

# **Livingstone**

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## Shire Council

### **ORDINARY MEETING**

### **MINUTES**

**8 DECEMBER 2015**

The Council resolutions contained within these minutes were confirmed at the Council meeting on 12 January 2016.

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**MINUTES OF THE ORDINARY MEETING HELD AT COUNCIL CHAMBERS, ANZAC PARADE, YEPPON ON TUESDAY, 8 DECEMBER 2015 COMMENCING AT 9.06AM**

**1 OPENING**

**2 PRESENT**

Members Present:

Mayor, Councillor Bill Ludwig (Chairperson)  
Deputy Mayor, Councillor Graham Scott  
Councillor Adam Belot  
Councillor Nigel Hutton  
Councillor Jan Kelly  
Councillor Glenda Mather  
Councillor Tom Wyatt

In Attendance:

Mr Justin Commons – Chief Executive Officer  
Ms Chris Murdoch – Director Corporate Services  
Mr Dan Toon – Director Infrastructure Services  
Mr Michael Prior – Manager Infrastructure Operations  
Mr Ashan Yousuf – Senior Planning Officer  
Ms Jenna Brosseuk – Acting Senior Planning Officer  
Ms Erin McCabe – Coordinator Development Assessment  
Ms Rhiannon Casey – Acting Planning Officer  
Ms Mel Warwick – Senior Strategic Planner  
Ms Tara Norley – Support Services Officer  
Mr Darryll Schurmann – Chief Financial Officer  
Mr Damien Cross – Senior Accountant  
Mr Dan Pearce – Manager Assets & GIS  
Ms Trish Weir – Customer Service Manager  
Ms Robyn Black – PA to Mayor & Deputy Mayor

**3 LEAVE OF ABSENCE / APOLOGIES**

Nil

**4 PUBLIC FORUMS/DEPUTATIONS**

Nil

## 5 MAYORAL MINUTE

### 5.1 MAYORAL MINUTE

**File No:** CP5.9.2-176  
**Attachments:** Nil  
**Responsible Officer:** Justin Commons - Chief Executive Officer

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#### SUMMARY

*Prior to amalgamation an agreement was in place whereby signage located in Reserve for Recreation Lot 131 on LN906 (5-11 Barmoya Road, The Caves) was invoiced by Council to Capricorn Caverns and Henderson Park for \$250 each (annually) for advertising and those funds, further to processing, were forwarded to The Caves Lions Club (Lions) as a donation.*

*Following amalgamation Council ceased collecting those funds on behalf of Lions. Lions have now approached Mayor Ludwig to enquire if that fund raising opportunity could be reinstated. Council approached the two businesses currently advertising on the sign to see if they supported the request which they have both readily agreed to.*

*It has also been suggested that rather than Council invoice, collect funds and remit to Lions that Lions manage these arrangements direct with the business advertisers.*

*Noting that the sign will remain the property of Council and maintenance will continue to be administered by Council from time to time as required, I commend this information to the table and that Lions be formally given the authority to manage, at no cost to the Lions, the advertising that appears on the sign and receives payment direct from advertisers to use for community purposes.*

*Acknowledging the great work the Lions do in the community I therefore recommend the following Mayoral Minute.*

#### COUNCIL RESOLUTION

##### MAYOR'S MINUTE

THAT The Caves Lions Club be formally given the authority to manage, at no cost to the Lions, the advertising that appears on signage located in Reserve for Recreation Lot 131 on LN906 and receives payment direct from advertisers to use for community purposes.

**Moved by:** Mayor Ludwig  
**Seconded by:** Councillor Hutton

**MOTION CARRIED UNANIMOUSLY**



## **6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

### **COUNCIL RESOLUTION**

THAT the minutes of the Ordinary Meeting held on 24 November 2015 be taken as read and adopted as a correct record.

**Moved by:** Councillor Mather

**Seconded by:** Councillor Kelly

**MOTION CARRIED**

## **7 DECLARATIONS OF INTEREST IN MATTERS ON THE AGENDA**

### **9:10AM**

In accordance with s173(2) of the *Local Government Act 2009*, Councillor Scott disclosed a perceived conflict of interest in respect of Item 12.1 – Request for a Permissible Change to Development Permit D-Y/2007-245 – Preliminary Approval Overriding the Planning Scheme for a Material Change of Use for a Master Planned Development Comprising Residential (including Community Title), Retirement Village, Medical Centre, Child Care and Shop due to his engineering firm, Graham Scott and Associates, involvement with Fenbrook Pty Ltd. and the development of their original application. Councillor Scott announced his intention to remain in the room and to vote on the matter.

### **10:12AM**

In accordance with s172(2) of the *Local Government Act 2009*, Councillor Belot disclosed a conflict of interest in respect of Item 12.8 – Request for a Negotiated Decision for a Development Permit for Reconfiguring a Lot for a Boundary Realignment (Four Lots into Four Lots) and a Material Change of Use for Shops, Offices and Take-Away Food Stores due to having family as neighbours to the property. Cr. Belot did not take part in the debate and left the meeting.

### **10:24AM**

In accordance with s172(2) of the *Local Government Act 2009*, Councillor Scott disclosed a conflict of interest in respect of Item 12.9 – Development Application for Reconfiguring a Lot (Two Lots into Two Lots) and a Material Change of Use for a Retirement Village (Sixty Two Additional Units) due the business he is currently working for, Calibre Consulting, has been involved with stormwater drainage on the project. Cr. Scott did not take part in the debate and left the meeting.

### **1:32PM and 2:07PM**

In accordance with s172(2) of the *Local Government Act 2009*, Councillor Scott disclosed a conflict of interest in respect of Item 16.4 – The Gateway Estate Sale of Lot 4 – Proposed Land Swap due the business he is currently working for, Calibre Consulting, has been working with Young's Buses in Rockhampton and have seen their plans for The Gateway Estate. Cr. Scott did not take part in the debate and left the meeting.

**8 BUSINESS ARISING OR OUTSTANDING FROM PREVIOUS MEETINGS**

Nil

**9 PRESENTATION OF PETITIONS**

Nil

**10 BUSINESS IMPROVEMENT COMMITTEE REPORTS**

Nil

**11 COUNCILLOR/DELEGATE REPORTS**

Nil

## 12 REPORTS

### 12.1 REQUEST FOR A PERMISSIBLE CHANGE TO DEVELOPMENT PERMIT D-Y/2007-245 - PRELIMINARY APPROVAL OVERRIDING THE PLANNING SCHEME FOR A MATERIAL CHANGE OF USE FOR A MASTER PLANNED DEVELOPMENT COMPRISING RESIDENTIAL (INCLUDING COMMUNITY TITLE), RETIREMENT VILLAGE, MEDICAL CENTRE, CHILD CARE AND SHOP

**File No:** D-Y/2007-245

**Attachments:**

1. Locality Plan
2. Proposal Plan
3. Tanby Road Local Plan

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Ahsan Yousuf - Senior Planning Officer

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#### SUMMARY

*Development Application Number:* D-Y/2007-245

*Applicant:* Abiwood Keppel No. 1 Pty Ltd

*Real Property Address:* Lot 3 on RP602596, Parish of Hewittville

*Common Property Address:* 318 Tanby Road, Taroomball

*Area of Site:* 60.4 hectares

*Planning Scheme:* Livingstone Shire Planning Scheme 2005

*Planning Scheme Zoning:* Rural Zone

*Planning Scheme Overlays:* Overlay Map O2 – Drainage Problem and Steep Land  
Overlay Map O4 – Good Quality Agricultural Land  
Overlay Map O5 – Bushfire Hazard  
Overlay Map O9 – Visual Quality – Precincts A and B

*Existing Use:* Agriculture and rural dwelling houses

*Existing Approvals:* Preliminary Approval Overriding the Planning Scheme

*Approval Sought:* Permissible change to Preliminary Approval Overriding the Planning Scheme for a Material Change of Use for a Master Planned Development comprising Residential (including community title) Retirement Village, Medical Centre, Child Care and Shop

*Level of Assessment:* The original application was Impact Assessable

*Submissions:* One (1) late submission by K and L Cutting (not 'properly made')

*Referral Agency(s):* Department of Infrastructure, Local Government and Planning (formerly Department of Local Government, Planning, Sport and Recreation);

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*Department of Transport and Main Roads;  
Department of Natural Resources and Water*

## **COUNCIL RESOLUTION**

THAT in relation to the request for a permissible change to approval D-Y/2007-245, made by Abiwood Keppel No. 1 Pty Ltd c/- Sedgman Consulting on land described as Lot 3 on RP602596, Parish of Hewittville, and located at 318 Tanby Road, Taroomball, Council resolves that:

### **1.0 Condition 1.1 be changed from:**

In this approval:

- 1.1.1 Applicant means the Fenbrock Pty Ltd (care of its agents – Buckley Vann Town Planning Consultants) being the applicant for a preliminary approval overriding the Council's Planning Scheme with respect to the Subject Land.
- 1.1.2 Approval means the approval of the Application by the Council on 15 July 2008.
- 1.1.3 Application means the Application made by the Applicant to the Council dated 18 June 2007 over the Subject Land for a preliminary approval overriding the Council's Planning Scheme.
- 1.1.4 Capricorn Municipal Development Guidelines means a document adopted by Council containing guidelines and standards for development, as amended from time to time.
- 1.1.5 Conditions mean the conditions of this preliminary approval including any attachment referred to in these conditions.
- 1.1.6 Council means Rockhampton Regional Council.
- 1.1.7 Developer means the Fenbrock Pty Ltd or the registered proprietor and any occupier of the Subject Land.
- 1.1.8 Environmental Management Plan means a plan prepared and approved in accordance with Condition 16.0.
- 1.1.9 Infrastructure means infrastructure reasonably required to service the proposed development including roads (internal, external and access), parks, open space and conservation areas, water and sewerage services, stormwater drainage and community facilities.
- 1.1.10 Integrated Planning Act 1997 means the Integrated Planning Act 1997 as amended from time to time.
- 1.1.11 Preamble means an introduction which provides guidance and background to a condition. While a Preamble does not form part of the condition it can be used for the purpose of understanding and interpreting a condition.
- 1.1.12 Staging Plan means a plan prepared and approved in accordance with Condition 5.0.
- 1.1.13 Subject Land means Lot 3 on RP602596, Parish of Hewittville, located at 318 Tanby Road, Taroomball, having a total area of 60.369 hectares.
- 1.1.14 Planning Scheme means Council's Planning Scheme Gazetted on 17 October 2005, as amended from time to time, or any other planning which subsequently replaces the Livingstone Planning Scheme 2005.
- 1.1.15 Master Plan Development Document means the Master Plan Development Document, which includes the assessment table, definitions and Capricorn Ridge Residential Development Code (copy attached – Attachment 1) being a plan of the proposed development for a Material Change of Use which overrides Council's Planning Scheme with respect to the Subject Land which



in particular:

- (i) states what development is:
  - (a) Assessable Development (requiring Code or Impact Assessment); or
  - (b) Self-assessable Development; or
  - (c) Exempt Development; and
- (ii) Identifies codes for the development.

**To:**

**In this approval:**

- 1.1.1 **Applicant** means Abiwood Keppel No. 1 Pty Ltd (care of Sedgman Consulting) being the applicant for a preliminary approval overriding the Council's Planning Scheme with respect to the Subject Land.
- 1.1.2 **Approval** means the approval of the Application by the Council under section 3.1.6 of the *Integrated Planning Act 1997* on 15 July 2008, as amended through the subsequent permissible change approval under the *Sustainable Planning Act 2009* on 8 December 2015.
- 1.1.3 **Application** means the Application made to the Council dated 18 June 2007 and the subsequent material provided with the permissible change application made to the Council on 4 March 2015 over the Subject Land for a preliminary approval overriding the Council's Planning Scheme.
- 1.1.4 **Capricorn Municipal Development Guidelines** means a document adopted by Council containing guidelines and standards for development, as amended from time to time.
- 1.1.5 **Conditions** mean the conditions of this preliminary approval including any attachment referred to in these conditions.
- 1.1.6 **Council** means the Livingstone Shire Council.
- 1.1.7 **Developer** means Abiwood Keppel No. 1 Pty Ltd or the registered proprietor and any occupier of the Subject Land.
- 1.1.8 Deleted.
- 1.1.9 **Infrastructure** means infrastructure reasonably required to service the proposed development including roads (internal, external and access), parks, open space and conservation areas, water and sewerage services, stormwater drainage and community facilities.
- 1.1.10 For interpretation regarding the applicable legislation:
  - (i) **Integrated Planning Act 1997** means the *Integrated Planning Act 1997*, as amended from time to time.
  - (ii) **Sustainable Planning Act 2009** means the *Sustainable Planning Act 2009*, as amended from time to time.
  - (iii) The **Planning Act** means the Planning Act applicable at the time a subsequent development application is lodged pursuant to the provisions of this preliminary approval, as amended from time to time.
- 1.1.11 **Preamble** means an introduction which provides guidance and background to a condition. While a Preamble does not form part of the condition it can be used for the purpose of understanding and interpreting a condition.
- 1.1.12 Deleted.
- 1.1.13 **Subject Land** means Lot 3 on RP602596, Parish of Hewittville, located at 318

Tanby Road, Taroombal, having a total area of 60.37 hectares.

1.1.14 **Planning Scheme** means Council's Planning Scheme Gazetted on 17 October 2005, as amended from time to time, or any other planning which subsequently replaces the *Livingstone Planning Scheme 2005*.

1.1.15 **Local Plan Document** means the Local Plan Document listed under condition 2.1, which includes the assessment tables, definitions and Development Code (copy attached – Attachment 1), being a plan of the proposed development for a Material Change of Use, Building Works, Reconfiguring a Lot, an Operational Works, which overrides Council's Planning Scheme with respect to the Subject Land, which in particular:

- (i) states what development is:
  - (a) Assessable Development (requiring Code or Impact Assessment); or
  - (b) Self-assessable Development; or
  - (c) Exempt Development; and
- (ii) Identifies codes for the development.

## 2.0 Condition 2.1 be changed from:

This is a preliminary approval for a Material Change of Use to override Council's Planning Scheme under Section 3.1.6 of the Integrated Planning Act 1997 for a Master Planned Development comprising Residential (including community title) Retirement Village, Medical Centre, Child Care Centre and Shops, on the subject land. The development must be undertaken generally in accordance with the following plans and documents, except where amended by the Conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Capricorn at Yeppoon Master Plan And Assessment Code	4554-01 B	23 October 2007
Development Staging Plan	050419/A	November 2007
Subdivision Concept Plan	4554-02B	11 July 2007
Landscape Concept Plan	519-LCP01 Rev B	January 2007
Acoustic Assessment	P400370.01_RPTFinal_4Dec07	4 December 2007
Geotechnical Investigation Report		November 2007
Engineering Report	Project Number 050419	November 2007
Bushfire Hazard Assessment		25 May 2007

### To:

This is a preliminary approval for a Material Change of Use to override Council's Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997* for a Master Planned Development comprising Residential (including community title) Retirement Village, Medical Centre, Child Care Centre and Shops, on the subject land. The

development must be undertaken generally in accordance with the following plans and documents, except where amended by the Conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Tanby Road Local Plan	YBA0021 – Andrew O'Brien/kd) Revision: 3	2 December 2015
Indicative Staging Plan	YBA0021-SK-019	10 November 2015
Indicative Landscape Plan	YBA0021-SK-021	20 August 2015

### 3.0 Condition 2.6 be changed from:

For record purposes it is noted that the Application was assessed having regard to the following reports prepared for or on behalf of the Applicant:

Plan/Document Name	Dated
Needs Assessment Report	October 2007
Churches of Christ Care Supporting Documentation	24 October 2007
Traffic Study	October 2007
Agricultural Suitability Report	16 October 2007
Environmental Assessment	17 December 2005
Capricorn at Yeppoon: Visual Analysis	November 2007

### To:

For record purposes it is noted that the Application and subsequent permissible change was assessed having regard to the following reports prepared for or on behalf of the Applicant:

Plan/Document Name	Dated
Needs Assessment Report	October 2007
Churches of Christ Care Supporting Documentation	24 October 2007
Traffic Study	October 2007
Traffic Report (5590-B-TE-001(2))	16 July 2015
Agricultural Suitability Report	16 October 2007
Environmental Assessment	17 December 2005
Capricorn at Yeppoon: Visual Analysis	November 2007

Acoustic Assessment (P400370.01_RPTFinal_4Dec07)	4 December 2007
Geotechnical Investigation Report	November 2007
Bushfire Hazard Assessment	25 May 2007

**4.0 Conditions 3.0-3.3 be deleted.**

**5.0 The Preamble under Condition 4.0 be changed from:**

Preamble - the Capricorn at Yeppoon Master Plan Map and Capricorn Ridge Residential Development Code only provides a partial planning regime for the development of the Subject Land, and in many instances has referenced the planning scheme. It is intended that the Developer prepare a comprehensive Master Plan Development Document for the Subject Land prior to making an application to Council for a development permit over the Subject Land for a Material Change of Use, Reconfiguration of a Lot, Operational Works or Building Works.

