>	To ensure the premises appropriately manages and conveys stormwater	At all times.												

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
<p>7.1 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.</p> <p>7.2 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.</p>	legally and in an environmentally responsible manner in accordance with relevant standards, code/s and policy direction.	
<p><b>8 Stormwater Quality Treatment</b></p> <p>The approved development must achieve the applicable stormwater management design objectives listed in Part G, Appendix 2 of the <i>State Planning Policy, July 2017</i>.</p>	To manage and to minimise the risk of causing environmental harm to receiving waters, damage to Council infrastructure, and unnecessary financial burdens to Council and the community in accordance with relevant code/s and policy direction.	At all times.
<p><b>9 Amenity Impacts</b></p> <p>9.1 Use of the site is to be operated in a way that protects the values of the existing residential environment and will not cause unacceptable impacts on surrounding areas as a result of dust, odour, noise or lighting.</p> <p>9.2 Any outdoor lighting fixtures must be installed and maintained so that they do not emit glare or light above the levels stated in <i>Australian Standard 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting</i>.</p> <p>9.3 In the event of a complaint being received by Council associated with the use, the developer/operator may be required to undertake an impact assessment addressing these matters in accordance with the provisions of the relevant legislation, regulations, Australian Standards and any other policies to the satisfaction of Council.</p> <p>9.3.1 The assessment must be accompanied by a report, inclusive of supporting calculations and site investigations and provide a recommended method of mitigation measures.</p>	To ensure that the use does not cause a nuisance in accordance with the relevant provisions of the <i>Queensland Environmental Protection Act 1994</i> .	At all times.



## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
9.3.2 The developer/operator must provide a copy of the report to Council and undertake any works outlined in the report (if required) within three (3) months at no cost to Council.		
<b>10 Building Materials</b> The exterior surfaces of all buildings and structures associated with the use must be constructed from materials and/or painted or similarly treated with paint or pigment of a low reflective level which does not cause excessive glare.	To ensure protection of matters of public safety and amenity in accordance with relevant code/s and policy direction.	Prior to the commencement of the use and maintained for the life of the development.
<b>11 Screening of Plant and Utilities</b> All plant and utilities must be screened or located so as not to be visible from the street.	To ensure the development does not have a detrimental effect on the residential amenity of the surrounding area in accordance with relevant code/s and policy direction.	Prior to the commencement of the use and maintained for the life of the development.
<b>12 Building Works</b> A Development Permit for Building Works for a Change of Classification of building is to be obtained before commencement of the use.	To ensure the buildings and structures are correctly classified according to their use.	Prior to the commencement of the use and maintained for the life of the development
<b>13 Signage</b> 13.1 Any signage to be associated with the use must be designed to the satisfaction of Council. 13.2 To maintain amenity for the adjoining properties, no illumination of the signage is to occur unless otherwise approved by Council.	To maintain amenity for the adjoining properties.	Prior to the commencement of the use.
<b>14 Property Numbering</b> 14.1 Legible property numbers must be erected at the premises and must be maintained.	To allow the general public, service and emergency service providers to effectively identify the property.	Prior to the commencement of the use and maintained for the life of the development.

## Attachment A – Recommended Conditions of Approval

Condition	Reason	Timing
14.2 The site identification numbers should be of reflective material, maintained free from foliage and other obstructions, and be large enough to be read from the street.		
<b>15 Storage</b> 15.1 Goods, equipment, packaging material or machinery must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare. 15.2 Where storage of chemicals is required, a bunded area with a non-porous base is to be provided. 15.3 Any storage on site is required to be screened from view from all roads and adjacent properties.	To ensure the development does not have a detrimental effect on the visual amenity of the surrounding area in accordance with relevant code/s and policy direction.	At all times following the commencement of the use.
<b>16 Refuse Facilities</b> Refuse collection arrangements must be provided by the developer to the satisfaction of Council. In particular: a) The approved waste storage area is to be of sufficient size to house all garbage bins including recycling bins. b) Storage area is suitably paved, with a hose cock fitted in close proximity to the enclosure and drain to sewer via a legal sewer connection, provided. c) All waste generated as a result of the construction of the development is to be effectively controlled and contained entirely within the boundaries of the site prior to disposal. d) All waste is to be disposed of in accordance with the <i>Environmental Protection Regulation 2019</i> and Council's Waste Management Policy.	To ensure the premises is appropriately serviced and to protect matters of public health and amenity in accordance with relevant code/s and policy direction.	Refuse facilities must be provided in accordance with any approval issued and be maintained for the life of the development.
<b>17 Notice of Intention to Commence the Use</b> Prior to the commencement of the use on the land subject to the application, written notice must be given to Council that the use (development and/or works) fully complies with the Decision Notice issued in respect of the use.		Prior to the commencement of the use.

## Attachment A – Recommended Conditions of Approval

<b>Advice</b>	
<b>1 Infrastructure Charges</b> Not applicable.	
<b>2 Trade Waste</b> A Trade Waste Approval/Agreement may be required under the <i>Water Supply (Safety and Reliability) Act 2008</i> . This should be discussed with Council at an early stage of project development.	
<b>3 General</b> Council will not be obligated to upgrade any roads that provide access to the development due to increased vehicle traffic as a result of the use.	
<b>4 Further Approvals Required</b> <b>a) Building Works</b> A Development Permit for Building Works to Change the Classification of the building is required prior to the commencement of the use.	
<b>5 Further Inspections Required</b> Compliance with Conditions – The following inspections will be required to be undertaken by Council to determine compliance with conditions that are not subject to a further approval. Condition 5 - Car Parking, Access, Roadworks and Traffic Condition 10 - Building Materials Condition 11 - Screening of Plant and Utilities Condition 14 - Property Numbering Condition 15 - Storage Condition 16 - Refuse Facilities	
<b>6 Building Work Noise</b> The hours of audible noise associated with construction and building work on site must be limited to between the hours of: <ul style="list-style-type: none"> <li>6.30 a.m. to 6.30 p.m. Monday to Saturday; with</li> <li>No work permitted on Sundays or Public Holidays.</li> </ul>	To ensure compliance with the <i>Environmental Protection Act 1994</i> .
<b>7 Waste Management</b> 7.1 Waste and recycling services must be provided in accordance with Council's Waste Management Policy. 7.2 All regulated waste must be removed from the site by a regulated waste removal contractor. The records for this disposal must be kept on site and be available for viewing by an authorised officer.	
<b>8 Plant and Utilities Noise</b> All refrigeration equipment, pumps, compressors, air conditioning units and mechanical ventilation systems must be located, designed and installed to not exceed a maximum noise level of:	To ensure the use does not have a detrimental effect on the amenity of nearby

**Attachment A – Recommended Conditions of Approval**

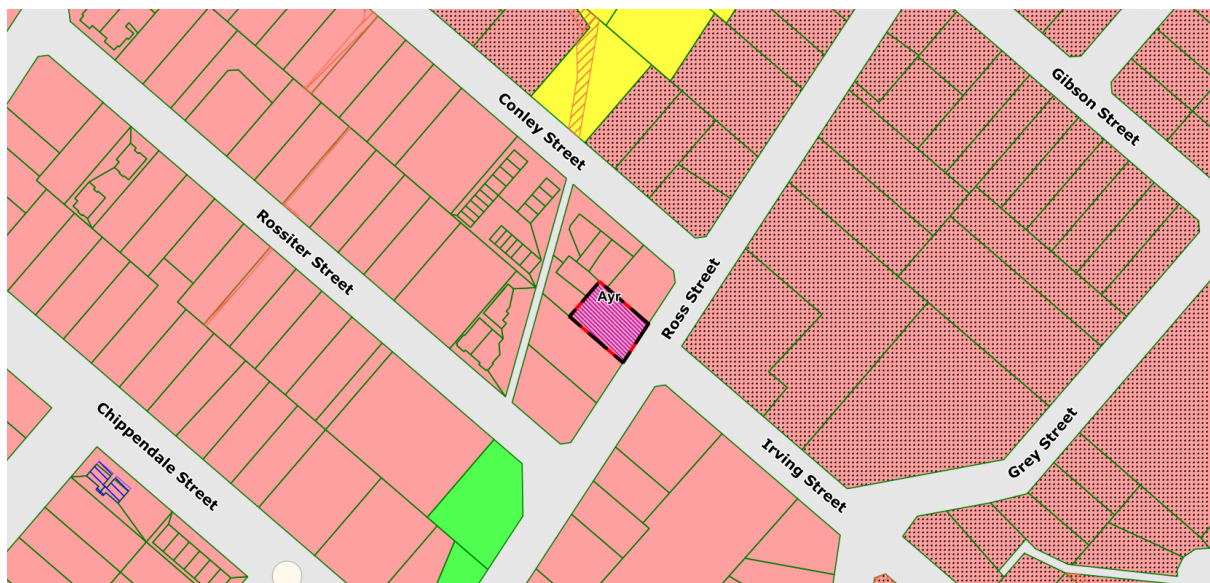
<ul style="list-style-type: none"><li>▪ 5dB(A) above background level between the times of 7am to 10pm; and</li><li>▪ 3dB(A) above background level between the times of 10pm to 7am.</li></ul>	sensitive receptors in accordance with the <i>Environmental Protection Act 1994</i> .
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## Attachment B – Proposal Plan





## Attachment C – Locality Plan



 Rural	 Residential Low Density Sub Area	 Industry Investigation Sub Area
 Rural Nature Based Recreation Sub Area	 Retail and Commercial	 Public Purpose
 Rural Settlement Sub Area	 Industrial	 Village
 Residential	 Extractive Industry Sub Area	 Open Space & Recreation





BURDEKIN SHIRE COUNCIL	
File ID No.	226
20 OCT 2022	
Document No.	
Retention Period	

ABN 41 168 857 949

9 Ross Street, Ayr QLD 4807 PH 4783 3615

18/10/2022

**RE: MCU22/0010 – VEHICLE REPAIR STATION**

To whom it may concern,

We have looked over the proposal for the above-mentioned development permit application that adjoins our property on Ross Street.