A comprehensive Master Plan Development Document will be an independent document which is the sole reference for the determination of any application over the Subject Land for a Material Change of Use or a Reconfiguration of a Lot in accordance with this approval.

**To:**

Preamble - This is a preliminary approval for a Material Change of Use to vary the effect Council's Planning Scheme under Section 3.1.6 of the Integrated Planning Act 1997 for a Master Planned Development in accordance with the Proposed Local Plan Document.

The Local Plan Document is an independent document which is the sole reference for the determination of any application over the Subject Land for a Material Change of Use, Building Works Assessable against the Local Plan, Reconfiguration of a Lot, and Operational Works in accordance with this approval. The subject land must be developed generally in accordance with the approved Local Plan Document.

**6.0 Conditions 4.1 and 4.2 be deleted.**

**7.0 Conditions 5.0-5.5 be deleted.**

**8.0 Condition 6.2 be changed from:**

A Development Permit for Operational Works, Plumbing and Drainage Works or Building Works for development associated with this Approval must not be issued prior to the receipt of the relevant Material Change of Use development permit(s).

**To:**

All required Development Permits for:

- 6.2.1 Material Change of Use must be obtained prior to the issue of a Development Permit for Operational Works (where required), Plumbing and Drainage Works, and Building Works; and

6.2.2 Operational Works (where required) and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.

**9.0 Condition 6.3 be changed from:**

To remove any doubt:

6.3.1 any development on the Subject Land which is not identified in the Master Plan Development Document must be:

- (i) if it is a Material Change of Use – impact assessable (pursuant to the Level of Assessment Table in the Master Plan Development Document); or
- (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme; and

6.3.2 any development on the Subject Land which is identified in the Master Plan Development Document and which conflicts with the purpose of the applicable codes or conditions of this Approval, must be:

- (i) if it is a Material Change of Use – impact assessable; or
- (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme.

**To:**

To remove any doubt:

6.3.1 any development on the Subject Land which is not identified in the Local Plan Document must be:

- (i) if it is a Material Change of Use – impact assessable (pursuant to the Level of Assessment Tables in the Local Plan Document); or
- (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme or the Planning Act or Regulation applicable at the time; and

6.3.2 any development on the Subject Land which is identified in the Local Plan Document and which conflicts with the purpose of the applicable codes or conditions of this Approval, must be:

- (i) if it is a Material Change of Use – impact assessable; or
- (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme or the Planning Act or Regulation applicable at the time.

10.0 Conditions 8.2-8.4 be deleted.

11.0 Conditions 9.0-9.5 be deleted.

12.0 Conditions 10.0-10.6 be deleted.

13.0 Conditions 11.0-11.5 be deleted.

14.0 Conditions 12.0-12.5 be deleted.

15.0 Conditions 13.0-13.7 be deleted.

- 16.0 Conditions 14.0-14.6 be deleted.
- 17.0 Conditions 15.0-15.4 be deleted.
- 18.0 Conditions 16.0 be deleted.
- 19.0 Conditions 17.0-17.2 be deleted.
- 20.0 Condition 18.1 be changed from:

Contributions must be paid to Council in accordance with the following Council policies at the rates applicable at the time of payment.

18.1.1 Planning Scheme Policy PSP 5 – Water Supply and Sewerage network Headworks;

18.1.2 Planning Scheme Policy PSP11 – Parklands Infrastructure;

18.1.3 Planning Scheme Policy PSP16 - Stormwater Infrastructure; and

18.1.4 Planning Scheme Policy PSP18/1 - Strategic Road Network

**To:**

Contributions must be paid to Council in accordance with the Adopted Infrastructure Charges Resolution (or any superseding document or legislative provision) and/or any conditions of approval for any future development, at the rates applicable at the time of development.

- 21.0 Conditions 18.2 and 18.3 be deleted.
- 22.0 Condition 19.0 be changed from:

MISCELLANEOUS

**To:**

ASSET MANAGEMENT

- 23.0 Condition 19.1 be deleted.
- 24.0 Conditions 19.2-19.4 be added.
- 25.0 Advisory Notes 1 and 2 be added as follows:

**NOTE 1. Aboriginal Cultural Heritage**

*It is advised that under Section 23 of the Aboriginal Cultural Heritage Act, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the “cultural heritage duty of care”). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>.*

**NOTE 2. Infrastructure Charges**

Any development authorised by this approval will be subject to infrastructure charges in accordance with Council’s Adopted Infrastructure Charges Resolution (No. 2) 2015 and conditions imposed under the relevant sections of the Planning Act (where applicable). The

charges payable will be specified within the Infrastructure Charges Notice issued in response to a corresponding Decision Notice Approval for:

- (1) reconfiguring of a lot;
  - (2) material change of use; or
  - (3) building works,
- whichever is applicable.

**A2** That in relation to the request for a permissible change to approval D-Y/2007-245, made by Abiwood Keppel No. 1 Pty Ltd c/- Sedgman Consulting on land described as Lot 3 on RP602596, Parish of Hewittville, and located at 318 Tanby Road, Taroomball, Council resolves to issue an amended Decision Notice Approval, subject to the following conditions:

## **1.0 DEFINITIONS AND INTERPRETATION:**

1.1 In this approval:

- 1.1.1 **Applicant** means Abiwood Keppel No. 1 Pty Ltd (care of its Sedgman Consulting) being the applicant for a preliminary approval overriding the Council's Planning Scheme with respect to the Subject Land.
- 1.1.2 **Approval** means the approval of the Application by the Council under section 3.1.6 of the *Integrated Planning Act 1997* on 15 July 2008, as amended through the subsequent permissible change approval under the *Sustainable Planning Act 2009* on 8 December 2015.
- 1.1.3 **Application** means the Application made to the Council dated 18 June 2007 and the subsequent material provided with the permissible change application made to the Council on 4 March 2015, over the Subject Land for a preliminary approval overriding the Council's Planning Scheme.
- 1.1.4 **Capricorn Municipal Development Guidelines** means a document adopted by Council containing guidelines and standards for development, as amended from time to time.
- 1.1.5 **Conditions** mean the conditions of this preliminary approval including any attachment referred to in these conditions.
- 1.1.6 **Council** means the Livingstone Shire Council.
- 1.1.7 **Developer** means Abiwood Keppel No. 1 Pty Ltd or the registered proprietor and any occupier of the Subject Land.
- 1.1.8 **Deleted.**
- 1.1.9 **Infrastructure** means infrastructure reasonably required to service the proposed development including roads (internal, external and access), parks, open space and conservation areas, water and sewerage services, stormwater drainage and community facilities.
- 1.1.10 For interpretation regarding the applicable legislation:
  - (i) **Integrated Planning Act 1997** means the *Integrated Planning Act 1997*, as amended from time to time.
  - (ii) **Sustainable Planning Act 2009** means the *Sustainable Planning Act 2009*, as amended from time to time.
  - (iii) **Planning Act** means the Planning Act applicable at the time a subsequent development application is lodged pursuant to the provisions of this preliminary approval, as amended from time to time.
- 1.1.11 **Preamble** means an introduction which provides guidance and background

to a condition. While a Preamble does not form part of the condition it can be used for the purpose of understanding and interpreting a condition.

- 1.1.12 **Deleted.**
- 1.1.13 **Subject Land** means Lot 3 on RP602596, Parish of Hewittville, located at 318 Tanby Road, Taroombal, having a total area of 60.37 hectares.
- 1.1.14 **Planning Scheme** means Council's Planning Scheme Gazetted on 17 October 2005, as amended from time to time, or any other planning which subsequently replaces the *Livingstone Planning Scheme 2005*.
- 1.1.15 **Local Plan Document** means the Local Plan Document listed under condition 2.1, which includes the assessment tables, definitions and Development Code (copy attached – Attachment 1), being a plan of the proposed development for a Material Change of Use, Building Works, Reconfiguring a Lot, an Operational Works, which overrides Council's Planning Scheme with respect to the Subject Land, which in particular:
- (i) states what development is:
    - (a) Assessable Development (requiring Code or Impact Assessment); or
    - (b) Self-assessable Development; or
    - (c) Exempt Development; and
  - (ii) Identifies codes for the development.

## 2.0 ADMINISTRATION

- 2.1 This is a preliminary approval for a Material Change of Use to vary the effect of the *Livingstone Shire Planning Scheme 2005* under section 242 of the *Sustainable Planning Act 2009* for a Master Planned Development Comprising Residential (including community title) Retirement Village, Medical Centre, Child Care Centre and Shops, on the subject land. The development must be undertaken generally in accordance with the following plans and documents, except where amended by the Conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Tanby Road Local Plan	YBA0021 – Andrew O'Brien/kd) Revision: 3	2 December
Indicative Staging Plan	YBA0021-SK-019	10 November 2015
Indicative Landscape Plan	YBA0021-SK-021	20 August 2015

- 2.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 2.3 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 2.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by any employee, agent, contractor or invitee of the Developer.
- 2.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council.



- 2.6 For record purposes it is noted that the Application was assessed having regard to the following reports prepared for or on behalf of the Applicant:

Plan/Document Name	Dated
Needs Assessment Report	October 2007
Churches of Christ Care Supporting Documentation	24 October 2007
Traffic Study	October 2007
Traffic Report (5590-B-TE-001(2))	16 July 2015
Agricultural Suitability Report	16 October 2007
Environmental Assessment	17 December 2005
Capricorn at Yeppoon: Visual Analysis	November 2007
Acoustic Assessment (P400370.01_RPTFinal_4Dec07)	4 December 2007
Geotechnical Investigation Report	November 2007
Bushfire Hazard Assessment	25 May 2007

### 3.0 DELETED

3.1 Deleted.

3.2 Deleted.

3.3 Deleted.

### 4.0 PLANNING FRAMEWORK

Preamble - This is a preliminary approval for a Material Change of Use to vary the effect Council's Planning Scheme under Section 3.1.6 of the *Integrated Planning Act 1997* for a Master Planned Development in accordance with the Proposed Local Plan Document.

The Local Plan Document is an independent document which is the sole reference for the determination of any application over the Subject Land for a Material Change of Use, Building Works Assessable against the Local Plan, Reconfiguration of a Lot, and Operational Works in accordance with this approval. The subject land must be developed generally in accordance with the approved Local Plan Document.

4.1 Deleted.

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### 5.0 DELETED

5.1 Deleted.

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5.5 Deleted.

**6.0 REQUIRED DEVELOPMENT PERMIT(S)**

- 6.1 Other development permits which are necessary to allow the development to be undertaken are listed below and these Conditions do not affect the need to obtain such permits, namely:
- 6.1.1 Development permit(s) for Material Change of Use;
  - 6.1.2 Development permit(s) for carrying out Operational Work, including operational work for landscaping, car parking, access, earthworks, pavement construction, drainage and services;
  - 6.1.3 Development permit(s) for all necessary Plumbing and Drainage Works;
  - 6.1.4 Development permit(s) for carrying out Building Work; and
  - 6.1.5 Development permits(s) for Reconfiguration of a Lot.
- 6.2 All required Development Permits for:
- 6.2.1 Material Change of Use must be obtained prior to the issue of a Development Permit for Operational Works (where required), Plumbing and Drainage Works, and Building Works; and
  - 6.2.2 Operational Works (where required) and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 6.3 To remove any doubt:
- 6.3.1 any development on the Subject Land which is not identified in the Local Plan Document must be:
    - (i) if it is a Material Change of Use – impact assessable (pursuant to the Level of Assessment Tables in the Local Plan Document); or
    - (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme or the Planning Act or Regulation applicable at the time; and
  - 6.3.2 any development on the Subject Land which is identified in the Local Plan Document and which conflicts with the purpose of the applicable codes or conditions of this Approval, must be:
    - (i) if it is a Material Change of Use – impact assessable; or
    - (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme or the Planning Act or Regulation applicable at the time.

**7.0 RELEVANT PERIOD UNDER SECTION 3.5.21 OF THE INTEGRATED PLANNING ACT**

- 7.1 This approval is valid for a period of ten years from the day the approval takes effect.

**8.0 INFRASTRUCTURE/GENERAL**

Preamble – In order for development to proceed, roads, water supply, sewerage, drainage, open space, conservation and community facilities infrastructure must be available (or be capable of being made available) to service the development proposed on the Subject Land.

- 8.1 Infrastructure must be provided by the Developer in a coordinated and a planned manner having regard to the staging of the proposed development and in a logical and orderly sequence.
- 8.2 Deleted.
- 8.3 Deleted.

8.4 Deleted.

**9.0 DELETED**

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#### **17.0 GEOTECHNICAL**

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#### **18.0 INFRASTRUCTURE CHARGES**

18.1 Contributions must be paid to Council in accordance with the Adopted Infrastructure Charges Resolution (or any superseding document or legislative provision) and/or any conditions of approval for any future development, at the rates applicable at the time of development.

18.2 Deleted.

18.3 Deleted.

#### **19.0 ASSET MANAGEMENT**

19.1 Deleted.

19.2 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.

19.3 Any damage to existing Council infrastructure (including reticulation systems, kerb and channel, pathway or roadway) that may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.

19.4 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in

accordance with the Manual for Submission of Digital As Constructed Information.

### ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the “cultural heritage duty of care”). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>.

NOTE 2. Infrastructure Charges

Any development authorised by this approval will be subject to infrastructure charges in accordance with Council’s Adopted Infrastructure Charges Resolution (No. 2) 2015 and conditions imposed under the relevant sections of the Planning Act (where applicable). The charges payable will be specified within the Infrastructure Charges Notice issued in response to a corresponding Decision Notice Approval for:

- (1) reconfiguring of a lot;
- (2) material change of use; or
- (3) building works,

whichever is applicable.

**Moved by:** Deputy Mayor, Councillor Scott

**Seconded by:** Councillor Mather

**MOTION CARRIED**

## 12.2 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (ONE LOT INTO FIVE LOTS PLUS BALANCE LOT - STAGE TWO)

**File No:** D/236-2015

**Attachments:**

1. Locality Plan
2. Proposal Plan
3. Environmental Report

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Jenna Brosseuk - Senior Planning Officer

### SUMMARY

**Development Application Number:** D/236-2015

**Applicant:** Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD

**Real Property Address:** Lot 1932 on LIV40428, Parish of Rosslyn

**Common Property Address:** Lot 1932 Todds Road, Rossmoya

**Area of Site:** 888.69 hectares

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Rural

**Planning Scheme Overlays:** Wetlands (O3A), Good Quality Agricultural Land (O4A), Bushfire Hazard (O5B) and Acid Sulfate Soils (O8)

Planning Scheme Map 10 – Locally Significant Vegetation

Planning Scheme Map 2A – Classes C2 and A2 Agricultural Land

**Existing Development:** Agricultural structures (cattle lick shed and cattle yards)

**Existing Approvals:** Development Permit D/204-2013 for Reconfiguring a Lot (eight lots into eight lots)

**Approval Sought:** Development Permit for Reconfiguring a Lot (one lot into five lots plus balance lot – Stage Two)

**Level of Assessment:** Code Assessable

**Referral Agency(s):** Nil

**Adopted Infrastructure Charges Area:** Outside the Priority Infrastructure Area

**Application Progress:**

Application Lodged:	21 October 2015
Council request for additional time:	18 November 2015
Council Meeting:	8 December 2015
Statutory determination date:	17 December 2015

**COUNCIL RESOLUTION****RECOMMENDATION A**

THAT in relation to the application for a Development Permit for a Reconfiguring a Lot (one lot into five lots plus balance lot – Stage Two), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and located at Lot 1928 Todds Road, Rossmoya, Council resolves to Approve the application subject to the following conditions:

**1.0 ADMINISTRATION**

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.7 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

**2.0 APPROVED PLANS AND DOCUMENTS**

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Proposal Plan	14370-PP13, Sheet 1 of 1 Revision A	20 October 2015
Proposal Plan	14370-PP5 (6259-10), Sheet 2 of 2, Revision F	20 March 2015
Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428	15-117-01, Revision A, Sheet 1 of 1	28 May 2015
Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from	40762	24 August 2015

16 lots		
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- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council as part of the submission of an application for Compliance Assessment for the Survey Plan.
- 2.4 All lot numbers referred to in these conditions are as per *Proposal Plan 14370-PP13, Sheet 1 of 1 Revision A*, 20 October 2015.
- 3.0 DEVELOPMENT PROCEDURES
- 3.1 The survey plan for proposed Stage Two (being Lot 130 or Lot 131 or Lot 132 or Lot 136 or Lot 137 or Lot 500) must be generally in accordance with *Proposal Plan, 14370-PP13* (refer to condition 2.1), and must be further amended to reflect the Todds Road alignment based on the proposed road opening on *Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428, 15-117-01* (refer to condition 2.1) and as submitted by Livingstone Shire Council to the Department of Natural Resources and Mines as part of the road opening/closure application.
- 3.2 The survey plan for the opening of the new section of Todds Road as shown on draft Survey Plan SP171781, must be registered with the Department of Natural Resources and Mines prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Two (being Lot 130 or Lot 131 or Lot 132 or Lot 136 or Lot 137 or Lot 500).
- 3.3 Lots 163 and 164 being lots for Public Use Land in application D/248-2015 for Stage Seven, must be dedicated as public use land on the Survey Plan submitted as part of the Compliance Assessment for the Survey Plan for the first lot being created as part of Stage Two (being Lot 130 or Lot 131 or Lot 132 or Lot 136 or Lot 137 or Lot 500), unless already provided as part of earlier stage consistent with application D/237-2015, D/243-2015, D/245-2015, D/247-2015 or D/248-2015.
- 3.4 The proposed simultaneous road opening and closure between the eastern end of Todds Road (eastern boundary of proposed lots 130 and 136) and the western property boundary of proposed Lot 135 in Stage Three (D/237-2015), must be dedicated as road reserve, prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Two (being Lot 130 or Lot 131 or Lot 132 or Lot 136 or Lot 137 or Lot 500). Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant.
- 4.0 ACCESS WORKS
- 4.1 Rural addressing must be provided to each lot in accordance with Council's Local Law for Roads. Payment by the developer of the relevant fee in accordance with Council's published Fees and Charges for each new lot will satisfy this condition.
- 5.0 SITE WORKS
- 5.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 5.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 6.0 ASSET MANAGEMENT
- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with



the development, must be at full cost to the Developer.

- 6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.
- 7.0 ENVIRONMENTAL
- 7.1 All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 130, 131, 132, 136, 137 and 500.
- 7.2 All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 130, 131, 132, 136, 137 and 500.
- 8.0 OPERATING PROCEDURES
- 8.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Todds Road or Ingrey Road.

#### ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 3. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 4. Future Buildings and Structures

- a. Buildings and structures must be sited as per the recommendations,

constraints analysis in the approved documents and the conditions of approval as part of development application D/236-2015.

- b. All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- c. All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- d. Any future dwelling within the proposed lots must have on-site sewerage treatment and disposal facilities designed and constructed in accordance with the *Plumbing and Drainage Act, Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies.
- e. It shall be the responsibility of the owners of the Lots 130, 131, 132, 136, 137 and 500 to secure, at their own cost, the appropriate electricity supply to service their lot. Alternative power sources must be supported by electricity service authority.

NOTE 5. Environmental

- f. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.
- g. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/vegetation/management/>
- h. It is advised that part of the subject site is mapped under the Livingstone Planning Scheme as 'Locally Significant Vegetation' (PSM10a and 10b). Clearing of this vegetation should not be undertaken without the advice of Council's Natural Resource Management Unit.

**RECOMMENDATION B**

That in relation to the application for a Development Permit for a Reconfiguring a Lot (one lot into five lots plus balance lot), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and located at Lot 1928 Todds Road, Rossmoya, Council resolves to issue an Infrastructure Charges Notice advising that no charges are payable.

**RECOMMENDATION C**

That in relation to the application for a Development Permit for a Reconfiguring a Lot (one lot into five lots plus balance lot), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and located at Lot 1928 Todds Road, Rossmoya, Council resolves that the approval be issued a ten (10) year relevant period in accordance with section 341(2)(c) of the *Sustainable Planning Act 2009*.

**Moved by: Deputy Mayor, Councillor Scott**

**Seconded by: Councillor Kelly**

**MOTION CARRIED UNANIMOUSLY**

### 12.3 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (ONE LOT INTO FIVE LOTS PLUS BALANCE LOT - STAGE THREE)

**File No:** D/237-2015

**Attachments:**

1. Locality Plan
2. Proposal Plan

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Jenna Brosseuk - Senior Planning Officer

#### SUMMARY

**Development Application Number:** D/237-2015

**Applicant:** Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD

**Real Property Address:** Lot 1932 on LIV40428, Parish of Rosslyn

**Common Property Address:** Lot 1932 Todds Road, Rossmoya

**Area of Site:** 888.69 hectares

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Rural Zone

**Planning Scheme Overlays:** Wetlands (O3A), Good Quality Agricultural Land (O4A), Bushfire Hazard (O5B) and Acid Sulphate Soils (O8)

Planning Scheme Map 10 – Locally Significant Vegetation

Planning Scheme Map 2A – Classes C2 and A2 Agricultural Land

**Existing Development:** Agricultural structures (cattle lick shed and yards) on Lot 1932 on LIV40428

**Existing Approvals:** Development Permit D/204-2013 for Reconfiguring a Lot (eight lots into eight lots)

**Approval Sought:** Development Permit for Reconfiguring a Lot (one lot into five lots plus balance lot– Stage Three)

**Level of Assessment:** Code Assessable

**Referral Agency(s):** Nil

**Adopted Infrastructure Charges Area:** Outside the Priority Infrastructure Area

**Application Progress:**

Application Lodged:	21 October 2015
Council request for additional time:	18 November 2015
Council Meeting:	8 December 2015
Statutory determination date:	17 December 2015

**COUNCIL RESOLUTION****RECOMMENDATION A**

THAT That in relation to the application for a Development Permit for Reconfiguring a Lot (one lot into five lots plus balance lot – Stage Three), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and located at Lot 1928 Todds Road, Rossmoya, Council resolves to Approve the application subject to the following conditions:

**1.0 ADMINISTRATION**

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.7 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

**2.0 APPROVED PLANS AND DOCUMENTS**

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Proposal Plan	14370-PP14, Original Issue, Sheet 1 of 1	20 October 2015
Proposal Plan	14370-PP5 (6259-10) Sheet 2 of 2, Revision F	20 March 2015
Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428	15-117-01, Revision A, Sheet 1 of 1	28 May 2015

Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots	40762	24 August 2015
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- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council as part of the submission of an application for Compliance Assessment for the Survey Plan.
- 2.4 All lot numbers referred to in these conditions are as per *Proposal Plan 14370-PP14, Sheet 1 of 1 original issue, 20 October 2015.*
- 3.0 **DEVELOPMENT PROCEDURES**
- 3.1 The survey plan for proposed Stage Three (being Lot 133 or Lot 134 or Lot 135 or Lot 138 or Lot 139 or Lot 500) must be generally in accordance with *Proposal Plan, 14370-PP14* (refer to condition 2.1), and must be further amended to reflect the Todds Road alignment based on the proposed road opening on *Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428, 15-117-01* (refer to condition 2.1) and as submitted by Livingstone Shire Council to the Department of Natural Resources and Mines as part of the road opening/closure application.
- 3.2 The survey plan for the opening of the new section of Todds Road as shown on draft Survey Plan SP171781, must be registered with the Department of Natural Resources and Mines prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Three (being Lot 133 or Lot 134 or Lot 135 or Lot 138 or Lot 139 or Lot 500).
- 3.3 Lots 163 and 164 being lots for Public Use Land in application D/248-2015 for Stage Seven, must be dedicated as public use land on the Survey Plan submitted as part of the Compliance Assessment for the Survey Plan for the first lot being created as part of Stage Three (being Lot 133 or Lot 134 or Lot 135 or Lot 138 or Lot 139 or Lot 500), unless already provided as part of an earlier stage consistent with application D/236-2015, D/243-2015, D/245-2015, D/247-2015 or D/248-2015.
- 3.4 The proposed simultaneous road opening and closure between the eastern end of Todds Road and the western property boundary of proposed Lot 135 in Stage Three (refer to condition 2.1), must be dedicated as road reserve, prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Three (being Lot 133 or Lot 134 or Lot 135 or Lot 138 or Lot 139 or Lot 500). Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant.
- 4.0 **ACCESS WORKS**
- 4.1 Rural addressing must be provided to each lot in accordance with Council's Local Law for Roads. Payment by the developer of the relevant fee in accordance with Council's published Fees and Charges for each new lot will satisfy this condition.
- 5.0 **SITE WORKS**
- 5.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 5.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.

## 6.0 ASSET MANAGEMENT

- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

## 7.0 ENVIRONMENTAL

- 7.1 All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 133 to 135, 138, 139 and 500.
- 7.2 All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 133 to 135, 138, 139 and 500.

## 8.0 OPERATING PROCEDURES

- 8.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Todds Road.

## ADVISORY NOTES

### NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>

### NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

### NOTE 3. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

**NOTE 4. Future Buildings and Structures**

- a. Buildings and structures must be sited as per the recommendations, constraints analysis in the approved documents and the conditions of approval as part of development application D/237-2015.
- b. All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- c. All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- d. Any future dwelling within the proposed lots must have on-site sewerage treatment and disposal facilities designed and constructed in accordance with the *Plumbing and Drainage Act, Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies.
- e. It shall be the responsibility of the owners of the Lots 133, 134, 135, 138, 139 and 500 to secure, at their own cost, the appropriate electricity supply to service their development. Alternative power sources must be supported by electricity service authority.

**NOTE 5. Environmental**

- f. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.
- g. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/vegetation/management/>
- h. It is advised that part of the subject site is mapped under the Livingstone Planning Scheme as 'Locally Significant Vegetation' (PSM10a and 10b). Clearing of this vegetation should not be undertaken without the advice of Council's Natural Resource Management Unit.

**RECOMMENDATION B**

That in relation to the application for a Development Permit for Reconfiguring a Lot (one lot into five lots plus balance lot), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and located at Lot 1928 Todds Road, Rossmoya, Council resolves to issue an Infrastructure Charges Notice advising that no charges are payable.

**RECOMMENDATION C**

That in relation to the application for a Development Permit for a Reconfiguring a Lot for a (two lots into six lots), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and located at Lot 1928



Todds Road, Rossmoya, Council resolves that the approval be issued a ten (10) year relevant period in accordance with section 341(2)(c) of the *Sustainable Planning Act 2009*.

**Moved by: Deputy Mayor, Councillor Scott**

**Seconded by: Councillor Kelly**

**MOTION CARRIED UNANIMOUSLY**

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**12.4 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (TWO LOTS INTO FIVE LOTS PLUS BALANCE LOT - STAGE FOUR)**

**File No:** D/243-2015

**Attachments:**

1. Locality Plan
2. Proposal Plan

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Jenna Brosseuk - Senior Planning Officer

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**SUMMARY**

*Development Application Number:* D/243-2015

*Applicant:* Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD

*Real Property Address:* Lot 1932 on LIV40428 and Lot 576 on LIV40169, Parish of Rosslyn

*Common Property Address:* Lot 1932 Todds Road and 215 Todds Road Rossmoya

*Area of Site:* 1293.376 hectares

*Planning Scheme:* Livingstone Shire Planning Scheme 2005

*Planning Scheme Zoning:* Rural Zone

*Planning Scheme Overlays:* Overlay Map O3 – Wetlands and Wetlands 100 metre buffer  
Overlay Map O3 – Waterways and Waterways 100 metre buffer  
Overlay Map O4 – Good Quality Agricultural Land  
Overlay Map O5 – Bushfire Hazard  
Overlay Map O8 – Acid Sulphate Soils (twenty metre contour)  
Planning Scheme Map 10 – Locally Significant Vegetation  
Planning Scheme Map 2A – Classes C2 and A2 Agricultural Land

*Existing Development:* Dwelling house located on Lot 576 on LIV40169  
Agricultural structures (cattle lick shed and pens) on Lot 1932 on LIV40428

*Existing Approvals:* Development Permit for Reconfiguring a Lot (eight lots into eight lots)  
Building Permit 92-529 (21 August 1992) for a Dwelling house on Lot 576 on LIV40169

*Approval Sought:* Development Permit for Reconfiguring a Lot (two lots into five lots plus balance lot – Stage Four)

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Level of Assessment:	Code Assessable
Submissions:	Not applicable
Referral Agency(s):	Nil
Adopted Infrastructure Charges Area:	Outside the Priority Infrastructure Area
Application Progress:	

Application Lodged:	28 October 2015
Statutory determination date:	25 November 2015
Council request for additional time:	18 November 2015
Council Meeting:	8 December 2015
Statutory determination date:	23 December 2015

## COUNCIL RESOLUTION

### RECOMMENDATION A

THAT in relation to the application for a Development Permit for Reconfiguring a Lot (two lots into five lots plus balance lot – Stage Four), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and Lot 576 on LIV40169 and located at Lot 1928 Todds Road and 215 Todds Road, Rossmoya, Council resolves to Approve the application subject to the following conditions:

#### 1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.7 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

#### 2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Proposal Plan	14370-PP15, Original Issue, Sheet 1 of 1	20 October 2015
Proposed Plan	14370-PP5, 6259-10, Sheet 2 of 2, Revision F	20 March 2015
Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428	15-117-01, Revision A, Sheet 1 of 1	28 May 2015
Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots	40762	24 August 2015

- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Compliance Assessment for the Survey Plan.
- 2.4 All lot numbers referred to in these conditions are as per *Proposal Plan 14370-PP15, Sheet 1 of 1 Original Issue*, 20 October 2015.
- 3.0 **DEVELOPMENT PROCEDURES**
- 3.1 The survey plan for proposed Stage Four (being Lot 140 or Lot 141 or Lot 142 or Lot 143 or Lot 144 or Lot 500) must be generally in accordance with *Proposal Plan, 14370-PP15* (refer to condition 2.1), and must be further amended to reflect the Todds Road alignment based on the proposed road opening on *Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428, 15-117-01* (refer to condition 2.1) and as submitted by Livingstone Shire Council to the Department of Natural Resources and Mines as part of the road opening/closure application.
- 3.2 The survey plan for the opening of the new section of Todds Road as shown on draft Survey Plan SP171781 must be registered with the Department of Natural Resources and Mines prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Four (being Lot 140 or Lot 141 or Lot 142 or Lot 143 or Lot 144 or Lot 500).
- 3.3 Lots 163 and 164 being lots for Public Use Land in application D/248-2015 for Stage Seven, must be dedicated as public use land on the Survey Plan submitted as part of the Compliance Assessment for the Survey Plan for the first lot being created as part of Stage Four (being Lot 140 or Lot 141 or Lot 142 or Lot 143 or Lot 144 or Lot 500), unless already provided as part of an earlier stage consistent with application D/236-2015, D/237-2015, D/245-2015, D/247-2015 or D/248-2015.
- 3.4 The proposed simultaneous road opening and closure between the eastern end of Todds Road and the western property boundary of proposed Lot 135 in Stage Three (D/237-2015), must be dedicated as road reserve, prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Four (being Lot 140 or Lot 141 or Lot 142 or Lot 143 or Lot 144 or Lot 500). Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant.

#### 4.0 ACCESS WORKS

4.1 Rural addressing must be provided to each lot in accordance with Council's Local Law for Roads. Payment by the developer of the relevant fee in accordance with Council's published Fees and Charges for each new lot will satisfy this condition.

#### 5.0 SITE WORKS

5.1 All earthworks must be undertaken in accordance with Australian Standard AS3798 "*Guidelines on Earthworks for Commercial and Residential Developments*".

5.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.

#### 6.0 ASSET MANAGEMENT

6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.

6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.

6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### 7.0 ENVIRONMENTAL

7.1 All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 140 to 144 and 500.

7.2 All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 140 to 144 and 500.

#### 8.0 OPERATING PROCEDURES

8.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Todds Road.

#### ADVISORY NOTES

##### NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Workplace Health and Safety* legislation and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 4. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 5. Property Notes

- a. Buildings and structures must be sited as per the recommendations, constraints analysis in the approved documents and the conditions of approval as part of development application D/243-2015.
- b. All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- c. All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- d. A buffer area of 100 metres from Green Lake as per the planning scheme overlay mapping extends into Lots 141, 142 and 143. Buildings or structures must not be erected in this buffer area unless the relevant approval is obtained or planning scheme requirements met.
- e. Any future dwelling within the proposed lots must have on-site sewerage treatment and disposal facilities designed and constructed in accordance with the *Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies.
- f. It shall be the responsibility of the owners of the Lots 140 to 144 and Lot 500 to secure at their own costs the appropriate electricity supply to service their development. Alternative power sources must be supported by electricity service authority.

NOTE 6. Environmental

- a. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.

- b. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/vegetation/management/>
- c. It is advised that part of the subject site is mapped under the Livingstone Planning Scheme as 'Locally Significant Vegetation' (PSM10a and 10b). Clearing of this vegetation should not be undertaken without the advice of Council's Natural Resource Management Unit.

### **RECOMMENDATION B**

That in relation to the application for a Development Permit for Reconfiguring a Lot (two lots into five lots plus balance lot – Stage Four), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and Lot 576 on LIV40169 and located at Lot 1928 Todds Road and 215 Todds Road, Rossmoya, Council resolves to issue an Infrastructure Charges Notice advising that no charges are payable.

### **RECOMMENDATION C**

That in relation to the application for a Development Permit for Reconfiguring a Lot (two lots into five lots plus balance lot – Stage Four), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1928 on LIV40428 and Lot 576 on LIV40169 and located at Lot 1928 Todds Road and 215 Todds Road, Rossmoya, Council resolves that the approval be issued a ten (10) year relevant period in accordance with section 341(2)(c) of the *Sustainable Planning Act 2009*.