While I applaud the applicant on trying to establish more industry into the community, the site location is a tad baffling (if successful, Ross Street will have 3 mechanic workshops in the space of a block), there are also a few concerns with the proposal that I believe need further clarification/ attention.

1. There is an environmental concern as there is *no mention* of a trade waste/ oil separator system being installed. Considering the proposal is for a **mechanical workshop** I would assume this would be mandatory for such a business. As the type of business being proposed has the potential for contaminants entering the sewage and or stormwater system without one.
2. There is an issue with parking/ traffic control – the applicant states there will be 2 employees at the premises and from the application I can only see 3 car spaces allocated for this business. Whilst the shed is big enough to house extra vehicles – where is the applicant parking the vehicles once work is completed? If there is more than one vehicle booked in, where are those vehicles to be stored before and after work is completed?

As you would be aware we also own a mechanical business on Ross Street, and we are currently constructing a new shed to allow for more off street parking due the busy nature of Ross Street especially around school drop off and pick up times.

VIEW	PLAN DEV	AGENDA	
		DATE	
NOTED		APPLIC #	mcu22/0010
TENDER		PROP #	4321
ACTION	TOWN PLAN	LAND #	2094
DEADLINE			



There was an accident only last week that shut the road for the morning, our main concern if the proposal is successful is that there will be potentially even more vehicles being parked along the already busy street. With 3 mechanic workshops in the space of a block - ours at 9 (11 once construction is completed), the proposed workshop at 13 and recently Wello's Automotive on the corner of Ross and Gibson streets (17Ross?) – the traffic management issue is of great concern for not only for business access but pedestrian safety with two schools close by, the pedestrian traffic as well as vehicle traffic is very high during before and after school times.

We thank you for taking the time to look over our submission and hope these issues of concern can be addressed.

Glenn and Kristy Wassmuth

18/10/2022

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Glenn and Kristy Wassmuth

Unit 3,  
29 Conley St (P.O. Box 696)  
Ayr Q 4807  
7th November 2022

The Chief Executive  
Burdekin Shire Council  
P.O. Box 974  
Ayr Q 4807.

att: Kellie Galletta, Manager Planning & Development.

Dear Sir,

Re: application no. MCV 22/0010.

I have a query re the material change to the development of a use to Vehicle Repair Station mechanic shop at 13 Ross Street.

It does not state in the paperwork I received when this work will take place - weekdays and/or at weekends and the loudness of the work involved.

Over the years I have seen vacant lots nearby to residential houses changed to light industrial and our area has appeared to change. Currently I am not aware of the current zoning.

I have not had any trouble with noise from any of the areas - my query is clarification at this stage, as I would not like this to change.

Yours faithfully

Robin Blundell (Mrs)

BURDEKIN SHIRE COUNCIL
File ID No. 226
08 NOV 2022
Document No. ....
Retention Period .....

VIEW	TownPLAN	AGENDA	
		DATE	
		APPLIC #	MCV 22/0010
NOTED		PROP #	4321
TENDER		LAND #	2094
ACTION	PLANDER		
DEADLINE		CLASS	

## Attachment E – Detailed Assessment

### Assessment Summary

Based on the assessment of the development application, Council officers have determined that the proposed development can comply or can be conditioned to comply with the assessment benchmarks relevant to the assessment.

### Detailed Assessment

The timeframes for assessing and deciding applications is set in the *Planning Act 2016* and *Development Assessment Rules* (s.60 and 61(3)). A day referred to in the timeframe below means a business day as defined by the *Planning Act 2016*.

The assessment timeframes applicable to this application are as follows:

ASSESSMENT TIMEFRAMES			
Application Process		Timeframe	Date
1.0	Initial application lodged with Council		20 June 2022
1.1	Action Notice issued	5 days (from 1.0)	6 July 2022
1.2	Confirmation Notice issued	10 days (from 1.0)	15 July 2022
2.0	Application referred (properly referred)	10 days (from 1.2)	N/A
2.1	Referral agency response	25 days (from 2.0)	N/A
3.0	Council Information Request	10 days (from 1.2)	27 July 2022
3.1	Extension of time of Time for Information Request		N/A
3.2	Further Extension of Time for Information Request		30 September 2022
3.3	Response to Information Request	3 months (from 3.2)	6 October 2022 (received)
4.0	Public Notification starts	20 days (from 3.3)	18 October 2022
4.1	Public Notification ends	Min. 15 business days	8 November 2022
4.2	Consider submissions	10 days (from 4.1)	14 November 2022
5.0	Further Advice Request		N/A
5.1	Response to Further Advice Request		N/A
6.0	Decision making period starts	1 day (after last applicable)	14 November 2022
	Council Meeting		13 December 2022
6.1	Decision making period ends	35 days (minus up to 10 days from 3.0)	16 December 2022



6.2	Issue Decision Notice	5 days (after decision is made)	23 December 2022
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### Level of Assessment

The development proposal is assessable under the *Burdekin Shire IPA Planning Scheme* (the planning scheme) in accordance with Section 43 (1) of the *Planning Act 2016*. The Assessment Manager is the Burdekin Shire Council as determined by Schedule 8 of the *Planning Regulation 2017*. In accordance with the planning scheme, the Material Change of Use application was subject to impact assessment.

Council, as the Assessment Manager, has undertaken assessment of the application against the planning scheme making the decision pursuant to s. 60 of the *Planning Act 2016*, as outlined in s. 45 (3) and s.26 to 28 of the *Planning Regulations 2017*.

Assessment against the relevant provisions of the planning scheme has been undertaken:

APPLICABLE ASSESSMENT BENCHMARKS			
Development	Zone	Overlays	Assessment Benchmarks
Material Change of Use – Vehicle Repair Station (Mechanic Shop)	Residential	No overlays are applicable to the assessment of the proposed development.	<ul style="list-style-type: none"> <li>Strategic Framework</li> <li>Desired Environmental Outcomes</li> <li>Residential Zone Code</li> <li>Schedule 2 – Vehicle Parking Rates and Standards</li> </ul>

ASSESSMENT		
Benchmark	Purpose	Assessment
Strategic Framework	The strategic framework sets the policy direction for the planning scheme and forms the basis for ensuring appropriate development occurs in the planning scheme area for the life of the planning scheme.	<p>The proposed development is considered to be consistent with the overall intent of the Strategic Framework and its strategies, despite being a non-residential use located within a residential zoning, as:</p> <ul style="list-style-type: none"> <li>It is to be located on a site and within an existing building that has historically been</li> </ul>

ASSESSMENT		
Benchmark	Purpose	Assessment
	<p>The strategic framework forms part of the criteria for impact assessable development and is structured in a way that:</p> <ul style="list-style-type: none"> <li>Establishes the broad context and strategies by which sustainable growth in the Burdekin Shire shall occur.</li> <li>Outlines three strategies that collectively represent the policy intent of the scheme, including <ol style="list-style-type: none"> <li>Flooding and Coastal Processes;</li> <li>Integrated Catchment Management; and</li> <li>Land and Water Management.</li> </ol> </li> <li>The specific outcomes sought for each, or a number of, these strategies.</li> </ul>	<p>and continues to be used for a non-residential, light industrial purpose and activities.</p> <ul style="list-style-type: none"> <li>It is of a nature and scale that is considered in keeping with the immediate surrounding light industrial and commercial uses that are existing along Ross Street.</li> <li>It can be managed and operated in a way that does not adversely impact on the surrounding residential uses and the amenity currently experienced in the area.</li> <li>It provides sufficient on-site car parking (a minimum of three (3) on site) and manoeuvring areas that should maintain the safe and efficient operation of the surrounding road network with appropriate conditions that can be applied to ensure compliance.</li> </ul> <p>It is noted that the scheme may consider non-residential development in the residential zone.</p> <p>The proposed development can be conditioned accordingly to ensure any non-residential use is managed appropriately and compliance with the outcomes sought by the strategic framework is</p>

ASSESSMENT		
Benchmark	Purpose	Assessment
		<p>achieved to ensure that the existing amenity of the surrounding area is appropriately maintained.</p> <p>The use in this location is not expected to adversely impact upon any Flooding and Coastal Processes, Integrated Catchment Management and Land and Water Management.</p>
Desired Environmental Outcomes	<p>The Desired Environmental Outcomes are the basis for the measures of the planning scheme, and are structured in a way that:</p> <ul style="list-style-type: none"> <li>▪ Outlines the four (4) outcomes sought, including: <ul style="list-style-type: none"> <li>(a) Economic Development</li> <li>(b) Biodiversity and Conservation Areas</li> <li>(c) Urban Development and Infrastructure</li> <li>(d) Community Wellbeing.</li> </ul> </li> <li>▪ Outlines the elements that refine and further describe the desired environmental outcomes and the specific mechanism to achieve these outcomes.</li> </ul>	<p>The proposed development is considered to be consistent with Desired Environmental Outcomes, in particular, Outcomes (a) Economic Development and (c) Urban Development, noting that the proposed development will provide a small scale mechanic workshop that through the imposition of reasonable and relevant conditions, is considered will assist in the management and operation in a way that does not adversely impact upon on the surrounding residential uses nor the amenity currently experienced in the area.</p>

**APPLICABLE ASSESSMENT BENCHMARKS**
**Residential Zone Code**

1. The overall outcomes are the purpose of the Residential Zone code.
2. The overall outcomes sought for the Residential Zone code are the following:
  - (i) A range of housing types are available to meet community needs including accommodation buildings, dwelling houses, dual occupancies, duplex units, multiple unit development, caravan parks, relative's apartment and retirement villages;
  - (ii) The design and siting of housing considers the location, flood potential, the surrounding land uses and the intensity of the proposed use;
  - (iii) Development does not negatively impact on the amenity of the area in which it is situated and promotes high levels of physical amenity, visual character and safety;
  - (iv) Incorporates landscaping which provides shade, enhances the appearance of any development and effectively buffers incompatible development;
  - (v) Residential development is protected from intrusion by other incompatible, non-residential uses;
  - (vi) The convenience, privacy and safety of all residential activities is protected; and
  - (vii) The function of the rail, state-controlled road and heavy vehicle by-pass corridor is protected. Noise sensitive development in proximity to these corridors is located or designed to reduce the infiltration of noise emissions.

**Officers Comment**

The overall outcomes sought for the Residential Zone code relevant to this development application given it is a non-residential use, are the following:

*(xii) Development does not negatively impact on the amenity of the area in which it is situated and promotes high levels of physical amenity, visual character and safety;*

*(xiv) Residential development is protected from intrusion by other incompatible, non-residential uses;*

As impact assessable developments are individually assessed on their own merits in addition to relevant benchmarks, in particular, it is noted that the proposed development:

- is to be located on a site and within an existing building that has historically been used and continues to be used for non-residential, light industrial purposes and activities.
- is of a nature and scale that is considered in keeping with the immediate surrounding existing uses located along Ross Street.
- can be managed and operated in a way that does not adversely impact on the surrounding residential uses and the amenity currently experienced in the area.
- provides sufficient on-site car parking (a minimum of three (3) on site) and manoeuvring areas that should maintain the safe and efficient operation of the surrounding road network with appropriate conditions that can be applied to ensure compliance.

It is noted that the scheme may consider non-residential development in the residential zone and that the proposed development can be conditioned accordingly to ensure any non-residential use is managed appropriately.

Specific assessment against the relevant provisions of the Residential Zone Code is provided below:

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
<b><i>Building Siting and Design</i></b>		
Building design for residential buildings and siting maintains the residential amenity and safety of the area in which it is located.	Residential buildings do not exceed the site coverage thresholds of 50%.	Not applicable.  This is a non-residential, existing building; however it is noted that site cover does not exceed 46%.
<b><i>Site Areas</i></b>		
Residential buildings are provided with suitable site areas capable of accommodating the proposed use.	Residential buildings have a minimum site area in accordance with Table 19.1.	Not applicable.  While the building is not for residential purposes, it is considered the existing site and building are suitable to accommodate the proposed development.
<b><i>Infrastructure Provision</i></b>		



<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
Premises have an appropriate level of infrastructure for the efficient functioning of the use while not impacting on adjoining land uses or the environment.	<p>Premises are connected to a reticulated water supply or a reliable supply of potable water.</p> <p>Premises are either-</p> <p>a) Connected to Council's reticulated sewerage system where one exists in the locality of the site; or</p> <p>b) Provided with an on-site sewerage treatment and disposal system.</p> <p>The premises has frontage to a sealed road.</p>	<p>Considered to comply.</p> <p>The site is currently serviced by Council's reticulated infrastructure network for water and sewerage.</p> <p>The applicant states that no additional demand is created by the proposed development, therefore no upgrade to the infrastructure network is required.</p> <p>Ross Street is an existing sealed local road.</p>
<b>Development of Small Lots</b>		
Small lot development preserves existing residential amenity.	Development on lots less than 700m <sup>2</sup> is in accordance with Part 4 – Subdivision of the Queensland Residential Design Guidelines (QRDG), having regard to the scale and intensity of the proposal.	Not applicable, as the subject site is over 700m <sup>2</sup> in area.
<b>Lighting Nuisance</b>		
The operation of the activity does not cause undue disturbance to any person or activity because of the light it emits.	The vertical illumination resulting from direct, reflected or incidental light coming from a site does not exceed eight lux when measured at any point 1.5m outside of the boundary of the property at any level from ground level up.	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>
<b>Site Density</b>		

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
Residential buildings are provided at suitable site densities in keeping with the character of the locality.	Residential buildings have maximum site densities in accordance with the following – a) Low Density Residential Sub-Area - 80 persons per hectare of site area based upon the occupancy rate specified below in Table 2.1; and b) Residential Zone - 180 persons per hectare of site area based upon the occupancy rates specified below in Table 2.1.	Not applicable as the use is non-residential nor is the building residential in nature.
<b>Building Siting, Form and Design</b>		
To maintain privacy, sunlight and breezes to adjoining properties, residential buildings are set back from side and rear boundaries in proportion to the height of the building.	None specified.	Considered to comply, as no new buildings or changes to the existing building are proposed as part of this approval.
Residential buildings achieve an adequate level of privacy for inhabitants and neighbours.	<p>The habitable rooms and balconies of residential buildings (except dwelling houses) do not overlook a habitable room or private open space of an adjoining dwelling unit or are screened to prevent the loss of privacy.</p> <p>Residential buildings (except dwelling houses) are provided with a screen fence on the side and rear boundaries of at least 1.8m in height, which does not impede the free flow of flood waters.</p>	<p>Not applicable.</p> <p>However, any development approval will be conditioned to comply to ensure an adequate level amenity of the surrounding area is maintained.</p>

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
Noise sensitive development in proximity to the rail, state-controlled roads and heavy vehicle bypass corridor is located or designed to reduce the infiltration of noise emissions.	Noise sensitive development is sited 80m away from the common property boundary of any residential zoned land and rail, state controlled road and heavy vehicle bypass corridor.	Can be conditioned to comply.  Any development approval will be conditioned to comply in this regard.
Residential development abutting existing rural land must demonstrate how the proposal will have adequate separation or buffers from agricultural land uses to avoid adverse environmental effects from spray drift, dust, noise and odours.	Appropriate buffering or separation distances are provided in accordance with the <i>Guidelines for Separating Agricultural and Residential land uses</i> .	Not applicable.
<b>Landscaping and Recreation Areas</b>		
Landscaping and recreation space is provided on the premises, other than for dwelling houses, and is at an appropriate scale relative to the street and the height and bulk of buildings and structures on site.	Each dwelling unit provides – a) 30m <sup>2</sup> landscape area per bedroom with at least 40% of total space in one useable parcel being not less than 5m in width; and b) a 2m wide landscape strip or fencing of 1.8m in height to side and rear boundaries to block views of and from adjoining uses.	Not applicable in terms of needing to provide recreational areas.  The site is predominantly void of landscaping treatments (aside from a grassed verge) and as the building and sealed area is already existing, there is limited opportunity to undertake additional landscaping treatment.
<b>Car Parking and Access</b>		

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
All vehicles will be able to access the site in a safe and efficient manner.	Car parking areas for residents and visitors are provided in accordance with Schedule 2 – Vehicle Parking Rates and Standards.	<p>A minimum of three (3) car parks are to be provided on site.</p> <p>Any development approval will be conditioned to include that a civil RPEQ engineer's design and construction certification is to be provided to Council certifying that all internal accesses, parking bays and manoeuvring areas comply with the applicable standards and Council's requirements.</p>
<b>Air Quality Maintenance</b>		
<p>All activities maintain the air quality and consequently, public health standards, including –</p> <p>a) minimising emission and odour levels; and</p> <p>b) Preventing the generation of dust.</p>	<p>Activities are provided with –</p> <p>a) adequate physical measures for removing pollutants from emissions prior to discharge to the atmosphere;</p> <p>b) adequate physical measures for reducing the temperature gradient between emissions and the atmosphere prior to discharge; and</p> <p>c) effective operational systems, including monitoring systems for industry, which maintain emissions within ANZECC guideline standards.</p>	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>
<b>Sediment and Erosion Control</b>		
Development prevents erosion occurring on the site or to allow sediments to leave the site.	<p>Development incorporates soil erosion and sedimentation management by:</p> <p>a) avoiding extensive land clearing and earthworks of land with a slope steeper than 15% (or 1:5);</p>	Not applicable, as the site is already concrete sealed, and it is understood that no earthworks are proposed as part of this development.