**Moved by:** Councillor Hutton

**Seconded by:** Councillor Wyatt

**MOTION CARRIED UNANIMOUSLY**

## 12.5 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT FOR A BOUNDARY REALIGNMENT (SIX LOTS INTO SIX LOTS - STAGE FIVE)

**File No:** D/245-2015

**Attachments:**

1. Locality Plan
2. Proposal Plan

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Jenna Brosseuk - Senior Planning Officer

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### SUMMARY

**Development Application Number:** D/245-2015

**Applicant:** Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD

**Real Property Address:** Lot 1932 on LIV40428, Lot 2155 on LIV40775, Lot 1328 on LIV40369, Lot 2399 on LIV40926, Lot 2370 on LIV40895 and Lot 576 on LIV40169, Parish of Rosslyn

**Common Property Address:** Lot 1932 Todds Road, Lot 2155 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road, Lot 2370 Todds Road and 215 Todds Road, Rossmoya

**Area of Site:** 1,966.774 hectares

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Rural Zone

**Planning Scheme Overlays:** Planning Scheme Map 10 – Locally Significant Vegetation  
Overlay Map O3 - Wetlands and Wetlands 100 metre buffer  
Overlay Map O3 - Waterways and Waterways 100 metre buffer  
Overlay Map O4 – Good Quality Agricultural Land  
Overlay Map O5 – Bushfire Hazard  
Overlay Map O8 – Acid Sulphate Soils (20 metre Australian Height Datum Contour)

**Existing Development:** Dwelling house on Lot 576 on LIV40169  
Agricultural Structures (cattle lick shed and yards) on Lot 1932 on LIV40428

**Existing Approvals:** Development Permit D/204-2013 for Reconfiguring a Lot (eight lots into eight lots)

**Approval Sought:** Development Permit for Reconfiguring a Lot for a Boundary Realignment (six lots into six lots – Stage Five)

**Level of Assessment:** Code Assessable

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Submissions: Nil  
 Referral Agency(s): Nil  
 Adopted Infrastructure Charges Area: Outside the Priority Infrastructure Area  
 Application Progress:

Application Lodged:	2 November 2015
Council request for additional time:	18 November 2015
Council Meeting:	8 December 2015
Statutory determination date:	4 January 2016

## COUNCIL RESOLUTION

### RECOMMENDATION A

THAT in relation to the application for a Development Permit for Reconfiguring a Lot for a Boundary Realignment (six lots into six lots – Stage Five), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1932 on LIV40428, Lot 2155 on LIV40775, Lot 1328 on LIV40369, Lot 2399 on LIV40926, Lot 2370 on LIV40895 and Lot 576 on LIV40169, Parish of Roslyn and located at Lot 1932 Todds Road, Lot 2155 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road, Lot 2370 Todds Road and 215 Todds Road, Rossmoya, Council resolves to Approve the application subject to the following conditions:

#### 1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.7 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:
  - 1.7.1 Operational Works;
    - (i) Road works.
- 1.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Proposal Plan	14370-PP16, Original Issue, Sheet 1 of 1	22 October 2015
Proposal Plan	14370-PP5 (6259-10), Sheet 2 of 2, Revision F	20 March 2015
Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428	15-117-01, Revision A, Sheet 1 of 1	28 May 2015
Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots	40762	24 August 2015

- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Operational Works.
- 2.4 All lot numbers referred to in these conditions are as per *Proposal Plan 14370-PP16, Sheet 1 of 1 Original issue, 22 October 2015*.

3.0 DEVELOPMENT PROCEDURES

- 3.1 The final plan of survey for proposed Stage Five (being Lot 145 or Lot 146 or Lot 147 or Lot 148 or Lot 149 or Lot 500) must be generally in accordance with *Proposal Plan, 14370-PP16* (refer to condition 2.1), and must be further amended to reflect the Todds Road alignment based on the proposed road opening on *Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428, 15-117-01* (refer to condition 2.1) and as submitted by Livingstone Shire Council to the Department of Natural Resources and Mines as part of the road opening/closure application.
- 3.2 The survey plan for the opening of the new section of Todds Road as shown on draft Survey Plan SP171781 must be registered with the Department of Natural Resources and Mines prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Five (being Lot 145 or Lot 146 or Lot 147 or Lot 148 or Lot 149 or Lot 500).
- 3.3 Lots 163 and 164 being lots for Public Use Land in application D/248-2015 for Stage Seven, must be dedicated as public use land on the Survey Plan submitted as part of the Compliance Assessment for the Survey Plan for the first lot being created as part of Stage Five (being Lot 145 or Lot 146 or Lot 147 or Lot 148 or Lot 149 or Lot 500), unless provided as part of an earlier stage consistent with application D/236-2015, D/237-2015, D/243-2015, D/247-2015 or D/248-2015.
- 3.4 The proposed simultaneous road opening and closure between the eastern end of the Todds Road and the western property boundary of proposed Lot 135 in Stage Three (D/237-2015), must be dedicated as road reserve, prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Five (being Lot 145 or Lot 146 or Lot 147 or Lot 148 or Lot 149 or Lot 500).

Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant.

#### 4.0 ROAD WORKS

- 4.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works associated with the development.
- 4.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards*, and the provisions of a Development Permit for Operational Works (road works).
- 4.3 The “New Road” that will provide access to Lots 145, 148 and 149 must be designed and constructed to a rural access standard, inclusive of all associated drainage, from the intersection of the existing unformed road reserve fronting Lot 149 to the intersection of Todds Road on the north-east corner of Lot 144 created as part of D/243-2015.
- 4.4 The “New Road” that will provide access to Lots 145 to 149 will require modification and amended plans must be submitted as part of the application for a Development Permit for Operational Works. The alignment and geometry shown on *Proposal Plan, 14370-PP16* (refer to condition 2.1) must be modified to achieve the Rural Road Elements in Table D1.21.01 of the *Capricorn Municipal Development Guidelines*.
- 4.5 The road that will provide access to Lots 146 and 147 must be designed and constructed to a rural access standard, inclusive of all associated drainage, from the intersection with the “New Road” on the north-east corner of Lot 145 through to the north-east corner of Lot 146, with a turnaround at the end.
- 4.6 The existing road reserve for the road that will provide access to Lots 146 and 147 must be augmented to:
- 4.6.1 Provide for an acceptable intersection geometry with the “New Road”;
  - 4.6.2 Achieve the Rural Road Elements in Table D1.21.01 in the *Capricorn Municipal Development Guidelines*, particularly at the existing bend in the road reserve near the north-western corner of Lot 146; and
  - 4.6.3 Provide sufficient road reserve for an appropriate turnaround at the end of the constructed road adjacent the north-east corner of Lot 146.
- 4.7 Traffic signs and devices including any necessary alteration to existing signs and devices, must be provided in accordance with the *Transport Operations (Road Use Management) Act 1995* and *Manual of Uniform Traffic Control Devices (Queensland)*.
- 4.8 The “New Road” must be dedicated to Council as a public road (refer to condition 2.1).
- 4.9 Rural addressing must be provided to each lot in accordance with Council's Local Law for Roads. Payment by the developer of the relevant fee in accordance with Council's published Fees and Charges for each new lot will satisfy this condition.
- #### 5.0 SITE WORKS
- 5.1 All earthworks must be undertaken in accordance with Australian Standard AS3798 “*Guidelines on Earthworks for Commercial and Residential Developments*”.
- 5.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- #### 6.0 ASSET MANAGEMENT
- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with

the development, must be at full cost to the Developer.

6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.

6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

## 7.0 ENVIRONMENTAL

7.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:

- (i) water quality and drainage;
- (ii) erosion and silt/sedimentation management;
- (iii) acid sulphate soils;
- (iv) fauna management;
- (v) vegetation management and clearing;
- (vi) top soil management;
- (vii) interim drainage plan during construction;
- (viii) construction programme;
- (ix) geotechnical issues;
- (x) weed control;
- (xi) bushfire management;
- (xii) emergency vehicle access;
- (xiii) noise and dust suppression; and
- (xiv) waste management.

7.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

- (i) objectives;
- (ii) site location / topography;
- (iii) vegetation;
- (iv) site drainage;
- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and
- (x) implementation, for the construction and post construction phases of work.

- The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.
- 7.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 7.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.
- 7.5 All future buildings and structures on the proposed lots must be constructed in compliance with the approved report Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 145 to 149 and 500.
- 7.6 All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved report Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 145 to 149 and 500.
- 8.0 OPERATING PROCEDURES
- 8.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Todds Road, the New Road or Serpentine Road.

#### ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 3. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 4. Property Notes

- a. Buildings and structures must be sited as per the recommendations, constraints analysis in the approved documents and the conditions of approval as part of development application D/245-2015.
- b. All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for

Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).

- c. All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- d. It shall be the responsibility of the owners of the Lots 145, 146, 147, 148, 149 and 500 to secure at their own costs the appropriate electricity supply to service their development. Alternative power sources must be supported by electricity service authority.
- e. Any future dwelling within the proposed lots must have on-site sewerage treatment and disposal facilities designed and constructed in accordance with the *Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies.

NOTE 5. Environmental

- a. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.
- b. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/vegetation/management/>

### RECOMMENDATION B

That in relation to the application for a Development Permit for Reconfiguring a Lot for a Boundary Realignment (six lots into six lots – Stage Five), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1932 on LIV40428, Lot 2155 on LIV40775, Lot 1328 on LIV40369, Lot 2399 on LIV40926, Lot 2370 on LIV40895 and Lot 576 on LIV40169, Parish of Rosslyn and located at Lot 1932 Todds Road, Lot 2155 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road, Lot 2370 Todds Road and 215 Todds Road, Rossmoya, Council resolves not to issue an Infrastructure Charges Notice.

### RECOMMENDATION C

That in relation to the application for a Development Permit for Reconfiguring a Lot for a Boundary Realignment (six lots into six lots – Stage Five), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1932 on LIV40428, Lot 2155 on LIV40775, Lot 1328 on LIV40369, Lot 2399 on LIV40926, Lot 2370 on LIV40895 and Lot 576 on LIV40169, Parish of Rosslyn and located at Lot 1932 Todds Road, Lot 2155 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road, Lot 2370 Todds Road and 215 Todds Road, Rossmoya, Council resolves that the approval be issued a ten (10) year relevant period in accordance with section 341(2)(c) of the *Sustainable Planning Act 2009*.

**Moved by:** Councillor Hutton  
**Seconded by:** Councillor Wyatt

**MOTION CARRIED UNANIMOUSLY**

## 12.6 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (TEN LOTS INTO SIX LOTS - STAGE SIX)

**File No:** D/247-2015

**Attachments:**

1. Locality Plan
2. Proposal Plan

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Jenna Brosseuk - Senior Planning Officer

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### SUMMARY

**Development Application Number:** D/247-2015

**Applicant:** Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD

**Real Property Address:** Lot 2099 on SP274653, Lot 1 on SP181910, Lot 19 on LIV401207, Lot 2155 on LIV40775, Lot 1963 on LIV40731, Lot 1932 on LIV40428, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 2399 on LIV40926 and Lot 2370 on LIV40895

**Common Property Address:** Lot 2099 Serpentine Road, Greenlake, Lot 1 Serpentine Road, Barmoya and Lot 19 Todds Road, Lot 2155 Todds Road, Lot 1963 Todds Road, Lot 1932 Todds Road, 215 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road and Lot 2370 Todds Road, Rossmoya

**Area of Site:** 4,574.6945 hectares

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Rural Zone

**Planning Scheme Overlays:** Overlay Map O3 – Waterways and Waterways 100 metre buffer  
Overlay Map O3 - Wetlands and Wetlands 100 metre buffer  
Overlay Map O4 – Good Quality Agricultural Land  
Overlay Map O5 – Bushfire Hazard  
Overlay Map O8 – Acid Sulphate Soils (20 metre Australian Height Datum Contour)  
Planning Scheme Map 10 – Locally Significant Vegetation

**Existing Development:** Agricultural Structures (cattle lick shed and yards) on Lot 1932 on LIV40428  
Dwelling house on Lot 576 on LIV40169

**Existing Approvals:** Development Permit D/204-2013 for Reconfiguring a Lot (eight lots into eight lots)



	Building Permit 92-529 (21 August 1992) for a Dwelling house on 215 Todds Road, Rossmoya
Approval Sought:	Development Permit for Reconfiguring a Lot (ten lots into six lots – Stage Six)
Level of Assessment:	Code Assessment
Submissions:	Not applicable
Referral Agency(s):	Nil
Adopted Infrastructure Charges Area:	Outside the Priority Infrastructure Area
Application Progress:	

Application Lodged:	3 November 2015
Council request for additional time:	25 November 2015
Council meeting:	8 December 2015
Statutory determination date:	6 January 2016

## COUNCIL RESOLUTION

### RECOMMENDATION A

THAT in relation to the application for a Development Permit for Reconfiguring a Lot for an Amalgamation and Boundary Realignment (ten lots into five lots plus balance lot – Stage Six), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 2099 on SP274653, Lot 1 on SP181910, Lot 19 on LIV401207, Lot 2155 on LIV40775, Lot 1963 on LIV40731, Lot 1932 on LIV40428, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 2399 on LIV40926 and Lot 2370 on LIV40895 and located at Lot 2099 Serpentine Road, Lot 1 Serpentine Road, Barmoya and Lot 19 Todds Road, Lot 2155 Todds Road, Lot 1963 Todds Road, Lot 1932 Todds Road, 215 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road and Lot 2370 Todds Road, Rossmoya, Council resolves to Approve the application subject to the following conditions:

#### 1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:

#### 1.6.1 Operational Works:

## (i) Road Works.

- 1.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Proposal Plan	14370-PP17, Sheet 1 of 1, Original Issue	28 October 2015
Proposed Plan	14370-PP5 (6259-10) Sheet 2 of 2, Revision F	20 March 2015
Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428	15-117-01, Revision A, Sheet 1 of 1	28 May 2015
Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots	40762	24 August 2015

- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Operational Works.
- 2.4 All lot numbers referred to in these conditions are as per *Proposal Plan 14370-PP17, Sheet 1 of 1 Original issue, 28 October 2015*.

3.0 DEVELOPMENT PROCEDURES

- 3.1 The survey plan for proposed Stage Six (being Lot 150 or Lot 151 or Lot 152 or Lot 153 or Lot 154 or Lot 500) must be generally in accordance with *Proposal Plan, 14370-PP17* (refer to condition 2.1), and must be further amended to reflect the Todds Road alignment based on the proposed road opening on *Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428, 15-117-01* (refer to condition 2.1) and as submitted by Livingstone Shire Council to the Department of Natural Resources and Mines as part of the road opening/closure application.
- 3.2 The survey plan for the opening of the new section of Todds Road as shown on draft Survey Plan SP171781 must be registered with the Department of Natural Resources and Mines prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Six (being Lot 150 or Lot 151 or Lot 152 or Lot 153 or Lot 154 or Lot 500).
- 3.3 Lots 163 and 164 being lots for Public Use Land in application D/248-2015 for Stage Seven, must be dedicated as public use land on the Survey Plan submitted as part of the Compliance Assessment for the Survey Plan for the first lot being created as part

of Stage Six (being Lot 150 or Lot 151 or Lot 152 or Lot 153 or Lot 154 or Lot 500), unless provided as part of another stage consistent with application D/236-2015, D/237-2015, D/245-2015, D/245-2015 or D/248-2015.

3.4 The following road dealings must be finalised and completed prior to the issue of the Compliance Certificate Survey Plan for the first lot being created as part of Stage Six (being Lot 150 or Lot 151 or Lot 152 or Lot 153 or Lot 154 or Lot 500):

3.4.1 The simultaneous road opening/closure between the eastern end of Todds Road and south-western corner of Lot 135 (Stage Three) must be must be dedicated as road reserve. Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant; and

3.4.2 Opening of the new section of Todds Road from the western boundary of Lot 1932 on LIV40428 to the north-western corner of Lot 144 (part of Stage Four) must be must be dedicated as road reserve. Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant; and

3.4.3 Opening of the "New Road" from the intersection of Todds Road on the corner of Lot 144 (part of Stage Four) to the intersection of road reserve on the frontage of Lot 149 (part of Stage Five), must be must be dedicated as road reserve.

#### 4.0 ROAD WORKS

4.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works associated with the development.

4.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).

4.3 Any application for a Development Permit for Operational Works (road works) must demonstrate that all new roads and road reserves included in the application connect with existing constructed road(s) within and road reserve(s) at the time of making the application.

4.4 The "New Road" that will provide access to Lots 150 to 154 inclusive must be designed and constructed to a rural access standard, inclusive of all associated drainage, from the intersection with Todds Road at the north-eastern corner of proposed Lot 144 (part of Stage Four) to the intersection of Serpentine Road reserve on the south-east corner of Lot 154 (part of Stage Seven).

4.5 Traffic signs and devices including any alteration to existing signs or devices must be provided in accordance with the *Transport Operations (Road Use Management) Act 1995* and *Manual of Uniform Traffic Control Devices (Queensland)*.

4.6 All associated drainage structures must be designed and constructed to cater for peak flow characteristics, consistent with the provisions of the *Capricorn Municipal Development Guidelines*.