<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
	b) minimising the extent of disturbance on slopes steeper than 10% (1:10); and c) managing and controlling surface drainage by using natural flow paths wherever possible; and d) incorporating sediment traps to prevent the movement of sediment off site.	
<b>Liquid Waste Management</b>		
All premises make adequate provision for stormwater and liquid wastes to be managed so that the – a) environmental values of surface and ground water resources are not diminished; and b) health and wellbeing of the Shire's residents is maintained.	All liquid wastes are contained and discharged to a sewer or removed from the site for treatment and disposal to an approved facility.	Can be conditioned to comply.  Any development approval will be conditioned to comply in this regard.
<b>Energy Efficiency</b>		
Buildings are designed and sited to: a) maximise indoor climatic comfort; b) minimise energy requirements for cooling during the summer months by minimising the need for air-conditioning; c) have adequate access to breezes and daylight in habitable rooms; d) incorporate lighting to meet usage requirements while minimising energy usage; and	Where possible, private open space and habitable rooms have a northerly aspect.  East-west facing windows of habitable rooms are shaded by awnings, projections, solar window film, adjustable external opaque louvres or roller blinds.  Buildings do not cast a shadow over an adjoining residential lot between the hours of 9am and 3pm on the 22 June.	Not applicable as the building is existing.  However energy efficiency provisions may form part of the design considerations when the application for the change of classification for the use of the building is submitted to Council for assessment.



<b>Assessable Development</b>		
<b>Specific Outcomes</b>	<b>Acceptable Solutions</b>	<b>Comment</b>
e) minimise the climatic environmental impact on adjoining properties.		
<b>Water Quality Maintenance</b>		
All activities maintain the water quality of Burdekin Shire's groundwater, waterways and surface water storages.	<p>Premises:</p> <ul style="list-style-type: none"> <li>a) with activities which involve the handling of water-borne pollutants are provided with bunded, impervious surfaces linked to an integrated drainage and treatment system;</li> <li>b) with activities which involve the storage of waste water are provided with properly designed and constructed, secure, sealed storage facilities; and</li> <li>c) contain all liquid wastes and discharge them to a sewer or removed from the site for treatment and disposal to an approved facility.</li> </ul> <p>Development is set back:</p> <ul style="list-style-type: none"> <li>- 25 metres for stream orders 1 or 2;</li> <li>- 50 metres for stream orders 3 or 4;</li> <li>- 100 metres for stream orders 5 or greater.</li> </ul> <p>With stream orders determined by 1:100,000 DNRM topographic mapping (or 1:250,000 where 1:100,000 is unavailable).</p>	<p>Can be conditioned to comply.</p> <p>Any development approval will be conditioned to comply in this regard.</p>
<b>Schedule 2 – Vehicle Parking Rates and Standards</b>		

Assessable Development			
Specific Outcomes		Acceptable Solutions	Comment
Use Definitions	Minimum Carparking Spaces Required	Additional Standards	Officers Comment
Industry (if not extractive, otherwise)	One space per 100m <sup>2</sup> gross floor area, or one (1) space per two (2) employees, whichever is the greatest.	Not applicable.	<p>Considered to comply.</p> <p>The total floor area of the use for the mechanic's shop is 236m<sup>2</sup>.</p> <p>Given this, a minimum of three (3) car spaces is required to be provided on site in accordance with the scheme provisions.</p> <p>A parking assessment completed by a qualified professional was not supplied as part of the development application, therefore any development approval will be conditioned to include that a civil RPEQ engineer's design and construction certification is to be provided to Council certifying that all internal accesses, parking bays and manoeuvring areas comply with the applicable standards and Council's requirements.</p> <p>In the event of a complaint being received by Council associated with the use, the developer/operator may be required to undertake an impact assessment addressing these matters in accordance with the provisions of the relevant legislation, regulations, Australian Standards and any other policies to the satisfaction of Council.</p>

### State Interest Considerations

An assessment against the 'applicable' provisions of the relevant State Interests has been undertaken as reflected below. *The State Planning Policy (SPP)* is a key component of Queensland's planning system. The SPP (July 2017) expresses the State's interests in land use planning and development.

The SPP has effect throughout Queensland and sits above regional plans and planning schemes in the hierarchy of planning instruments under the Act.

The SPP clearly focusses on delivery of outcomes and applies to:

- i. a local government in assessing a development application.
- ii. an assessment manager or referral agency in assessing a development application.

<b>STATE PLANNING POLICY (JULY 2017)</b>				
<b>Liveable Communities and Housing</b>	<b>Economic Growth</b>	<b>Environment and Heritage</b>	<b>Safety &amp; Resilience to Hazards</b>	<b>Infrastructure</b>
Housing supply and diversity	Agriculture	Biodiversity	Emissions and hazardous activities	Energy and water supply
<b>Liveable Communities</b>	Development and construction	Coastal environment	Natural hazards, risk and resilience	Infrastructure Integration
	Mining and extractive resources	Cultural heritage		Transport Infrastructure
	Tourism	Water quality		Strategic airports and aviation facilities
				Strategic ports

The *Burdekin Shire IPA Planning Scheme 2011* does not currently integrate the relevant State Planning Policies; however it is considered that the following are relevant to the development:

- Liveable Communities and Housing (Liveable Communities).

Despite the proposed use being a non-residential use located within a residential zoning:

- It is to be located on a site and within an existing building that has historically been used (and continues to be used) for a non-residential, light industrial purpose and is in keeping with the existing uses in the immediate surrounding area along Ross Street.
- It can be managed and operated in a way that does not adversely impact on the surrounding residential uses.
- It provides sufficient on-site car parking and manoeuvring areas considered to maintain the safe and efficient operation of the surrounding road network.

It is noted that the scheme may consider non-residential development in the residential zone and officers consider that the proposed development can be conditioned accordingly to ensure any non-residential use is managed appropriately and compliance with the relevant outcomes is achieved to ensure that the amenity of the existing surrounding areas is managed and maintained.

However for the purposes of this report and the proposed development, no further assessment of these matters is required, with all relevant matters considered to be dealt with under the provisions of the Planning Scheme and all other relevant legislation and policies.

### **North Queensland Regional Plan**

*The North Queensland Regional Plan (NQRP)* establishes the strategic planning framework intended to guide the region's development and grow the local economy. The NQRP introduces assessment benchmarks for the assessment of proposed development within a Priority Agriculture Area (PAA) and also applies as a 'matter to have regard to' under the *Planning Regulation 2017*, where the NQRP or aspects of the NQRP are identified as having not been appropriately integrated in a local planning instrument. The proposal is considered to be generally consistent with the relevant goals, regional outcomes and regional policies of the plan.

The proposed development is not located in a Priority Agriculture Area and therefore the Development Assessment Benchmarks for PAAs are not applicable.

### **Public Submissions**

Public notification was undertaken in relation to the proposed development between 18 October 2022 – 8 November 2022.

## Attachment E – Detailed Assessment

Three (3) properly made public submissions were received with respect to the proposed development.

- Wassmuth Automotive – Adjoining business.
- Glen and Kristy Wassmuth – Adjoining landowner and operator of Wassmuth Automotive.
- Robyn Blundell – Adjoining landowner.

A summary of the matters raised by each submitter is included in the following table:

Submitter	Issue Raised	Officer Comment
<b>Submissions 1 &amp; 2</b> - Glen and Kristy Wassmuth, adjoining landowner and operator of Wassmuth Automotive	1. Potential for the development to cause environmental harm. 2. Potential for the development to adversely impact upon traffic, parking and pedestrian management in the locality.	The concerns raised by the submitters are acknowledged.  Conditions of approval have been recommended to be included on any development approval given to cover off on environmental, traffic and amenity requirements applicable to the proposed use.
<b>Submission 3</b> – Robyn Blundell, adjoining landowner in a residential dwelling	1. Queries regarding the hours of operation, and the potential for the development to cause additional noise as a result of the use.	

Council must consider all properly made submissions in the assessment process in accordance with the provisions of the *Planning Act 2016* and the Development Assessment Rules.

Officers provided the applicant with a copy of the submission and at the time of drafting this report, Council officers had not received a response from the applicant addressing the concerns raised in the submissions, though it was indicated that one was to be provided.

Council officers considered that the concerns raised by the submitters can be addressed and managed through the imposition of reasonable and relevant conditions upon any development approval given for the use in this location.

### Infrastructure Charges

A Material Change of Use for a vehicle repair station is a development type which triggers infrastructure charges. However as a result of the existing building on site and that the proposed use is categorised the same in Council's LGIP, no infrastructure charges are applicable for the proposed use.

### 7.3.3. PLANNING AND DEVELOPMENT

**MCU21/0011 - Change Representations on Decision Notice Material Change of Use for an Accommodation Building 9-11 Nelson Street, Clare. (Lot 20 on SP314314)**

**File Reference:** 226

**Report Author:** Kellie Galletta, Manager Planning and Development

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

- 1.1.1: Support projects and activities to improve public safety, health, and inclusiveness through strategic partnerships.
- 1.1.2: Encourage equitable access to facilities and resources.
- 1.2.1: Deliver regulatory and advisory programs.
- 1.2.2: Facilitate partnerships to improve community safety and wellbeing, including crime prevention initiatives.
- 1.3.1: Promote the benefits of living, working, playing, visiting, and investing in the Burdekin.
- 2.1.3: Promote opportunities and initiatives that encourage business to invest in research and diversification.
- 2.1.4: Encourage business establishment, development, and expansion.
- 2.2.1: Support business and industry networks.
- 2.3.3: Support development, value-adding, diversification, and expansion to provide a sustainable economic base.
- 2.4.1: Build relationships with educational institutions to identify gaps in skills, qualifications, and training programs valued in the Burdekin.
- 3.4.1: Support strategic projects that will contribute to liveability and economic growth in the Burdekin.
- 3.4.2: Review land supply and uses to meet community and business needs.
- 3.4.3: Design facilities that are adaptable and inclusive with consideration of the needs of all residents.
- 4.2.1: Maintain the balance between positive environmental outcomes and ongoing development.
- 4.2.5: Promote the implementation of environmental best practice by Council, residents, and business.

Burdekin Shire Council Operational Plan 2022-2023

- PD1 Ensure development approvals are fully compliant with relevant imposed development conditions.
- PD6 Facilitate pre-lodgement meetings with developers to support and encourage economic growth opportunities for the Burdekin Shire whilst balancing planning and environmental outcomes.
- PD7 Finalise adoption of new Planning Scheme.
- PD9 Ensure all new developments are assessed against provisions contained within Council's adopted Local Government Infrastructure Plan (LGIP), Planning Act 2016, Planning Scheme, legislative requirements and other relevant instruments.
- PD10 Implement the new Planning Scheme to achieve balanced environmental outcomes.



## Executive Summary

Council is in receipt of change representations made in relation to the conditions of approval for Development Permit (MCU22/0007) for a Material Change of Use – Accommodation Building on land described as Lot 20 on SP314314 and located at 9-11 Nelson Street, Clare.

On the 27 September, the Material Change of Use application was given approval to allow the conversion of the existing community hall building into a nine (9) bedroom accommodation building. The decision notice included twenty-six conditions of approval and fourteen advice notes.

The change representations (refer Attachment A) were lodged on 4 November 2022 by BNC Planning on behalf of the applicant Asimus Pty Ltd, seeking to amend two (2) conditions of the approval being:

- Condition 2: Approved Plans; and
- Condition 10: Roadworks, Traffic and Access.

Both conditions relate to the request from the applicant to provide new on street carparking along School Street, rather than on site carparking as approved by the development permit, due the current cost of construction and materials required to provide the onsite carparking.

The draft amended proposal plans provided with the change request show that six (6) angled spaces are to be provided along the frontage of the development site in School Street.

Council officers have reviewed and considered the change representations made and cannot support the proposed carparks being in School Street, as their positioning would be too close to pedestrian crossing points and accesses to adjoining properties.

Council officers would however be supportive of the construction and sealing of the onsite carparking and access to be undertaken in two (2) stages as follows:

### Stage 1

- A new 4.0m wide bitumen sealed roadway is to be constructed from the concrete crossover in School Road to the southern extent of the subject site.
- On-site parking areas are to be constructed of angular crushed rock.
- On-site parking areas are to be compacted using a steel drum roller prior to operation.
- All areas used for vehicle movements between the new sealed roadway and the property boundary are to be bitumen sealed.
- All construction must be to the satisfaction of the Chief Executive Officer and Council's Standards.
- All on-site parking spaces must be marked in accordance with the Transport Operations (Road Use Management) Act 1995 (TORUM Act) and must be read alongside the Manual of Uniform and Traffic Control Devices (MUTCD).

### Stage 2

- All on-site parking areas must be bitumen sealed and line-marked within 24 months of completing Stage 1 works.

## Recommendation

That Council issue a Negotiated Decision Notice for the Development Permit for a Material Change of Use – Accommodation Building on land described as Lot 20 on SP314314 and located at 9-11 Nelson Street, Clare, subject to the amended conditions, as set out in **Attachment B**.

## Background

On the 4 November 2022, change representations were lodged by BNC Planning on behalf of the applicant, Asimus Pty Ltd.

The change representations seek to amend the following two (2) conditions of the approval, for which the decision was made on the 27 September 2022 (with the decision notice issued on the 4 October 2022:

- Condition 2: Approved Plans; and
- Condition 10: Roadworks, Traffic and Access.

Council officers have reviewed and considered the change representations made and completed their assessment, as outlined in the assessment table included at **Attachment C**.

At the Council workshop held on the 29 November 2022, the request for the change representations was discussed.

Council officers explained why they cannot support the request to provide on street carparking along School Street due to the proposed carparking in School Street being too close to pedestrian crossing points and accesses to adjoining properties.

However Council officers would support the staged construction and sealing of the onsite carparking and access to be completed in two (2) stages as follows:

### Stage 1

- A new 4.0m wide bitumen sealed roadway is to be constructed from the concrete crossover in School Road to the southern extent of the subject site.
- On-site parking areas are to be constructed of angular crushed rock.
- On-site parking areas are to be compacted using a steel drum roller prior to operation.
- All areas used for vehicle movements between the new sealed roadway and the property boundary are to be bitumen sealed.
- All construction must be to the satisfaction of the Chief Executive Officer and Council's standards.
- All on-site parking spaces must be marked in accordance with the Transport Operations (Road Use Management) Act 1995 (TORUM Act) and must be read alongside the Manual of Uniform and Traffic Control Devices (MUTCD).

### Stage 2

- All on-site parking areas must be bitumen sealed and line-marked within 24 months of completing Stage 1 works. Refer to below diagrams being the officer's depiction of the areas forming part of the Stage 1 works proposal.



## Consultation

All relevant Council Departments have been consulted with comments and development conditions included as part of the recommendation.

The application was also workshopped with the Mayor and Councillors on 29 November 2022, where it was found during discussions that they were generally supportive of the proposed two (2) stage approach suggested by the officers.

## Budget & Resource Implications

Possible legal fees associated with any Planning and Environment Court appeal.

## Legal Authority & Implications

A potential risk is present in that any decision made by the Assessment Manager may attract an appeal in the Planning and Environment Court.

## Policy Implications

Not applicable in concerning the acceptance of this report.

## Risk Implications (Strategic, Operational, Project Risks)

Minimal organisational risk is apparent given that the recommendation has considered all relevant outcomes associated with Strategic, Operational and Project risks.

Risk has been managed by undertaking a thorough assessment against the assessment benchmarks relevant to this application and identifying conditions that should apply to the approval.

**Attachments**

1. Att A - Change Representations from BNC
2. Att B - Recommended Amended Conditions of Approval
3. Att C - Officer Assessment of Change Representations

BNC Ref. DA001-22  
BSC Ref. MCU22/0007

>> 04 November 2022

ASSESSMENT MANAGER  
BURDEKIN SHIRE COUNCIL  
PO BOX 974  
AYR QLD 4807  
Attention: Kellie Galletta  
Via: [Planning@burdekin.qld.gov.au](mailto:Planning@burdekin.qld.gov.au)

Dear Assessment Manager,

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**RE: CHANGE DURING APPLICANT APPEAL PERIOD – ASSESSMENT MANAGER REPRESENTATIONS UNDER SECTION 75 OF THE PLANNING ACT 2016**

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BNC Planning acting on behalf of the applicant hereby make the following change representations to the Burdekin Shire Council as the assessment manager for a recently issued material change of use development permit (council ref. MCU22/0007) issued on 04 October 2022 for an Accommodation Building use. The subject premises is addressed as 9-11 Nelson Street, Clare more particularly described as Lot 20 on SP314314. The representations relate to changing a matter in the decision notice, being amendments to the assessment managers conditions. Detailed justification in support of the proposed amendments is provided below:

**REPRESENTATIONS REGARDING THE ASSESSMENT MANAGERS CONDITIONS**

*Chapter 3, Part 5, Division 2, Subdivision 1 of the Planning Act 2016*

**(Condition) 10. Roadworks, Traffic and Access (Amend)**

Since the decision notice was issued the applicant has sought costing from contractors to construct the current approved driveway and car park to the standard outlined in this condition. These works have been found to be cost prohibitive for the development. As such, the applicant is seeking to provide a suitable alternative outcome through new on-street parking solutions which would negate the need for on-site parking. A copy of the amended site plan is attached.

The proposed amendments to Condition 10 are outlined below:

- 10.1 to be amended to *"On-street parking, designed and constructed in accordance with council standards, is to be provided generally in accordance with the layout shown on approved plan Proposed Site & Ground Floor Plan, DWG No. A04, Issue P8"*
- 10.2 to be amended to *"Technical details for all on-street parking, along with RPEQ certification, is required to be submitted as part of an Operational Works application"*
- 10.3 to be amended to *"Parking spaces are not to be used for any other purpose"*
- 10.4 to be removed as it is no longer relevant
- 10.5 to be removed as it is no longer relevant
- All other parts of Condition 10 remain relevant

**(Condition) 2.      Approved Plans (Amend)**

As a consequence of the proposed changes to Condition 10, the approved *Proposed Site and Ground Floor Plan* is to be updated to reference the amended version attached.