4.7 A turnaround area must be constructed at the end of the road on the intersection of the Serpentine Road reserve, at the south-eastern corner of Lot 154 (part of Stage Seven). A road opening will be required to accommodate this facility.

4.8 In order to achieve compliant road alignment and geometry, minor road openings adjacent to proposed Lots 150, 151, 152, 153 and 154, may be required as part of any related future application for a Development Permit for Operational Works.

4.9 Rural addressing must be provided to each lot in accordance with Council's Local Law for Roads. Payment by the developer of the relevant fee in accordance with

Council's published Fees and Charges for each new lot will satisfy this condition.

#### 5.0 SITE WORKS

- 5.1 All earthworks must be undertaken in accordance with Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments".
- 5.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, such as to cause an actionable nuisance or worsening to adjoining properties or infrastructure.

#### 6.0 ASSET MANAGEMENT

- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### 7.0 ENVIRONMENTAL

- 7.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
- (i) water quality and drainage;
  - (ii) erosion and silt/sedimentation management;
  - (iii) acid sulphate soils;
  - (iv) fauna management;
  - (v) vegetation management and clearing;
  - (vi) top soil management;
  - (vii) interim drainage plan during construction;
  - (viii) construction programme;
  - (ix) geotechnical issues;
  - (x) weed control;
  - (xi) bushfire management;
  - (xii) emergency vehicle access;
  - (xiii) noise and dust suppression; and
  - (xiv) waste management.
- 7.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
  - (ii) site location / topography;
  - (iii) vegetation;
  - (iv) site drainage;

- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and
- (x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site

- 7.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 7.4 The Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 7.5 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.
- 7.6 All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 150 to 154 and 500.
- 7.7 All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 150 to 154 and 500.
- 8.0 OPERATING PROCEDURES
- 8.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Todds Road, the New Road or Serpentine Road.

#### ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Workplace Health and Safety* legislation and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 4. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 5. Property Notes

- a. Buildings and structures must be sited as per the recommendations, constraints analysis in the approved documents and the conditions of approval as part of development application D/247-2015.
- b. Any future dwelling within the proposed lots must have on-site sewerage treatment and disposal facilities, designed and constructed in accordance with the *Plumbing and Drainage Act*, Queensland Plumbing and Wastewater Code and Council's Plumbing and Drainage Policies.
- c. All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the Bushfire Management Requirements contained in the approved document Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to Condition 2.1).
- d. All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- e. It shall be the responsibility of the owners of the Lots 150 to 154 and 500 to secure at their own costs the appropriate electricity supply to service their development. Alternative power sources must be supported by electricity service authority.

NOTE 6. Environmental

- a. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.
- b. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/vegetation/management/>
- c. It is advised that the subject site is mapped under the Livingstone Planning Scheme as 'Locally Significant Vegetation' (PSM10a and 10b). Clearing of this vegetation should not be undertaken without the advice of Council's

Natural Resource Management Unit.

### **RECOMMENDATION B**

That in relation to the application for a Development Permit for Reconfiguring a Lot for an Amalgamation and Boundary Realignment (ten lots into five lots plus balance lot – Stage Six), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 2099 on SP274653, Lot 1 on SP181910, Lot 19 on LIV401207, Lot 2155 on LIV40775, Lot 1963 on LIV40731, Lot 1932 on LIV40428, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 2399 on LIV40926 and Lot 2370 on LIV40895 and located at Lot 2099 Serpentine Road, Lot 1 Serpentine Road, Barmoya and Lot 19 Todds Road, Lot 2155 Todds Road, Lot 1963 Todds Road, Lot 1932 Todds Road, 215 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road and Lot 2370 Todds Road, Rossmoya, Council resolves that no charges are payable given the existing credits for the existing lots.

### **RECOMMENDATION C**

That in relation to the application for a Development Permit for Reconfiguring a Lot for an Amalgamation and Boundary Realignment (ten lots into five lots plus balance lot – Stage Six), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 2099 on SP274653, Lot 1 on SP181910, Lot 19 on LIV401207, Lot 2155 on LIV40775, Lot 1963 on LIV40731, Lot 1932 on LIV40428, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 2399 on LIV40926 and Lot 2370 on LIV40895 and located at Lot 2099 Serpentine Road, Lot 1 Serpentine Road, Barmoya and Lot 19 Todds Road, Lot 2155 Todds Road, Lot 1963 Todds Road, Lot 1932 Todds Road, 215 Todds Road, Lot 1328 Todds Road, Lot 2399 Todds Road and Lot 2370 Todds Road, Rossmoya, Council resolves that the approval be issued a ten (10) year relevant period in accordance with section 341(2)(c) of the *Sustainable Planning Act 2009*.

**Moved by:** Councillor Kelly

**Seconded by:** Councillor Wyatt

**MOTION CARRIED UNANIMOUSLY**

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**12.7 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (SIXTEEN LOTS INTO THREE LOTS AND TWO PUBLIC USE LOTS - STAGE SEVEN)**

**File No:** D/248-2015

**Attachments:**

1. **Locality Plan**
2. **Proposal Plan**

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Jenna Brosseuk - Senior Planning Officer

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**SUMMARY**

**Development Application Number:** D/248-2015

**Applicant:** A B Newton and Haljent Pty Ltd and C A McLeod

**Real Property Address:** Lot 1 on SP181910, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 1932 on LIV40428, Lot 1963 on LIV40731, Lot 2099 on LIV40731, Lot 2155 on LIV40775, Lot 2370 on LIV40895, Lot 2412 on LIV40895, Lot 2399 on LIV40926, Lot 19 on LIV401207, Lot 25 on LIV401259, Lot 12 on LN447, Lot 3 on LN71, Lot 21 on LN99 and Lot 1845 on SP190916

**Common Property Address:** Lot 1 Serpentine Road, Barmoya, Lot 25 Serpentine Road, Greenlake and 215 Todds Road, Lot 1328 Todds Road, lot 1932 Todds Road, lot 1963 Todds Road, lot 2099 Todds Road, lot 2155 Todds Road, lot 2370 Todds Road, lot 2412 Todds Road, lot 2399 Todds Road, lot 19 Todds Road, lot 12 Todds Road, lot 3 Todds Road, lot 21 Todds Road and lot 1845 Todds Road, Rossmoya

**Area of Site:** 7,268.7107 hectares

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Rural Zone

**Planning Scheme Overlays:** Wetlands (O3A), Waterways (O3A), Good Quality Agricultural Land (O4A), Bushfire Hazard (O5B) and Acid Sulphate Soils (O8)

**Planning Scheme Maps:** Locally Significant Vegetation (PSM 10)

**Existing Development:** Dwelling house located on Lot 576 on LIV40169 and Agricultural Structures on Lot 1932 on LIV40428

**Existing Approvals:** Development Permit D/204-2013 for Reconfiguring a Lot (eight lots into eight lots)

**Approval Sought:** Development Permit for Reconfiguring a Lot (sixteen lots into three lots and two public use lots – Stage Seven)

**Level of Assessment:** Code assessable

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Submissions:	Not applicable
Referral Agency(s):	Nil
Adopted Infrastructure Charges Area:	Outside the priority infrastructure area
Application Progress:	

Application Lodged:	9 November 2015
Council request for additional time:	26 November 2015
Council Meeting:	8 December 2015
Statutory determination date:	12 January 2016

## COUNCIL RESOLUTION

### RECOMMENDATION A

THAT in relation to the application for a Development Permit for Reconfiguring a Lot (sixteen lots into three lots and two public use lots – Stage Seven), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1 on SP181910, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 1932 on LIV40428, Lot 1963 on LIV40731, Lot 2099 on LIV40731, Lot 2155 on LIV40775, Lot 2370 on LIV40895, Lot 2412 on LIV40895, Lot 2399 on LIV40926, Lot 19 on LIV401207, Lot 25 on LIV401259, Lot 12 on LN447, Lot 3 on LN71, Lot 21 on LN99 and Lot 1845 on SP190916 and located at Lot 1 Serpentine Road, Barmoya, Lot 25 Serpentine Road, Greenlake and 215 Todds Road, Lot 1328 Todds Road, lot 1932 Todds Road, lot 1963 Todds Road, lot 2099 Todds Road, lot 2155 Todds Road, lot 2370 Todds Road, lot 2412 Todds Road, lot 2399 Todds Road, lot 19 Todds Road, lot 12 Todds Road, lot 3 Todds Road, lot 21 Todds Road and lot 1845 Todds Road, Rossmoya, Council resolves to Approve the application subject to the following conditions:

#### 1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:
  - 1.6.1 Operational Works:
    - (i) Road Works;
- 1.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

- 1.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

## 2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Proposal Plan – Stage 7	14370-PP5, Sheet 1 of 5, Revision H	4 May 2015
Proposal Plan	14370-PP5 (6259-10) Sheet 2 of 2, Revision F	20 March 2015
Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428	15-117-01, Revision A, Sheet 1 of 1	28 May 2015
Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots	40762	24 August 2015

- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Operational Works.
- 2.4 All lot numbers referred to in these conditions are as per *Proposal Plan 14370-PP5, Sheet 1 of 5 Revision H, 4 May 2015*.

## 3.0 DEVELOPMENT PROCEDURES

- 3.1 The final plan of survey for proposed Stage Seven (being Lot 155 or Lot 156 or Lot 157 or Lot 163 or Lot 164) must be generally in accordance with *Proposal Plan, 14370-PP5 Sheet 1 of 5 Revision H* (refer to condition 2.1), and must be further amended to reflect the Todds Road alignment based on the proposed road opening on *Proposed Road Opening and Road Closure Layout Plan – Lot 1932 LIV40428, 15-117-01* (refer to condition 2.1) and as submitted by Livingstone Shire Council to the Department of Natural Resources and Mines as part of the road opening/closure application.
- 3.2 The survey plan for the opening of the new section of Todds Road as shown on draft Survey Plan SP171781 must be registered with the Department of Natural Resources and Mines prior to issue of the Compliance Certificate for the Survey Plan for the first lot being created as part of Stage Seven (being Lot 155 or Lot 156 or Lot 157 or Lot 163 or Lot 164).
- 3.3 In order to achieve a compliant road alignment and geometry, minor road openings adjacent to proposed Lots 150 and 151, 152 and 153 and 154 (Stage Six) may be required as part of any related future application for a Development Permit for Operational Works, and prior to the issue of Compliance Certificate for the Survey Plan for Stage Six (Lots 150 to 154 and Lot 500)

- 3.4 Lots 163 and 164 being lots for Public Use Land in application D/248-2015 for Stage Seven, must be dedicated as public use land on the Survey Plan submitted as part of the Compliance Assessment for the Survey Plan for the first lot being created as part of application D/236-2015, D/237-2015 or D/243-2015 or D/245-2015 or D/247-2015.
- 3.5 The following road dealings must be finalised and completed prior to the issue of the Compliance Certificate Survey Plan for the first lot being created as part of Stage Seven (Lot 155 or Lot 156 or Lot 157 Lot 163 or Lot 164):
- 3.5.1 The simultaneous road opening/closure between the eastern end of the Todds Road and south-western corner of Lot 135 (Stage Three) must be dedicated as road reserve. Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant; and
- 3.5.2 Opening of the new section of Todds Road from the western boundary of Lot 1932 on LIV40428 to the north-western corner of Lot 144 (part of Stage Four) must be dedicated as road reserve. Note: that Livingstone Shire Council Infrastructure Services department is facilitating this opening/closure with the applicant; and
- 3.5.3 Opening of the "New Road" from the intersection of Todds Road on the corner of Lot 144 (part of Stage Four) to the intersection of road reserve on the frontage of Lot 149 (part of Stage Five), must be dedicated as road reserve.
- 4.0 ROAD WORKS
- 4.1 A Development Permit for Operational works (roadworks) must be obtained prior to the commencement of any road works associated with the development.
- 4.2 All roads must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards*, and the provisions of a Development Permit for Operational Works (roadworks).
- 4.3 The road that will provide access to Lot 155 must be designed and constructed to a rural access standard, inclusive of all associated drainage, from the intersection with Todds Road at the north-eastern corner of proposed Lot 144 (Stage Four) to approximately twenty (20) metres east of the south-western corner of Lot 155.
- 4.4 The road that provides access to Lot 156 must be designed and constructed to a rural access standard, inclusive of all associated drainage, from the intersection with the "New Road" at the north-eastern corner of Lot 145 (Stage Five) to opposite the north-western corner of Lot 146 (Stage Five), including a temporary turnaround.
- 4.5 Traffic signs and devices including any alteration to existing signs or devices must be provided in accordance with the *Transport Operations (Road Use Management) Act 1995* and *Manual of Uniform Traffic Control Devices (Queensland)*.
- 4.6 All associated drainage structures must be designed and constructed to cater for peak flow characteristics consistent with the provisions of the *Capricorn Municipal Development Guidelines*.
- 4.7 A turnaround area must be constructed at the end of the road providing access to Lot 155. Road opening will be required to accommodate this facility.
- 4.8 Rural addressing must be provided to each lot in accordance with Council's Local Law for Roads. Payment by the developer of the relevant fee in accordance with Council's published Fees and Charges for each new lot will satisfy this condition.
- 5.0 SITE WORKS
- 5.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.

- 5.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, such as to cause an actionable nuisance or worsening to adjoining properties or infrastructure.
- 6.0 ASSET MANAGEMENT
- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.
- 7.0 ENVIRONMENTAL
- 7.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
- (i) water quality and drainage;
  - (ii) erosion and silt/sedimentation management;
  - (iii) acid sulphate soils;
  - (iv) fauna management;
  - (v) vegetation management and clearing;
  - (vi) top soil management;
  - (vii) interim drainage plan during construction;
  - (viii) construction programme;
  - (ix) geotechnical issues;
  - (x) weed control;
  - (xi) bushfire management;
  - (xii) emergency vehicle access;
  - (xiii) noise and dust suppression; and
  - (xiv) waste management.
- 7.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
  - (ii) site location / topography;
  - (iii) vegetation;
  - (iv) site drainage;
  - (v) soils;
  - (vi) erosion susceptibility;
  - (vii) erosion risk;
  - (viii) concept;
  - (ix) design; and

(x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

7.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

7.4 The Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.

#### 8.0 ENVIRONMENTAL

8.1 All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 155, 156, 157, 163 and 164.

8.2 All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1). A property note to this effect will be entered against Lots 155, 156, 157, 163 and 164.

#### 9.0 OPERATING PROCEDURES

9.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Todds Road, Serpentine Road or the New Road (constructed as part of Stage Five).

#### ADVISORY NOTES

##### NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>

##### NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Workplace Health and Safety* legislation and *Public Health Act 2005*.

##### NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

##### NOTE 4. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 5. Property Notes

- a. Buildings and structures must be sited as per the recommendations, constraints analysis in the approved documents and the conditions of approval as part of development application D/248-2015.
- b. All future buildings and structures on the proposed lots must be constructed in compliance with the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- c. All future buildings and structures on the proposed lots must be constructed in compliance with *Australian Standard AS3959 "Construction in Bushfire Prone Areas"* and the bushfire requirements in the approved Analysis of Environmental Constraints for Dwelling Locations within a Preliminary Reconfiguration of 32 lots from 16 lots (refer to condition 2.1).
- d. Any future dwelling within the proposed lots must have on-site sewerage treatment and disposal facilities designed and constructed in accordance with the *Plumbing and Drainage Act*, Queensland Plumbing and Wastewater Code and Council's Plumbing and Drainage Policies.
- e. It shall be the responsibility of the owners of Lots 155, 156 and 157 to secure at their own costs the appropriate electricity supply to service their lot. Alternative power sources must be supported by electricity service authority.

NOTE 6. Environmental

- a. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.
- b. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Regulated Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/vegetation/management/>
- c. It is advised that part of the subject site is mapped under the Livingstone Planning Scheme as 'Locally Significant Vegetation' (PSM10a and 10b). Clearing of this vegetation should not be undertaken without the advice of Council's Natural Resource Management Unit.

**RECOMMENDATION B**

That in relation to the application for a Development Permit for Reconfiguring a Lot (sixteen lots into three lots and two public use lots – Stage Seven), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1 on SP181910, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 1932 on LIV40428, Lot 1963 on LIV40731, Lot 2099 on LIV40731, Lot 2155 on LIV40775, Lot 2370 on LIV40895, Lot 2412 on LIV40895, Lot 2399 on LIV40926, Lot 19 on LIV401207, Lot 25 on LIV401259, Lot 12 on LN447, Lot 3 on LN71, Lot 21 on LN99 and Lot 1845 on SP190916 and located at Lot

1 Serpentine Road, Barmoya, Lot 25 Serpentine Road, Greenlake and 215 Todds Road, Lot 1328 Todds Road, lot 1932 Todds Road, lot 1963 Todds Road, lot 2099 Todds Road, lot 2155 Todds Road, lot 2370 Todds Road, lot 2412 Todds Road, lot 2399 Todds Road, lot 19 Todds Road, lot 12 Todds Road, lot 3 Todds Road, lot 21 Todds Road and lot 1845 Todds Road, Rossmoya, Council resolves to issue an Infrastructure Charges Notice advising that no charges are payable.

### **RECOMMENDATION C**

That in relation to the application for a Development Permit for Reconfiguring a Lot (sixteen lots into three lots and two public use lots – Stage Seven), made by Anthony Brian Newton (TTE), Carmel Ann Mcleod (TTE) and Haljent Pty Ltd C/- Vision Surveys QLD, on Lot 1 on SP181910, Lot 576 on LIV40169, Lot 1328 on LIV40369, Lot 1932 on LIV40428, Lot 1963 on LIV40731, Lot 2099 on LIV40731, Lot 2155 on LIV40775, Lot 2370 on LIV40895, Lot 2412 on LIV40895, Lot 2399 on LIV40926, Lot 19 on LIV401207, Lot 25 on LIV401259, Lot 12 on LN447, Lot 3 on LN71, Lot 21 on LN99 and Lot 1845 on SP190916 and located at Lot 1 Serpentine Road, Barmoya, Lot 25 Serpentine Road, Greenlake and 215 Todds Road, Lot 1328 Todds Road, lot 1932 Todds Road, lot 1963 Todds Road, lot 2099 Todds Road, lot 2155 Todds Road, lot 2370 Todds Road, lot 2412 Todds Road, lot 2399 Todds Road, lot 19 Todds Road, lot 12 Todds Road, lot 3 Todds Road, lot 21 Todds Road and lot 1845 Todds Road, Rossmoya, Council resolves that the approval be issued a ten (10) year relevant period in accordance with section 341(2)(c) of the *Sustainable Planning Act 2009*.

**Moved by:** Councillor Kelly

**Seconded by:** Councillor Wyatt

**MOTION CARRIED UNANIMOUSLY**

10:12AM Councillor Belot left the meeting.

## 12.8 REQUEST FOR A NEGOTIATED DECISION FOR A DEVELOPMENT PERMIT FOR RECONFIGURING A LOT FOR A BOUNDARY REALIGNMENT (FOUR LOTS INTO FOUR LOTS) AND A MATERIAL CHANGE OF USE FOR SHOPS, OFFICES AND TAKE-AWAY FOOD STORES

**File No:** D/202-2014

**Attachments:**

1. Locality Plan
2. Proposal Plan
3. Original Report

**Responsible Officer:** Brett Bacon - Director Community & Planning Services  
Erin McCabe - Co-ordinator Development Assessment

**Author:** Erin McCabe - Co-ordinator Development Assessment

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### SUMMARY

**Development Application Number:** D/202-2014

**Applicant:** Paul Bishop, Architect on behalf of Poinciana Ventures Pty Ltd ATF The Poinciana Trust

**Real Property Address:** Lot 17 on RP604065, Lot 18 on RP604065, Lot 19 on RP604065 and Lot 2 on RP613504, Parish of Hewittville

**Common Property Address:** 9 - 13 Scenic Highway and Lot 17, 18 and 19 Gregory Street, Cooee Bay

**Area of Site:** 15,390 square metres (total site)  
4,455 square metres (development area)

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Residential Zone – R3 Precinct

**Planning Scheme Overlays:** Storm Tide hazard (O5A), Acid Sulphate Soils (O8)

**Existing Development:** Poinciana Caravan Park

**Existing Approvals:** Multiple (relating specifically to the Caravan Park)

**Approval Sought:** Negotiated Decision for a Development Permit for Reconfiguring a Lot (four lots into four lots) and a Material Change of Use for Shops, Offices and Take -away food stores

**Level of Assessment:** Impact Assessable

**Submissions:** Twenty-seven (27) submissions received

**Referral Agency(s):** Nil

**Adopted Infrastructure Charges Area:** Charge Area One

**Application Progress:**

Application Lodged:	9 October 2014
Acknowledgement notice sent:	22 October 2014
Request for Further Information sent:	5 November 2014



Request for Further Information responded to:	19 November 2014
Submission period commenced:	17 December 2014
Submission period end:	23 January 2015
Notice of compliance received:	27 January 2015
Statutory determination date:	24 February 2015
Decision Stage extended until:	25 March 2015
Decision Stage extended (by agreement) until:	12 June 2015
Decision Stage extended (by agreement) until:	17 July 2015
Decision Stage extended (by agreement) until:	28 July 2015
Council Meeting (laid on the table):	28 July 2015
Council Meeting (decision):	11 August 2015
Decision Notice and Infrastructure Charges Notice issued:	18 August 2015
Applicant suspended applicant's appeal period:	28 August 2015
Applicant made representations about decision:	23 September 2015
Council Meeting (for negotiated decision):	8 December 2015

## COUNCIL RESOLUTION

**A1 That in relation to the request for a Negotiated Decision Notice for Development Permit D/202-2014, made by Paul Bishop, Architect on behalf of Poinciana Ventures Pty Ltd ATF The Poinciana Trust on land described as Lot 17 on RP604065, Lot 18 on RP604065, Lot 19 on RP604065 and Lot 2 on RP613504, Parish of Hewittville and located at 9 - 13 Scenic Highway and Lot 17, 18 and 19 Gregory Street, Cooe Bay, Council resolves that:**

### PART A

1. Condition 1.3 and 1.4 remain **unchanged** on the basis that condition 1.11 and 11.10 be added as new conditions:
2. Condition 1.11 and 11.10 be added as **new** conditions, as follows:  
*Any use associated with Part B of this permit must not commence before the title for the reconfiguring a lot (boundary realignment) associated with Part A of this permit has been issued by the Titles Office.*
3. Condition 1.6.1 (i) be **changed** to include *(only if required)* following Access Works.
4. Condition 3.3 be **deleted** and a **new condition added** at 3.3, 3.3.1 and 3.3.2 as follows:
  - 3.3 *Access to the existing caravan park located on the subject land must be provided or maintained in accordance with one of the following options:*
    - 3.3.1 *Provide an easement for access purposes over the existing caravan park access in Lot 2 in favour of Lot 18 to allow for the continued operation of the existing caravan park access; **or***
    - 3.3.2 *Relocate the existing caravan park access along the Percy Ford Street road reserve boundary towards the eastern property boundary of the reconfigured Lot 2. Any redundant*

*vehicle crossing(s) must be removed and replaced with Council's standard kerb and channel in accordance with the Capricorn Municipal Development Guidelines.*

5. Condition 3.4 be **deleted** and replaced as follows:
    - 3.4 *Any new access, to proposed Lot 18 on RP604065, must be designed and constructed from the kerb in the Percy Ford Street road reserve and adjoin smoothly into the caravan park driveway system. The access must be designed and constructed in accordance with the Capricorn Municipal Development Guidelines.*
  6. Condition 3.5 be **deleted** and NOTE 5 be changed as follows:

*NOTE 5 – Property Notes*

*On commencement of the Material Change of Use, direct vehicular ingress from the Scenic Highway is prohibited for the reconfigured Lot 2. Only a left out movement is approved.*
  7. Condition 14.12 be added as a **new** condition:
    - 14.12 *On commencement of the Material Change of Use, direct ingress from Scenic Highway is prohibited to the reconfigured Lot 2.*
  8. Conditions 1.6.1 (ii), 4.1 and 4.2 be **deleted**.
  9. Condition 4.3 be **deleted, renumbered** to condition 4.1 and replaced with a new condition as follows:

*An easement must be provided in Lot 2, over the house sewer drain servicing the existing caravan park in the south east corner of Lot 2; or, an alternative arrangement or connection must be provided to legally cater for the caravan park house drain line.*
  10. Condition 4.4 be **deleted**.
  11. Condition 4.5 be **deleted**.
  12. Condition 4.6 be **deleted**.
  13. Condition 5.0 and 5.1 be **deleted**, and the conditions renumbered accordingly.
  14. Condition 7.0, 7.1 and 7.2 be **deleted**.
- PART B**
15. Condition 11.4 remain **unchanged** with 1.11 and 11.10 added as **new** conditions.
  16. Condition 11.7 be **changed** as follows:

*All Development Permits for Operational Works for stormwater works, roof and allotment drainage works and site works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works. Operational Works for road works, access and parking works and landscaping works may be obtained following the issue of a Development Permit for Building Works.*
  17. Condition 13.3 be **changed** as follows:

*A shared concrete pathway with a minimum width of 2.5 metres must be provided for the full length of the Percy Ford Street and Scenic Highway frontage to reconfigured lot 2.*
  18. Condition 13.6 be **changed** as follows:

*A new bus set-down area, including the replacement **or** relocation of the*

*existing all weather shelter, must be provided on the Scenic Highway frontage. New works must be designed and constructed in accordance with the Public Transport Infrastructure Manual. Details of the bus set-down area, and any new or relocated shelter, must be provided with any application for a Development Permit for Operational Works (road works).*

19. Condition 14.6 be **changed** as follows:

*A minimum of seven (7) bicycle parking spaces must be provided, adjacent to the covered area closest to the amenities, as indicated on the approved plan (refer to condition 12.1).*

20. Condition 19.5 be **changed** as follows:

*The one (1) metre wide landscape buffer to the southern boundary must include retention of existing mature vegetation, where possible, and create immediate screening with appropriate mature new stock.*

21. Condition 19.6 be **deleted**.

22. Condition 20.1 be **changed** as follows:

*The garbage and washdown area shown on the approved plan (refer to condition 12.1) must be suitably screened to prevent views of the area from residential land uses. Fencing or additional screening through gates or a roof structure, or a combination of each, will satisfy this requirement.*

23. Condition 20.3 be **changed** as follows:

*The finished floor level of the development (building) must be a minimum of 5.2 metres Australian Height Datum.*

24. Condition 20.4 be **changed** to replace 2.1 metre with 1.8 metre.

25. Condition 24.5 be **changed** as follows:

*This approval is for a commercial development for shops, offices and take-away food stores. The composition of uses is limited by this approval in accordance with the following:*

- i) Take-away food stores may be developed to a maximum of five (5) tenancies;*
- ii) Offices may be developed to a maximum of three (3) tenancies;*
- iii) Shops may be developed to a maximum of nine (9) tenancies;*
- iv) A Shop used for a Convenience store is permitted in a maximum of one (1) tenancy to a maximum size of 152 square metres (a convenience store being a store that sells goods that are 'purchased frequently, such a groceries, personal hygiene products, etc.' as per the Convenience Shopping Needs definition within the Livingstone Shire Planning Scheme 2005, schedule 1, division 2 – administrative terms).*
- v) The reference to tenancy in this condition refers to a tenancy shown on the approved plan (refer condition 12.1).*
- vi) Tenancies may be amalgamated however amalgamation of tenancies are further limited as follows:*
  - a. A Shop used for a Convenience store is permitted in a maximum of one (1) tenancy to a maximum size of 152 square metres.*

26. NOTE 11. Property Note b) be **changed** as follows:

*b) This approval is for a commercial development for shops, offices and take-away food stores as per condition 24.5 of Development Permit*

*D/202-2014. Note: This scale has been determined based on the information provided in the application (D/202-2014), the negotiated decision assessment, the defined purposes as well as the car parking ratios and justified performance solutions.*

- A2 That to reflect the above amendments, Paul Bishop, Architect on behalf of Poinciana Ventures Pty Ltd ATF The Poinciana Trust, be issued with a Negotiated Decision Notice for Development Permit D/202-2014 for Reconfiguring a lot for a boundary realignment (four lots into four lots) and a Material Change of Use for Shops, Offices and Take-Away Food Stores):**

#### **PART A – RECONFIGURING A LOT**

##### **1.0 ADMINISTRATION**

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:
- 1.6.1 Operational Works:
- (i) Access Works (only if required).
- 1.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.9 The identified discrepancy in total lot areas (approximately thirty-seven (37) square metres based on the proposal plans submitted) must be rectified.
- 1.10 An access and (if necessary) services easement must be registered in favour of Lot 18 over proposed Lot 2.
- 1.11 Any use associated with Part B of this permit must not commence before the title for the reconfiguring a lot (boundary realignment) associated with Part A of this permit has been issued by the Titles Office.
- 2.0 **APPROVED PLANS AND DOCUMENTS**
- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
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Proposal Plan for Boundary Realignment	Figure 967-1 / Rev A	14/07/14
Mechanism for Boundary Realignment	Figure 967-2 / Rev A	14/07/14
Preliminary Infrastructure Details	Figure 967-3 / Rev A	14/07/14

- 2.2 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.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Operational Works.
- 3.0 ACCESS WORKS
- 3.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works on the site.
- 3.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Australian Standard AS2890 "Off Street Car Parking"* and the provisions of a Development Permit for Operational Works (access works).
- 3.3 Access to the existing caravan park located on the subject land must be provided or maintained in accordance with one of the following options:
- 3.3.1 Provide an easement for access purposes over the existing caravan park access in Lot 2 in favour of Lot 18 to allow for the continued operation of the existing caravan park access; **or**
- 3.3.2 Relocate the existing caravan park access along the Percy Ford Street road reserve boundary towards the eastern property boundary of the reconfigured Lot 2. Any redundant vehicle crossing(s) must be removed and replaced with Council's standard kerb and channel in accordance with the *Capricorn Municipal Development Guidelines*.
- 3.4 Any new access, to proposed Lot 18 on RP604065, must be designed and constructed from the kerb in the Percy Ford Street road reserve and adjoin smoothly into the caravan park driveway system. The access must be designed and constructed in accordance with the *Capricorn Municipal Development Guidelines*.
- 4.0 SEWERAGE WORKS
- 4.1 An easement must be provided in Lot 2, over the house sewer drain servicing the existing caravan park in the south east corner of Lot 2; or, an alternative arrangement or connection must be provided to legally cater for the caravan park house drain line.
- 5.0 PLUMBING AND DRAINAGE WORKS
- 5.1 All works must be designed and constructed in accordance with the approved plans (refer condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act, Council's Plumbing and Drainage Policies* and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.2 Any alterations to the internal plumbing or sanitary drainage that may be required as a result of the development must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.

- 5.3 Internal plumbing and sanitary drainage must be wholly contained within the lot it serves.
- 6.0 ASSET MANAGEMENT
- 6.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 6.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.
- 7.0 ENVIRONMENTAL
- 7.1 Implement and maintain an Erosion Control and Stormwater Control Management Plan on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 8.0 OPERATING PROCEDURES
- 8.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Percy Ford Street and Scenic Highway.

#### ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs website [www.datsima.qld.gov.au](http://www.datsima.qld.gov.au)

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Workplace Health and Safety* legislation and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 4. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to

ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 5. Property Notes

On commencement of the Material Change of Use, direct vehicular ingress from the Scenic Highway is prohibited for the reconfigured Lot 2. Only a left out movement is approved.

NOTE 6. Plumbing and Drainage Works

In accordance with the *Water Supply (Safety and Reliability) Act*, all individual lots must be connected to reticulated water and sewer network. However, considering the existing single use (Caravan Park) across the proposed Lots 17, 18 and 19 on RP604065, it is not practical to have a separate service connections to these lots. Note that any future changes in the use will trigger separate water and sewer service connections.

**PART B – MATERIAL CHANGE OF USE FOR SHOPS, OFFICES AND TAKE-AWAY FOOD STORES**

9.0 ADMINISTRATION

9.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.

9.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

9.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.

9.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the commencement of the use, unless otherwise stated.

9.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the commencement of the use, unless otherwise stated.

9.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:

9.6.1 Operational Works:

- (i) Road Works;
- (ii) Access and Parking Works;
- (iii) Stormwater Works;
- (iv) Roof and Allotment Drainage Works;
- (v) Site Works; and
- (vi) Landscaping Works.

9.6.2 Plumbing and Drainage Works; and

9.6.3 Building Works.

9.7 All Development Permits for Operational Works for stormwater works, roof and allotment drainage works and site works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works. Operational Works for road works, access and parking works and landscaping works may be obtained following the issue of a Development Permit for Building Works.

9.8 Unless otherwise stated, all works must be designed, constructed and maintained in

accordance with the relevant Council policies, guidelines and standards.

9.9 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

9.10 Any use associated with Part B of this permit must not commence before the title for the reconfiguring a lot (boundary realignment) associated with Part A of this permit has been issued by the Titles Office.

#### 10.0 APPROVED PLANS AND DOCUMENTS

10.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Site Plan	462 SP2 / Issue E	24/03/2015
Shops & Carpark Plan	462 SP4 / Issue E	24/03/2015
Elevations	462 SP5 / Issue D	10/03/2015
Preliminary Infrastructure Details	Figure 967-3 / Rev A	14/07/14
Shop and Traffic Layout	462 SP3 / Issue E	24/03/2015
Stormwater Management Concept	Figure 967-SWM-01 / Rev B	8/10/2014
Traffic Impact Report	Ref :G1302/15:140716 Rev B	07/10/2014

10.2 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.

10.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works.

#### 11.0 ROAD WORKS

11.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works on the site.

11.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 12.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).

11.3 A shared concrete pathway with a minimum width of 2.5 metres must be provided for the full length of the Percy Ford Street and Scenic Highway frontage to reconfigured lot 2.