**CHANGE REPRESENTATION PROCESS UNDER THE *PLANNING ACT 2016***

Chapter 3, Part 5, Division 2, Subdivision 1 of the *Planning Act 2016* outlines the process required to facilitate a change during the applicant appeal period. The content of this correspondence constitutes *change representations* to the assessment manager under section 75 of the Act for changes to the assessment managers conditions of approval and infrastructure charges notice. In accordance with section 76 of the Act, the Townsville City Council must assess and decide the requested changes and issue a decision notice or negotiated decision notice within 5 business days of making a decision.

I trust this information is sufficient for assessing and deciding the requested changes under section 76 of the *Planning Act 2016*. Should you require any further information or have any questions, please contact me on (07) 4724 1763 or [enquire@bncplanning.com.au](mailto:enquire@bncplanning.com.au).

Kind regard,



**Benjamin Collings**  
**Director**

Att.





Condition	Reason	Timing
<p><b>1. General and Administration</b></p> <p>1.1 The development and conduct of the approved use of the premises, the carrying out and maintenance of any works on the premises and construction and maintenance of any building on the premises must be generally in accordance with the applications supporting material, except where modified by the conditions of this Development Permit and any approval issued there under.</p>		At all times.
<p><b>2. Approved Plans</b></p> <p>2.1 The proposed development must be completed and maintained generally in accordance with the drawing/ documents identified in the Table below, except as otherwise specified by any condition of this approval.</p> <p>2.2 One full set of the most up to date approved plans must be held on site and available for inspection for the duration of the construction phase.</p> <p>2.3 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.</p> <p>2.4 The proposed development must comply with all scheme requirements as applying at the date of this approval, except as otherwise specified by any condition of this approval.</p> <p>2.5 The development must be constructed in the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.</p>	The development must comply with all planning scheme requirements and definitions as approved and conditioned by this development permit.	During the operation and life of the development.

Condition		Reason	Timing
Approved Plans			
Drawing Title	Drawing/Revision	Date	
Preliminary Drawings - Existing Site and First Floor Plan	Job No. TFBBD-21019 Dwg No. A01 Issue P2	19.05.2021	
Preliminary Drawings – Proposed Site and First Floor Plan	Job No. TFBBD-21019 Dwg No. A03 Issue P3	19.05.2021	
Preliminary Drawings – Proposed Site and Ground Floor Plan	Job No. TFBBD-21019 Dwg No. A04 Issue P6	19.05.2021	
Associated Reports			
Development application prepared by BNC Planning.			
3. Outstanding charges			Prior to the commencement of the use.
All rates and charges (including infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use.			
4. Compliance with Conditions		The development must comply with all planning scheme requirements and definitions as approved and conditioned by this development permit.	During the operation and life of the development.
The proposed development must comply with all conditions of this development permit prior to the commencement of the use.			

Condition	Reason	Timing
<p><b>5. Limitation of Approval</b></p> <p>This approval is limited to Accommodation Building within the Residential Use Class as defined by Schedule 1, Division 2 – Defined Uses and Use Classes of <i>Burdekin Shire IPA Planning Scheme</i>.</p>	<p>The development must comply with all planning scheme requirements and definitions as approved and conditioned by this development permit.</p>	<p>During the operation and life of the development.</p>
<p><b>6. Notice of Intention to Commence the Use</b></p> <p>Prior to the commencement of the use on the land the subject of the application, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.</p>		<p>Prior to the commencement of the use.</p>
<p><b>7. On-site Water Supply</b></p> <p>Confirmation from the relevant private water service provider in this locality that an adequate and appropriate water supply for the development can be provided, is to be provided to Council.</p>	<p>The development is not located within a Burdekin Shire Council service area for a reticulated water service.</p> <p>Council understands that currently Sunwater is the private water service provider.</p>	<p>Prior to the issue of the Certificate of Occupancy by the Building Certifier and prior to the commencement of the use.</p>
<p><b>8. On-site Sewage Disposal</b></p> <p>8.1 The development must be serviced by an on-site sewage facility.</p>	<p>Development is not located within a service area for a sewerage service under the <i>Water Supply (Safety and</i></p>	<p>Prior to the issue of the Certificate of Occupancy by the Building Certifier</p>

Condition	Reason	Timing
8.2 This planning approval is not permission to install the facility or commence building works. Under the <i>Plumbing and Drainage Act 2018</i> , an application must be lodged with Burdekin Shire City Council before any building work or installation of an on-site facility can be carried out.	<i>Reliability) Act 2008</i> and must be appropriately serviced by a wastewater treatment and disposal facility that is appropriate for the level of demand generated by the development.	and prior to the commencement of the use.
<b>9. Privacy Screening</b>  Privacy screening or suitable alternative treatments are to be provided to habitable room windows located on the first floor.  Treatments may consist of: <ul style="list-style-type: none"> <li>a) Fixed, tinted or opaque glazing in at least any part of the fixed window; and</li> <li>b) Sliding external screens (e.g. louvered panels), of durable weather resistant materials and with a maximum of 50% transparency.</li> </ul>	To ensure the development appropriately addresses privacy requirements for residents at the premises, neighbouring residents and the community to ensure a suitable level of amenity and privacy is maintained.	Prior to the issue of the Certificate of Occupancy by the Building Certifier and during the operation and life of the development.
<b>10. Roadworks, Traffic and Access</b> <u>Works are to be completed in two (2) stages:</u> <u>Stage 1</u> 10.1 A new 4.0m wide bitumen sealed roadway from concrete crossover in School Road to southern extent of the subject site, <del>including the area between the roadway and on-site bitumen sealed carpark is to be constructed to the satisfaction of the Chief Executive Officer and Council's standards.</del> 10.2 <u>On-site parking areas are to be constructed of angular crushed rock.</u>	To provide development with access in accordance with council standards.	Technical details are to be submitted to council as part of an application for Operational Work.

Condition	Reason	Timing
<p><u>10.3 On-site parking areas are to be compacted using a steel drum roller prior to operation.</u></p> <p><u>10.4 All areas used for vehicle movements between the new sealed roadway and the property boundary are to be bitumen sealed.</u></p> <p><u>10.5 All construction must be to the satisfaction of Council and in accordance with Council's standards.</u></p> <p><u>10.6 All on-site parking spaces must be marked in accordance with the Transport Operations (Road Use Management) Act 1995 (TORUM Act) and must be read alongside the Manual of Uniform and Traffic Control Devices (MUTCD).</u></p> <p><b><u>Stage 2</u></b></p> <p><u>10.7 All on-site parking areas must be bitumen sealed and line-marked within 24 months of completing Stage 1 works.</u></p> <p><b><u>General (applicable for both stages)</u></b></p> <p><u>10.8</u> RPEQ certification is required to be submitted as part of an Operational Works application.</p> <p><u>10.3-9</u> Parking spaces, accesses and driveways not to be used for any other purpose.</p> <p><u>10.4-10</u> Provide to Council prior to the commencement of works, a cross section 1:50 scale of all driveways showing existing and design levels for crossovers.</p> <p><u>10.5-11</u> Vehicles must not exit the site in a reverse direction.</p> <p><u>10.6-12</u> Provide pedestrian access, both internal and external to the site, which is separated from vehicular access to minimise the potential for pedestrian and vehicle conflict.</p> <p><u>10.7-13</u> Development must not impact adversely on the efficiency and safety of the transport network and those who use it, nor adversely impact on the immediately surrounding uses.</p> <p><u>10.8-14</u> During the construction phase, any damage to the road reserve (i.e. footpath/kerb and channel) must be replaced in accordance with council's standards.</p>		



Condition	Reason	Timing
<p><del>10.9 Roadworks Approval</del></p> <p><del>10.9.1 The developer is responsible for obtaining a Roadworks permit for the installation of any hoardings, gantries or temporary road closures of the footpath or road prior to the commencement of works.</del></p> <p><del>10.9.2 The application must indicate the following:</del></p> <ul style="list-style-type: none"> <li><del>a) Completed Roadworks permit application form.</del></li> <li><del>b) Prescribed fee.</del></li> <li><del>c) Traffic Management Plan prepared by a suitable qualified traffic professional detailing the traffic management measures put in place to manage all Roadworks including pedestrians, cyclists and vehicles in accordance with the Manual of Uniform Traffic Control Devices (Queensland) Part 3 Works on Roads.</del></li> <li><del>d) If the works require closure of part of the road reserve, a temporary Road Closure Permit will be required.</del></li> </ul> <p><del>This permit allows for a section of road reserve to be closed for the purpose of works. The Queensland Police Service is the issuing authority for these permits. An application will need to be made to council for a letter of 'no objection' prior to applying to the Queensland Police Service for the permit.</del></p> <p><del>The Traffic Management Plan will need to be included with the application to council.</del></p>		
<p><b>11. On Site Car Parking</b></p> <p>11.1 A minimum of ten (10) car parking spaces (including a dedicated accessible space) must be provided on site and made available to serve the development.</p> <p>11.2 All on-site car parking facilities, associated ramps, driveways and manoeuvring areas must be designed and constructed in accordance with Council's requirements and the relevant Standards.</p>	<p>To ensure development is appropriately serviced by parking and access facilities in accordance with relevant code/s and policy direction.</p>	<p>Technical details are to be submitted to council as part of an application for Operational Work</p>

Condition	Reason	Timing
11.3 All car parking facilities must be always maintained to a safe operating standard thereafter.		and maintained for the life of the development.
<b>12. Stormwater Drainage</b>  12.1 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads. 12.2 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system. 12.3 Stormwater drainage must be discharged under the footpath to kerb and channelling within the adjoining road reserves in accordance with <i>AS3500.2.2003</i> or as otherwise required or agreed to in writing by the Chief Executive Officer. 12.4 RPEQ Certified Stormwater Management Plan is required to be provided as part of the Operational Works Application.	To convey stormwater legally and in an environmentally responsible manner in accordance with relevant standards, code/s and policy direction.	Technical details are to be submitted to council as part of an application for Operational Work and maintained for the life of the development.
<b>13. Landscaping and Screen Fencing</b>  i. The site is to be suitably landscaped (with appropriate irrigation installed) with suitable species, in accordance with council's specifications and to the satisfaction of the Chief Executive Officer.  ii. A minimum 1.8m high timber paling (with max 10mm gap) or similar style fence is to be provided for the full length of all property boundaries excepting pedestrian and vehicle access points.	To enhance the appearance of the development for both residents and the community in accordance with Council's relevant code/s and policy direction.	To be maintained for the life of the development.
<b>14. Communal Open Space</b>		

Condition	Reason	Timing
Provide sufficient communal open space that is accessible, useable and safe, centrally located and landscaped to an appropriate standard and designed and located in such a way to ensure any noise impacts are acceptable.	To ensure the development provide occupants with an appropriate level of communal open space.	To be maintained for the life of the development.
<p><b>15. Noise Management</b></p> <p>The proposed activity must be conducted in a manner that applies such reasonable and practicable means necessary to avoid, minimise or manage the emission or likelihood of emission of noise that constitutes an intrusive or noise nuisance.</p> <p>In the event of a complaint being received by Council in relation to noise associated with the use, the developer/operator must engage a suitably qualified acoustic consultant to undertake an assessment addressing noise emanating from the site for this use in accordance with the provisions of the <i>Environmental Protection Act 1994</i>, <i>Environmental Protection (Noise) Policy 2019</i>, <i>Environmental Protection Regulation 2019</i> and Australian Standard AS 1055 Acoustics to the satisfaction of the Burdekin Shire Council.</p> <p>The assessment must be accompanied by a report, inclusive of supporting calculations and site investigations and provide a recommended method and location of noise attenuation measures. The developer/operator must provide a copy of the report to Council and undertake any works (if required from the report) within 3 months at no cost to Council.</p>	<p>To ensure that the use does not cause a noise nuisance to nearby sensitive receptors, and to ensure that a nuisance is not caused to the use from other nearby noise sources in accordance with the Queensland <i>Environmental Protection Act 1994</i> Section 440.</p>	<p>To be maintained for the life of the development.</p>
<p><b>16. Refuse Facilities</b></p> <p>Refuse collection arrangements must be provided by the developer to the satisfaction of the Chief Executive Officer.</p> <p>In particular:</p>	<p>To ensure the premises is appropriately serviced and to protect matters of public</p>	<p>Prior to commencement of the use and to be</p>

Condition	Reason	Timing
<p>a) The approved waste storage area is to be of sufficient size to house all garbage bins including recycling bins.</p> <p>b) Provide a storage area that is suitably paved, with a hose cock fitted in close proximity to the enclosure and drained via a legal on-site sewer connection.</p> <p>c) All waste generated as a result of the construction of the development is to be effectively controlled and contained entirely within the boundaries of the site prior to disposal.</p> <p>All waste is to be disposed of in accordance with the <i>Environmental Protection Regulation 2019</i> and council's waste management policy.</p>	<p>health and amenity in accordance with relevant code/s and policy direction.</p>	<p>maintained for the life of the development.</p>
<p><b>17. Screen Fencing</b></p> <p>17.1 A minimum 1.8m high fence is to be provided for the full length of the property boundaries, excepting access points.</p> <p>17.2 The type and design of the fencing must be submitted and approved by the Chief Executive Officer.</p>	<p>To ensure the development does not have a detrimental effect on the amenity of the surrounding land and to address Crime Prevention through Environmental Design principles in accordance with the relevant code/s and policy direction.</p>	<p>Prior to the commencement of the use and maintained for the life of the development.</p>
<p><b>18. Property Numbering</b></p> <p>Legible property numbers must be erected at the premises and must be maintained.</p> <p>The site identification numbers should be of reflective material, maintained free from foliage and other obstructions, and be large enough to be read from the street.</p>	<p>To allow the general public, service and emergency service providers to</p>	<p>Prior to the commencement of the use and maintained for the</p>

Condition	Reason	Timing
	effectively identify the property.	life of the development.
<b>19. Relocation of Services or facilities</b>  Any required relocation and/or alteration to any public service or facility installation must be carried out at no cost to council.	To ensure development is appropriately serviced by public services and/or in accordance with relevant code/s and policy direction.	Prior to the commencement of use.
<b>20. Storage</b>  20.1 Goods, equipment, packaging material or machinery must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare. 20.2 Any storage on site is required to be screened from view from all roads and adjacent properties.	To ensure the development does not have a detrimental effect on the visual amenity of the surrounding land in accordance with relevant code/s and policy direction.	At all times following the commencement of the use.
<b>21. Building Works</b>  A development permit for Building Works (Certificate of Occupancy) is to be obtained before commencement of the use.		Prior to the commencement of the use and maintained for the life of the development.
<b>22. Screening of Plant and Utilities</b>  Unless otherwise agreed in writing by council, all plant and utilities must be screened or located so as not to be visible from the street.	To ensure the development does not have a detrimental effect on the amenity of the	Prior to the commencement of the use and

Condition	Reason	Timing
	surrounding land in accordance with relevant code/s and policy direction.	maintained for the life of the development.
<p><b>23. Outdoor Lighting</b></p> <p>Any outdoor lighting fixtures must be installed and maintained so that they do not emit glare or light above the levels stated in <i>Australian Standard 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting</i>.</p>	<p>To ensure that the use does not cause a light nuisance to nearby sensitive receptors, and to ensure that a nuisance is not caused to the use from other nearby light sources in accordance with the Queensland <i>Environmental Protection Act 1994</i> Section 440.</p>	<p>Prior to commencement of the use and to be maintained for the life of the development.</p>
<p><b>24. Signage</b></p> <p>Any signage to be associated with the use must be designed to satisfaction of the Chief Executive officer.</p> <p>To maintain amenity for the adjoining properties, no illumination of the signage is to occur unless otherwise approved by council.</p>	<p>To maintain amenity for the adjoining properties.</p>	<p>Prior to the commencement of the use.</p>
<p><b>25. Soil Erosion Minimisation, Sediment Control</b></p> <p>Erosion and sediment control management including site specific stormwater treatment devices must be installed and maintained to the satisfaction of the Chief Executive Officer.</p>	<p>To ensure that receiving waters during construction of the development are managed from the effects of increased sediment run-off</p>	<p>At all times during the construction phase.</p>



Condition	Reason	Timing
	in accordance with relevant code/s and policy direction.	
<b>26. Dust Management</b>  A dust management plan must be prepared and submitted to council for approval.	To mitigate potential adverse impacts of dust hazards.	Technical details are to be submitted to council as part of an application for Operational Work.

Advice	
<b>1. Infrastructure Charges</b> An Infrastructure Charges Notice outlining the estimated infrastructure contributions payable relevant to the Development Permit is attached for your information.	
<b>2. General</b> Council will not be obligated to upgrade any roads accessing the development due to increased vehicle numbers accessing the development.	
<b>3. Further Approvals Required</b> <b>a) Operational Work</b> An Operational Work application associated with the following conditions must be submitted to Council for approval prior to the issue of a Development Permit for Building Works, unless otherwise approved by council. Condition 10 – Roadworks and Traffic Condition 11 – On Site Car Parking	

<p>Condition 12 – Stormwater Drainage Condition 26 – Dust Management</p> <p>All engineering, soil erosion and sediment control and landscaping designs and documentation associated with such an application must be prepared and, where necessary, certified by a suitably qualified/experience person.</p> <p><b>b) Plumbing and Drainage Works.</b> A Compliance Permit to carry out plumbing and drainage works prior to the commencement of sanitary drainage works.</p> <p><b>c) Building Works</b> A Development Permit for Building Works to carry out building works prior to works commencing on site.</p>	
<p><b>4. Further Inspections Required</b> <b>Compliance with Conditions</b></p> <p>The following inspections will be required to be undertaken by council to determine compliance with conditions that are not subject to a further approval.</p> <p>Condition 13 – Landscaping Condition 14 – Communal Open Space Condition 16 – Refuse Facilities Condition 17 – Screen Fencing Condition 18 – Property Numbering Condition 19 – Relocation of Services or facilities Condition 22 – Screening of Plant and Utilities Condition 25 – Soil Erosion Minimisation, Sediment Control</p>	
<p><b>5. Licenced Operator of Premises</b></p> <p>The operator of the premises must hold a licence with Burdekin Shire Council for the operation of the accommodation premises under the provisions of the <i>Local Government Act 2009</i> and Local Laws pursuant to the Act.</p>	
<p><b>6. Roadworks Permit</b></p> <p>If required, a Roadworks Permit for the construction of a driveway or access within the road reserve must be obtained.</p>	
<p><b>7. Storage of Materials and Machinery</b></p>	