11.4 The existing raised median in Scenic Highway fronting the development site must be extended as a minimum up to opposite the south western corner of existing Lot 2 on RP613504.

11.5 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for Access and Mobility"*. All pathways must incorporate kerb ramps at all road crossing points.



- 11.6 A new bus set-down area, including the replacement **or** relocation of the existing all weather shelter, must be provided on the Scenic Highway frontage. New works must be designed and constructed in accordance with the *Public Transport Infrastructure Manual*. Details of the bus set-down area, and new or relocated shelter, must be provided with any application for a Development Permit for Operational Works (road works).
- 11.7 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 12.0 ACCESS AND PARKING WORKS
- 12.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the site.
- 12.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 12.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 “Parking Facilities”* and the provisions of a Development Permit for Operational Works (access and parking works).
- 12.3 A new two (2) way access from Percy Ford Street and second egress access (left only) at the Scenic Highway must be designed and constructed.
- 12.4 Any redundant vehicular crossing(s) must be removed and replaced with Council’s standard kerb and channel in accordance with the *Capricorn Municipal Development Guidelines*.
- 12.5 A minimum of fifty (50) off-street parking spaces (including universal access spaces) must be provided. Universal access spaces must be provided specifically in accordance with *Australian Standard AS2890.6. 2009 “Off-Street parking for people with disabilities”*.
- 12.6 A minimum of seven (7) bicycle parking spaces must be provided, adjacent to the covered area closest to the amenities, as indicated on the approved plan (refer to condition 12.1).
- 12.7 All access driveways, parking spaces and associated vehicle manoeuvring areas must be concrete paved or sealed.
- 12.8 All ingress and egress movements to and from the development must be in a forward gear.
- 12.9 Any application for Operational Works (access works) must include a detailed plan to demonstrate that all turning movements / swept paths of the intended design vehicle are in accordance with relevant Australian Standards. Specifically at the following intersections:
- 12.9.1 Scenic Highway site egress ( with the extended median)
- 12.9.2 Percy Ford Street site access
- Note that any resultant turning movements / swept paths must remain within the carriageway and must not encroach onto any adjacent traffic lanes or cause damage to Council infrastructure.
- 12.10 All stormwater runoff from parking and vehicular manoeuvring areas must be collected on the site and must drain so as to demonstrate lawful discharge in accordance with *Queensland Urban Drainage Manual*.
- 12.11 All vehicle operations associated with the proposed use must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standards AS1742.1 “Manual of Uniform Traffic Control Devices”*.
- 12.12 On commencement of the Material Change of Use, direct ingress from Scenic

Highway is prohibited to the reconfigured Lot 2.

### 13.0 PLUMBING AND DRAINAGE WORKS

- 13.1 All works must be designed and constructed in accordance with the approved plans (refer to condition 12.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act* Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 13.2 The development must be connected to Council's reticulated sewerage and water networks.
- 13.3 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 13.4 A sewerage trade waste permit must be obtained for the discharge of any non-domestic waste into Council's sewerage reticulation system. Arrester traps must be provided where commercial or non-domestic waste water is proposed to be discharged into the system.
- 13.5 Hoses must be provided at the refuse container area, and washdown must be drained to the sewer in accordance with a Plumbing and Drainage Permit and Sewerage Trade Waste Permit.
- 13.6 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

### 14.0 STORMWATER WORKS

- 14.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 14.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 12.1), *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 14.3 All stormwater must drain so as to demonstrate lawful discharge and must not adversely affect adjoining land or infrastructure when compared to pre-development condition by way of blocking, altering, diverting existing stormwater runoff patterns, or flood storage areas or have the potential to cause damage to other infrastructures.
- 14.4 Any application for Operational works (stormwater works) must identify all areas of the proposed development, and all other land (which may include land not under the control of the developer), which needs to be dedicated to, or encumbered in favour of Council or another statutory authority, in order to maintain the lawful discharge or provide a lawful point of discharge for the proposed development. The areas identified must satisfy the requirements of the *Queensland Urban Drainage Manual*.
- 14.5 A detention system must be designed and constructed within the development site. The volume of detention provided must be sufficient to attenuate the peak discharge from the site; to ensure non-worsening of the flow regime immediately downstream of the development for a selected range of Annual Exceedance Probability events up to Defined Flood Event (inclusive) for a range of storm durations including critical storm duration.
- 14.6 The potential pollutants in stormwater runoff, discharged from the site must be managed in accordance with *Urban Stormwater Quality Planning Guidelines and State Planning Policy*.
- 14.7 Any application for Operational works (stormwater works) must include but not limited to;
- 14.7.1 An assessment of the major and minor rainfall event peak discharges for the

- pre-development and post-development scenarios;
- 14.7.2 Storage calculations, detailed designs for the inlet and outlet systems for the proposed detention systems;
- 14.7.3 Details to demonstrate vehicular, pedestrian amenity and safety criteria are met in accordance with *Queensland Urban Drainage Manual*; and
- 14.7.4 Ongoing maintenance and management actions required with regard to detention and retention systems.
- 14.7.5 Detailed engineering plans with details of any new drainage systems, or the amendment and upgrading of exiting drainage systems to implement the proposed drainage strategy.
- 14.8 Contaminated surface runoff must not be discharged to the stormwater network.
- 15.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 15.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the site.
- 15.2 All roof and allotment drainage must be in accordance with the requirements of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*.
- 15.3 All roof and allotment drainage must be discharged such that it does not restrict, impair or change the natural flow of runoff water or cause a nuisance to adjoining properties or infrastructure.
- 16.0 SITE WORKS
- 16.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 16.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 16.3 Any application for a Development Permit for Operational Works (site works) must be accompanied by a preliminary site investigation into acid sulfate soils in accordance with *State Planning Policy*.
- 16.4 If preliminary testing indicates that acid sulphate soils are present in the areas to be excavated, a more detailed acid sulphate soil investigation must be completed, and an appropriate management plan submitted to Council as part of any application for a Development Permit for Operational Works (site works).
- 16.5 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 16.6 All site works must be undertaken to ensure that no actionable nuisance results from:
- 16.6.1 an increase in peak discharge immediately downstream of the development for a selected range of storm durations, and a selected range of Annual Exceedance Probability events up to Defined Flood Event (inclusive);
- 16.6.2 an increase in downstream or upstream flood inundation levels;
- 16.6.3 And that there is no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development;
- 17.0 LANDSCAPING WORKS
- 17.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works on the site.

- 17.2 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 12.1) and must include, but is not limited to, the following:
- 17.2.1 A plan documenting the “Extent of Works” and supporting documentation which includes:
- (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
  - (ii) the extent of soft and hard landscape proposed;
  - (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
  - (iv) underground and overhead services;
  - (v) typical details of critical design elements (stabilisation of batters, retaining walls, trees in car park areas, fences);
  - (vi) details of landscape structures including areas of deep planting; and
  - (vii) specification notes on mulching and soil preparation.
- 17.2.2 A “Planting Plan” and supporting documentation which includes:
- (i) trees, shrubs and groundcovers to all areas to be landscaped;
  - (ii) position and canopy spread of all trees and shrubs;
  - (iii) the extent and type of works (inclusive but not limited to paving, fences and garden bed edging). All plants shall be located within an edged garden;
  - (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting; and
  - (v) mature screen planting (retention of existing vegetation where possible) to the southern and eastern boundaries.
- 17.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 17.4 Landscaping, or any part thereof, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austrroads ‘Guide to Traffic Engineering Practice’* series of publications;
  - (ii) adversely affect any road lighting or public space lighting; or
  - (iii) adversely affect any Council infrastructure, or public utility plant.
- 17.5 The one (1) metre wide landscape buffer to the southern boundary must include retention of existing mature vegetation, where possible, and create immediate screening with appropriate mature new stock.
- 17.6 All landscaping must be constructed and or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works), prior to the commencement of the use.
- 17.7 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 18.0 **BUILDING WORKS**
- 18.1 The garbage and washdown area shown on the approved plan (refer to condition 12.1) must be suitably screened to prevent views of the area from residential land uses. Fencing or additional screening through gates or a roof structure, or a combination of each, will satisfy this requirement.
- 18.2 The locations of buildings and structures must comply with the minimum clearance

requirements to relevant infrastructures in accordance with *Queensland Development Code* (MP1.4: Building Over or near relevant infrastructure). Specifically, the proposed locations for the wash-down area and the garbage area must comply with the above code.

- 18.3 The finished floor level of the development (building) must be a minimum of 5.2 metres Australian Height Datum.
- 18.4 Provide a 1.8 metre high screen fence for the full extent of the southern property boundary.

#### 19.0 ELECTRICITY AND TELECOMMUNICATIONS

- 19.1 Electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.

#### 20.0 ASSET MANAGEMENT

- 20.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 20.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 20.3 As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### 21.0 ENVIRONMENTAL

- 21.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
- (i) water quality and drainage;
  - (ii) erosion and silt/sedimentation management;
  - (iii) acid sulphate soils;
  - (iv) fauna management;
  - (v) vegetation management and clearing;
  - (vi) top soil management;
  - (vii) interim drainage plan during construction;
  - (viii) construction programme;
  - (ix) geotechnical issues;
  - (x) weed control;
  - (xi) bushfire management;
  - (xii) emergency vehicle access;
  - (xiii) noise and dust suppression; and
  - (xiv) waste management.
- 21.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
  - (ii) site location / topography;

- (iii) vegetation;
  - (iv) site drainage;
  - (v) soils;
  - (vi) erosion susceptibility;
  - (vii) erosion risk;
  - (viii) concept;
  - (ix) design; and
  - (x) implementation, for the construction and post construction phases of work.
- 21.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 21.4 Implement and maintain the Erosion Control and Stormwater Control Management Plan on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 22.0 OPERATING PROCEDURES
- 22.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Percy Ford Street or Scenic Highway.
- 22.2 Cleaning of plant equipment and vehicles must be carried out in an area where waste water can be suitably managed so as not to cause contaminants to release into waterways or overland flow paths.
- 22.3 All waste storage areas must be kept in a clean, tidy condition in accordance with *Environmental Protection (Waste Management) Regulations*.
- 22.4 A Waste Management Plan must be prepared and submitted with the first operational works application in accordance with *Environmental Protection (Waste Management) Regulations*.
- 22.5 This approval is for a commercial development for shops, offices and take-away food stores. The composition of uses is limited by this approval in accordance with the following:
- i) Take-away food stores may be developed to a maximum of five (5) tenancies;
  - ii) Offices may be developed to a maximum of three (3) tenancies;
  - iii) Shops may be developed to a maximum of nine (9) tenancies;
  - iv) A Shop used for a Convenience store is permitted in a maximum of one (1) tenancy to a maximum size of 152 square metres (a convenience store being a store that sells goods that are 'purchased frequently, such a groceries, personal hygiene products, etc.' as per the Convenience Shopping Needs definition within the *Livingstone Shire Planning Scheme 2005*, schedule 1, division 2 – administrative terms).
  - v) The reference to tenancy in this condition refers to a tenancy shown on the approved plan (refer condition 12.1).
  - vi) Tenancies may be amalgamated however amalgamation of tenancies are further limited as follows:
    - a. A Shop used for a Convenience store is permitted in a maximum of one (1) tenancy to a maximum size of 152 square metres.

ADVISORY NOTES

**NOTE 7. Aboriginal Cultural Heritage**

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the “cultural heritage duty of care”). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs website [www.datsima.qld.gov.au](http://www.datsima.qld.gov.au)

**NOTE 8. General Environmental Duty**

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

**NOTE 9. Licensable Activities**

Council's Environment and Public Health Unit should be consulted to determine whether any approvals are required for licensable activities. Such activities may include storage of flammable and combustible liquid and environmentally relevant activities and food business premises. Approval for such activities are required before 'fitout' and operation.

**NOTE 10. General Safety Of Public During Construction**

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

**NOTE 11. Property Notes**

- a) Direct vehicular ingress from the Scenic Highway is prohibited for Lot 2 on RP613504. Only a left out movement is approved.
- b) This approval is for a commercial development for shops, offices and take-away food stores as per condition 24.5 of Development Permit D/202-2014. Note: This scale has been determined based on the information provided in the application (D/202-2014), the negotiated decision assessment, the defined purposes as well as the car parking ratios and justified performance solutions.

**NOTE 12. Infrastructure Charges Notice**

This application is subject to infrastructure contributions in accordance with Council policies. The contributions are presented on an Adopted Infrastructure Charges Notice.

**Moved by: Deputy Mayor, Councillor Scott**

**Seconded by: Councillor Hutton**

**MOTION CARRIED**

10:23AM Councillor Belot returned to the meeting.

10:24AM Deputy Mayor, Councillor Scott left the meeting.

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**12.9 DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT (TWO LOTS INTO TWO LOTS) AND A MATERIAL CHANGE OF USE FOR A RETIREMENT VILLAGE (SIXTY-TWO (62) ADDITIONAL UNITS)****File No:** D/46-2015**Attachments:**

1. **Locality Plan**
2. **Master Plan**
3. **Section Plan**
4. **Building design plans**
5. **Survey and Easements Plans**

**Responsible Officer:** Brett Bacon - Director Community & Planning Services**Author:** Erin McCabe - Co-ordinator Development Assessment

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**SUMMARY**

Development Application Number: D/46-2015

Applicant: Paynter Dixon C/- Adams + Sparkes

Real Property Address: Lot 600 on SP261783 and Lot 356 on SP195003 Parish of Yeppoon

Common Property Address: Lot 600 Tabone Street and 150-170 Rockhampton Road, Yeppoon

Area of Site: 38.6 hectares

Planning Scheme: *Livingstone Shire Planning Scheme 2005*

Planning Scheme Zoning: Residential Zone, R1 Precinct

Planning Scheme Overlays: Locally Significant Vegetation (PSM 10) and Steep land (O3B)

Existing Development: Vacant land (balance area being development for residential) and Retirement village (sixty- two (62) additional units)

Existing Approvals: Development Permit 40/002/1263 for a Material Change of Use for a Place of Worship (Church), Hostel for disabled, general purpose shed & Multiple Dwelling unit (8 aged persons units) and Development Permit D/396-2008 for Reconfiguring a Lot (216 lots).

Approval Sought: Development Permit for Reconfiguring a Lot (two lots into two lots) and Material Change of Use for a Retirement village (sixty-two (62) additional units)

Level of Assessment: Impact Assessable

Submissions: One (1) submission received (Not properly made)

Referral Agency(s): Ergon Energy and the Department of Infrastructure, Local Government and Planning

Adopted Infrastructure Charges Area: Charge Area One

Application Progress:



Application Lodged:	18 March 2015
Application properly made:	30 March 2015
Acknowledgement Notice sent:	13 April 2015
Ergon advice response received:	21 April 2015
Request for Further Information sent:	27 April 2015
Request for Further Information responded to:	17 June 2015
Submission period commenced:	23 June 2015
Submission period end:	14 July 2015
Notice of Compliance received:	20 July 2015
DLGIP concurrence assessment extended until:	9 September 2015
DLGIP concurrence response received:	11 November 2015
Council meeting date:	8 December 2015
Statutory determination date:	9 December 2015

## COUNCIL RESOLUTION

### RECOMMENDATION A

THAT in relation to the application for a Development Permit for Reconfiguring a Lot (two lots into two lots) and a Material Change of Use for a Retirement village (sixty- two (62) additional units), made by Paynter Dixon C/- Adams + Sparkes, on Lot 600 on SP261783 and Lot 2 on SP186802, Parish of Yeppoon and located at 150-170 Rockhampton Road and Lot 600 Tabone Street, Yeppoon, Council resolves to Approve the application subject to the following conditions:

#### PART A – RECONFIGURING A LOT (TWO LOTS INTO TWO LOTS)

##### 1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.7 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved,

supervised and certified by a Registered Professional Engineer of Queensland.

## 2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Reconfiguring of Lots – 2 Lots into 2 Lots (Stage 1)	5768-08-ROL, Revision B, Sheet 1 of 3	10 July 2015
Reconfiguring of Lots – 2 Lots into 2 Lots (Stage 2)	5768-08-ROL, Revision B, Sheet 2 of 3	10 July 2015
Reconfiguring of Lots – 2 Lots into 2 Lots (Stage 3)	5768-08-ROL, Revision B, Sheet 3 of 3	10 July 2015
Stormwater Management Plan	R15039, Revision B	May 2015
Capricorn Retirement Village Schematic Design - Development Staging Layout Plan	SCE 101-002, Revision A	14 March 2015
Engineering Infrastructure Report	Not numbered, Revision 1	23 March 2015

- 2.2 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.

- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Compliance Certificate for the Survey Plan.