All materials and machinery to be used during the construction period are to be wholly stored on the site, unless otherwise approved by council.	
<b>8. Building Work Noise</b> The hours of audible noise associated with construction and building work on site must be limited to between the hours of: <ul style="list-style-type: none"> <li>▪ 6.30 a.m. to 6.30 p.m. Monday to Saturday; with</li> <li>▪ No work on Sundays or Public Holidays.</li> </ul>	To ensure compliance with the <i>Environmental Protection Act 1994</i> .
<b>9. Dust Management</b> Dust control measures should be implemented onsite during the construction phase to prevent an environmental nuisance from affecting the occupiers and users of nearby premises.	
<b>10. Asbestos</b> All asbestos removed from the site must be handled, transported and disposed of in accordance with the relevant legislation.	
<b>13. Waste Management</b>  The activity must be in accordance with Council's Waste Management Policy, Local Law No. 8 (Waste Management) 2018 and the Environmental Protection Regulation 2019 to ensure sufficient waste management storage capacity is provided on site to adequately cater for the demand generated by the use of the premises.  All regulated waste must be removed from the site by a regulated waste removal contractor.  The records for this disposal must be kept on site and be available for viewing by an authorised officer.	
<b>14. Plant and Utilities Noise</b> All refrigeration equipment, pumps, compressors, air conditioning units and mechanical ventilation systems must be located, designed and installed to not exceed a maximum noise level of: <ul style="list-style-type: none"> <li>▪ 5dB(A) above background level between the times of 7am to 10pm; and</li> </ul>	To ensure the use does not have a detrimental effect on the amenity of

## Attachment B – Recommended Amended Conditions of Approval

- 3 dB(A) above background level between the times of 10pm to 7am.

nearby sensitive receptors  
in accordance with the  
Environmental Protection  
Act 1994.

Condition	Applicants Representation	Officers Assessment	Officers Recommendation
<b>2. Approved Plans</b>			
Preliminary Drawings – Proposed Site and Ground Floor Plan  Job No. TFBD-21019 Dwg No. A04, Issue P6	Amend.	Refer below comment as amended plans are reflection of the changes to <b>10. Roadworks, Traffic and Access.</b>	No need to amend. See below comment.
<b>10. Roadworks, Traffic and Access</b>			
10.1	Delete.	Officers do not agree with the representation as made for the proposed carparks in School Street, as they would be too close to pedestrian crossing points and accesses to adjoining properties.  However Council officers can support a staged approach to the construction of the access and onsite carparking works to be completed in two stages with Stage 2 works to be completed within twenty four (24) months of Stage 1 works being completed.	Condition to remain but amended to reflect Council's agreement to staging of the works required for the access and on site carparking.  Amended recommended conditions of approval are provided at <b>Attachment B</b> of the meeting report, as shown in red in tracked changes.
10.2	Amend.		
10.3	Amended to 'Parking Spaces'.		
10.4	To be removed as no longer relevant.		
10.5	To be removed as no longer relevant.		
10.6 - 10.9	No change requested, as they remain relevant.		

## 7.4.1. TECHNICAL SERVICES

### Burdekin Aquatic Centre Kiosk Construction and Entrance Works Contract Award

**File Reference:** 2521

**Report Author:** Tayla Heuir, Graduate Technical Officer

**Authoriser:** Nick Wellwood, Director Infrastructure Planning and Environmental Services

**Meeting Date:** 13 December 2022

#### **Link to Corporate/Operational Plan:**

Burdekin Shire Council Corporate Plan 2022-2027

1.5.3: Shape the built environment to enhance connectivity, social interaction, and a healthy lifestyle.

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#### **Executive Summary**

Building a community space that includes a water park has been on the public agenda for some time. To facilitate the new water park and update the existing amenities, a new kiosk building was prioritised to provide safe and direct access to the Burdekin Aquatic Centre, formally the Ayr Swimming Pool complex.

Council preliminarily earmarked \$394,000.00 from its 2022/2023 Capital Budget for the design and construction of the Burdekin Aquatic Centre Kiosk, with Councillors and staff undertaking preliminary planning for the project since January 2022.

The tender responses for the construction of the kiosk, shaded seating area for the water park, ramp and entrance works came in significantly higher than anticipated, requiring the reallocation of funded budgets across the Burdekin Precinct Project to support the inflated cost estimates.

The assessment panel has further undertaken an extensive review of each tender response. From this review, the two (2) front running companies were asked to supply a breakdown of their lump sum project costs and comment about possible construction cost reductions to better suit Council's allocated budget.

Due to the major increase in materials and labour costs industry wide, it was determined that the two (2) front running companies provided competitive prices. Suggestions to reduce costs included the major redesign of the iconic roof line, which was not a desired outcome from Council.

From this revision period, the assessment panel determined a preferred company and came to a recommendation.

The purpose of this report is to seek Council's approval for the selection of one (1) company to be awarded the contract for the Burdekin Aquatic Centre kiosk, shaded seating area for water park, ramp and entrance construction works.

#### **Recommendation**

That Council:

1. Endorses the recommendations of the assessment panel and selects W&F Constructions Pty Ltd to be awarded the contract for the construction of the Burdekin Aquatic Centre Kiosk (TBSC/22/015) for the total lump sum of \$870,100.00 ex GST.



## Background

Building a community space that includes a water park has been on the public agenda for some time. To facilitate the new water park and update the existing amenities, a new kiosk building was prioritised to provide safe and direct access to the Burdekin Aquatic Centre, formally the Ayr Swimming Pool complex.

Council preliminarily earmarked \$394,000.00 from its 2022/2023 Capital Budget for the design and construction of the Burdekin Aquatic Centre Kiosk, with Councillors and staff undertaking preliminary planning for the project since January 2022.

The new water park is expected to increase patronage and general use of the Aquatic Centre and will make the existing kiosk building unsuitable once the water park is operational, due to its location and state.

To improve accessibility to the site, Council decided to shift the location of the main entrance to Macmillan Street, instead of leaving it in place at its current location off the Bruce Highway (Queen Street).

As an associated project, Macmillan Street will be upgraded to accommodate for the change in entry, with the formalisation of the road, additions to car parking spaces, and inclusion of a shared crossing zone for safe pedestrian access to the site.

The kiosk project was split into design and construction phases, with Counterpoint Architecture being awarded the design contract in April 2022. Councillors were shown the preliminary designs of the building at a Council Workshop in June 2022, delivered by Counterpoint Architecture.

Following the completion of the detailed design plans for the Burdekin Aquatic Centre kiosk, shaded seating area for the water park, ramp and entrance, staff coordinated the tender for the building's construction.

At its close, three (3) companies had responded to the tender, and the assessment panel began an extensive review. Due to the higher than anticipated quotations received, Council shortlisted two (2) of the companies to further breakdown their lump sum quotations to explain the costs, and further provide comment on where Council could reduce costs during the construction phase.

The quoted prices are a reflection of the major increase of materials and labour in the construction industry at present, and the two (2) shortlisted responses were determined competitive. Suggestions for cost reduction revolved around changing the design of the iconic building roof line, which was not a desired outcome from Council.

From the revision period, the assessment panel determined a preferred company and came to a recommendation from a weighted assessment score matrix consisting of price, experience, resources, methodology and local content.

Tender Name:	JMAC	RJG	W&F
Total Weight Score:	6.45	8.2	9.4

The purpose of this report is to seek Council's approval of the recommended construction company to be awarded the contract for the Burdekin Aquatic Centre kiosk, shaded seating area for water park, ramp and entrance construction works. With Council's endorsement, the successful firm will be awarded the contract TBSC/22/015 for the Burdekin Aquatic Centre Kiosk, shaded seating area for water park, ramp and entrance construction works on 14 December 2022, with practical completion for the contract set for 30 June 2023.

## **Consultation**

An assessment panel reviewed each response from the tender procurement process. This assessment was based on the project cost, experience, resources, methodology and local content of each company.

Councillors were presented with a summary of each of the three (3) tender responses and a recommendation of which company shall be awarded the contract by the assessment panel at a Council Workshop held on 6 December 2022.

## **Budget & Resource Implications**

Part of the Local Roads and Community Infrastructure Program Phase 3 funding of \$1.24 million has been allocated to the Burdekin Aquatic Centre Kiosk Construction and entrance works. Other changes to budget allocations will be made in RBUD2.

## **Legal Authority & Implications**

Section 228 of the *Local Government Regulation 2012* provides guidance on tender procedures.

## **Policy Implications**

Burdekin Shire Council Procurement Policy.

## **Risk Implications (Strategic, Operational, Project Risks)**

The risks associated with inviting formal tenders are managed by conducting the process in accordance with the legislative requirements of the Local Government Act and Regulation.

Timing of the construction to meet funding deadlines. Weather and supply delay risks will be closely monitored.

## **Attachments**

1. Summary of Lump Sum Tender Submissions
2. Detailed Assessment Scores