## 3.0 STAGED DEVELOPMENT

- 3.1 This approval is for a development to be undertaken in three (3) discrete stages concurrently with the corresponding stages identified in Part B – Material Change of Use, namely:

3.1.1 Stage 1 (one lot into one lot and drainage easement in gross, private drainage easement and private sewerage easement) and a suitably sized drainage easement, for the major overland flow path located within proposed Lot 357 (south-east corner) must be dedicated in favour of Council (this may require augmentation of Emt P on SP238727. The easement must contain drainage corridors suitable for the conveyance of peak stormwater flows through the subject land during the Defined Flood Event;

3.1.2 Stage 2 (one lot into one lot and drainage easement in gross, private drainage easement and private sewerage easement); and

3.1.3 Stage 3 (one lot into one lot and drainage easement in gross).

in accordance with the approved plans (refer to condition 2.1).

- 3.2 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

- 3.3 All easement documentation must be included in the application for a Compliance Certificate for the Survey Plan.

- 3.4 The survey plan and easement documents for each stage must be registered with the Titles Office prior to commencement of any works on site for the respective stage.
- 4.0 PLUMBING AND DRAINAGE
- 4.1 The existing infrastructure connection points must be retained wholly within the lot that it serves.
- 5.0 ASSET MANAGEMENT
- 5.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 5.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 5.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>.

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 3. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

#### **PART B – MATERIAL CHANGE OF USE FOR A RETIREMENT VILLAGE (EXTENSION)**

6.0 ADMINISTRATION

- 6.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 6.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

- 6.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 6.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the commencement of the use, unless otherwise stated.
- 6.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the commencement of the use, unless otherwise stated.
- 6.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 6.6.1 Operational Works:
- (i) Internal Road Works;
  - (ii) Access and Parking Works,
  - (iii) Stormwater Works;
  - (iv) Site Works; and
  - (v) Landscaping Works.
- 6.6.2 Plumbing and Drainage Works; and
- 6.6.3 Building Works.
- 6.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 6.8 The survey plan and easement documents for each stage forming Part B of this permit must be registered with the Titles Office prior to commencement of any works on site for the respective stage.
- 6.9 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 6.10 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 6.11 A Community Management Statement in accordance with the approved layout plan (refer to condition 7.1) must be submitted and approved by Council prior to the commencement of the use.
- 7.0 APPROVED PLANS AND DOCUMENTS
- 7.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Reconfiguring of Lots – 2 Lots into 2 Lots (Stage 1)	5768-08-ROL, Revision B, Sheet 1 of 3	10 July 2015
Reconfiguring of Lots – 2 Lots into 2 Lots (Stage 2)	5768-08-ROL, Revision B, Sheet 2 of 3	10 July 2015
Reconfiguring of Lots – 2 Lots into 2 Lots (Stage 3)	5768-08-ROL, Revision B, Sheet 3 of 3	10 July 2015
Capricorn Retirement Village Schematic Design - Masterplan	1406600 SD-01, Revision B	12 March 2015

Capricorn Retirement Village Schematic Design - Staging Plan	1406600 SD-02, Revision B	12 March 2015
Capricorn Retirement Village Schematic Design – Type A Unit	PIA0102, SD01, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design – Type B Unit	PIA0102, SD02, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design – Type C Unit	PIA0102, SD03, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design – Type D Unit	PIA0102, SD04, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design – Type A Unit – Duplex 1	PIA0102, SD05, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design - Type A and B Unit – Duplex 2	PIA0102, SD06, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design – Type C Unit – Duplex 3	PIA0102, SD07, Revision A	13 March 2015
Capricorn Retirement Village Schematic Design – Type D Unit – Duplex 4	PIA0102, SD08, Revision A	13 March 2015
Stormwater Management Plan	R15039, Revision B	May 2015
Engineering Infrastructure Report	Not numbered, Revision 1	23 March 2015

7.2 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.

7.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works.

#### 8.0 STAGED DEVELOPMENT

8.1 This approval is for a development to be undertaken in three (3) discrete stages concurrently with the corresponding stages identified in Part A – Reconfiguring a Lot, namely:

8.1.1 Stage 1 (twenty-one (21) units and associated works);

8.1.2 Stage 2 (eighteen (18) units and associated works); and

8.1.3 Stage 3 (twenty-three (23) units and associated works).

in accordance with the approved plans (refer to condition 7.1).

8.2 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

#### 9.0 INTERNAL ROAD WORKS

- 9.1 A Development Permit for Operational Works (internal road works) must be obtained prior to the commencement of any road works on the site.
- 9.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 6.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (internal road works).
- 9.3 Any application for a Development Permit for Operational Works (internal road works) must demonstrate that all new roads and road reserves included in the application connect with existing constructed road(s) or planned future roads(s) at the time of making the application.
- 9.4 A suitable pavement design for the internal roads must be submitted with the development application for Operational Works (internal road works).
- 9.5 The design and construction of all terminating roads must include a temporary turning area which complies with the relevant performance and technical criteria, and facilitates suitable turning movements for a design refuse collection vehicle and heavy rigid vehicle.
- 9.6 The area taken up by temporary turning areas at the ends of roads must be covered by either easements registered over the relevant lot or such other tenure arrangements that are satisfactory to Council. Arrangements must be finalised as part of a Development Permit for Operational Works (internal road works).
- 9.7 Works must be in accordance with *Australian Standard AS1428 "Design for Access and Mobility"*;
- 9.8 Traffic signs and pavement markings including any alterations must be provided in accordance with the *Transport Operations (Road Use Management) Act 1995* and *Manual of Uniform Traffic Control Devices (Queensland)*.

#### 10.0 ACCESS AND PARKING WORKS

- 10.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the site.
- 10.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 7.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking Facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 10.3 The vehicular accesses to each proposed unit must be designed and constructed. All access, parking and associated vehicle manoeuvring areas must be sealed.
- 10.4 A minimum of one (1) covered parking space per unit must be provided.
- 10.5 A minimum of one (1) visitor parking space per unit must be provided and may be in tandem.
- 10.6 Universal parking spaces must be provided in accordance with *Australian Standard AS2890.6 "Parking Facilities - Off-Street parking for people with disabilities"*.
- 10.7 At least fifty (50) per cent of all dwelling units must be adaptable for wheelchair access in accordance with *Australian Standard AS4299 – Adaptable Housing*.

#### 11.0 PLUMBING AND DRAINAGE WORKS

- 11.1 All works must be designed and constructed in accordance with the approved plans (refer to condition 7.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act*, *Plumbing and Drainage Act*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.

- 11.2 The development must be connected to Council's reticulated sewerage and water networks.
- 11.3 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 11.4 The development must be provided with a master meter at the property boundary and sub meters for each sole occupancy building in accordance with the *Queensland Plumbing and Drainage Code* and Council's Sub-metering Policy
- 11.5 Alteration or relocation of internal sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 11.6 Internal plumbing and sanitary drainage associated with existing buildings must be wholly contained within the lot that it serves.
- 11.7 Water and sewer infrastructure must be provided (if necessary) to the development or stage boundaries for connectivity.
- 12.0 **STORMWATER WORKS**
- 12.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 12.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 7.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 12.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure in comparison to the pre-development condition by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure.
- 12.4 Any application for Operational works (stormwater works) must include all areas of the proposed development, and all other land (which may include land not under the control of the developer), which needs to be dedicated to, or encumbered in favour of Council or another statutory authority, in order to maintain the lawful discharge for the proposed development. The areas identified must satisfy the requirements of the *Queensland Urban Drainage Manual*.
- 12.5 Any drainage easements dedicated over the major overland flow paths or major drainage system must be able to contain all earthworks, batters and include freeboard and access and maintenance provisions consistent with the *Queensland Urban Drainage Manual*.
- 12.6 Vehicular, pedestrian amenity and safety criteria must be met in accordance with *Queensland Urban Drainage Manual*. The design of any cross drainage structures must demonstrate allowable velocity/depth product(s) is achieved.
- 12.7 The potential pollutants in stormwater runoff, discharged from the site must be managed in accordance with *Urban Stormwater Quality Planning Guidelines* and *State Planning Policy*.
- 13.0 **SITE WORKS**
- 13.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 13.2 All site works must be designed and constructed in accordance with the approved plans (refer to condition 7.1), *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments*, *State Planning Policy*, and sound engineering practice and the provisions of a Development Permit for Operational Works (site works).

- 13.3 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:
- 13.3.1 the location of cut and/or fill;
  - 13.3.2 the type of fill to be used and the manner in which it is to be compacted;
  - 13.3.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
  - 13.3.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
  - 13.3.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 13.4 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 13.5 The structural design of all retaining walls above one (1) metre in height must be separately and specifically certified by a Registered Professional Engineer of Queensland as part of the Operational Works submission. A Registered Professional Engineer of Queensland must on completion certify that all works are compliant with the approved design.
- 13.6 All site works must be undertaken to ensure that there is:
- 13.6.1 no increase in upstream or downstream flood levels for all levels of immunity up to Q100;
  - 13.6.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
  - 13.6.3 a lawful point of discharge to which the developed flows from the land drain. Easements will be required over any other land to accommodate the flows.
- 14.0 **BUILDING WORKS**
- 14.1 All structures must maintain a clearance of two (2) metres to any sewerage infrastructure.
- 14.2 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) (decibels) above the background ambient noise level, measured at the boundaries of the subject site.
- 14.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.
- 14.4 A 1.8 metre high fence must be erected between the subject site and adjacent residential properties north and east of the development.
- 14.5 All structures must comply with the provisions of *Queensland Development Code Mandatory Part 1.4 (MP 1.4)*, relative to relevant infrastructure.
- 14.6 Habitable areas must be provided with a minimum 300 millimetres freeboard above the peak level of the Defined Flood Event.
- 15.0 **LANDSCAPING WORKS**
- 15.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works on the site.



- 15.2 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 6.1) and must include, but is not limited to, the following:
- 15.2.1 A plan documenting the “Extent of Works” and supporting documentation which includes:
- (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
  - (ii) the extent of soft and hard landscape proposed;
  - (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
  - (iv) underground and overhead services;
  - (v) typical details of critical design elements (stabilisation of batters, retaining walls, trees in car park areas, fences;
  - (vi) details of landscape structures including areas of deep planting; and
  - (vii) specification notes on mulching and soil preparation.
- 15.2.2 A “Planting Plan” and supporting documentation which includes:
- (i) trees, shrubs and groundcovers to all areas to be landscaped;
  - (ii) position and canopy spread of all trees and shrubs;
  - (iii) the extent and type of works (inclusive but not limited to paving, fences and garden bed edging). All plants shall be located within an edged garden;
  - (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting; and
  - (v) mature screen planting to the north and east boundaries.
- 15.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 15.4 Landscaping, or any part thereof, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austroads ‘Guide to Traffic Engineering Practice’* series of publications;
  - (ii) adversely affect any road lighting or public space lighting; or
  - (iii) adversely affect any Council infrastructure, or public utility plant.
- 15.5 All landscaping must be constructed and or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works).
- 15.6 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 15.7 Landscaping for the development must contain suitable and predominantly endemic plant species. Advice about these species can be obtained from Council’s Natural Resource Management Unit.
- 16.0 ELECTRICITY AND TELECOMMUNICATIONS
- 16.1 Electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.
- 16.2 Evidence must be provided of a Telecommunications Infrastructure Provisioning Confirmation and Certificate of Electricity Supply with the relevant service providers to provide the use with telecommunication and live electricity connections, in accordance with the requirements of the relevant authorities.

**17.0 ASSET MANAGEMENT**

- 17.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 17.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 17.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

**18.0 ENVIRONMENTAL**

- 18.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
- (i) water quality and drainage;
  - (ii) erosion and silt/sedimentation management;
  - (iii) acid sulphate soils;
  - (iv) fauna management;
  - (v) vegetation management and clearing;
  - (vi) top soil management;
  - (vii) interim drainage plan during construction;
  - (viii) construction programme;
  - (ix) geotechnical issues;
  - (x) weed control;
  - (xi) bushfire management;
  - (xii) emergency vehicle access;
  - (xiii) noise and dust suppression; and
  - (xiv) waste management.
- 18.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
  - (ii) site location / topography;
  - (iii) vegetation;
  - (iv) site drainage;
  - (v) soils;
  - (vi) erosion susceptibility;
  - (vii) erosion risk;
  - (viii) concept;
  - (ix) design; and
  - (x) implementation, for the construction and post construction phases of work.
- 18.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

18.4 Implement and maintain the Erosion Control and Stormwater Control Management Plan on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.

19.0 OPERATING PROCEDURES

19.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in any Council road reserve.

19.2 All waste storage areas must be aesthetically screened, kept in a clean, tidy condition in accordance with *Environmental Protection (Waste Management) Regulations*.

ADVISORY NOTES

NOTE 4. Aboriginal Cultural Heritage

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Aboriginal and Torres Strait Islander Partnerships website <https://www.datsip.qld.gov.au/>.

NOTE 5. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 6. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 7. Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The contributions are presented on an Infrastructure Charges Notice.

NOTE 8. Vegetation Management

a. The land subject to the above development application must be free of declared pest plants and animals; as declared at the date of development application in *Local Law No. 3 (Community & Environmental Management) 2011* and Schedule 1 of *Subordinate Local Law 3 (Community & Environmental Management) 2011* and in the *Land Protection (Pest and Stock Route Management) Act 2002* or as amended; to the satisfaction of Council's Pest Management Officer, prior to the commencement of any site works. Council will supply a free inspection and advice service on the request of the land owner.

b. It is advised that part of the subject site is mapped by the Department of Environment and Heritage Protection as containing Endangered/Of Concern/Least Concern Remnant Vegetation. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at:

[www.qld.gov.au/environment/land/vegetation/management/](http://www.qld.gov.au/environment/land/vegetation/management/).

- c. It is advised that the subject site is mapped as a high priority area for protected plants, which is administered under the *Nature Conservation Act 1992*. The Department of Environment and Heritage Protection should be contacted for requirements regarding protected plants.

#### **RECOMMENDATION B**

That in relation to the application for a Development Permit for Reconfiguring a Lot (two lots into two lots) and a Material Change of Use for a Retirement village (sixty- two (62) additional units), made by Paynter Dixon C/- Adams + Sparkes, on Lot 600 on SP261783 and Lot 2 on SP186802, Parish of Yeppoon and located at 150-170 Rockhampton Road and Lot 600 Tabone Street, Yeppoon, Council to issue and Infrastructure Charges Notice for **\$984,000.00**.

**Moved by:** Councillor Hutton

**Seconded by:** Councillor Kelly

**MOTION CARRIED UNANIMOUSLY**

10:32AM Deputy Mayor, Councillor Scott returned to the meeting.

Mayor Ludwig sought leave of the meeting to suspend meeting procedures for morning tea.

**Leave granted.**

Meeting procedures were suspended at 10:32am.

Meeting Procedures resumed at 10:50am

## 12.10 DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE FOR A RESTAURANT AND CARETAKER'S RESIDENCE

**File No:** D56/2015

**Attachments:**

1. Locality Plan
2. Proposal Plans

**Responsible Officer:** Erin McCabe - Co-ordinator Development Assessment  
Brett Bacon - Director Community & Planning Services

**Author:** Rhiannon Casey - Assistant Planner

### SUMMARY

**Development Application Number:** D/56-2015

**Applicant:** Manmeen Singh Minhas

**Real Property Address:** Lot 1 on RP605760, Parish of Yeppoon

**Common Property Address:** 86 Queen Street, Yeppoon

**Area of Site:** 546 square metres

**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*

**Planning Scheme Zoning:** Residential Zone (R2 Precinct)

**Planning Scheme Overlays:** Overlay Map O2 - Drainage Problem

**Existing Development:** Dwelling house

**Existing Approvals:** D/189-2010 – Material Change of Use for a Restaurant and Caretaker's residence. Approved 1 March 2011 and lapsed on 1 March 2015

**Approval Sought:** Development Permit for a Material Change of Use for a Restaurant and Caretaker's residence

**Level of Assessment:** Impact Assessable

**Submissions:** One (1) properly made submission

**Referral Agency(s):** Nil

**Adopted Infrastructure Charges Area:** Charge Area 1

**Application Progress:**

Application Lodged:	31 March 2015
Acknowledgement Notice Issued:	1 April 2015
Updated Acknowledgement Notice Issued:	14 April 2015
Information Request Sent:	28 April 2015
Meeting to Discuss Information Request:	11 May 2015
Information Request Response Received:	23 September 2015
Public Notification Commenced:	30 September 2015
Public Notification Finished:	23 October 2015
Notice of Compliance Received:	4 November 2015
Last receipt of information from applicant:	4 November 2015

Decision Assessment period extended:	30 November 2015
Council meeting date:	8 December 2015
Statutory determination date:	7 January 2016

### OFFICER'S RECOMMENDATION

THAT in relation to the application for a Development Permit for a Material Change of Use for a Restaurant and Caretaker's residence, made by Manmeen Singh Minhas, on Lot 1 on RP605760, Parish of Yeppoon and located at 86 Queen Street, Yeppoon, Council resolves to refuse the application based on the following grounds:

- 1.0 The proposal compromises the achievement of several Shire Wide Outcomes in the *Livingstone Shire Planning Scheme 2005*, including inter alia:
  - i) The proposal will adversely impact on the main street and foreshore area, referred to as the Yeppoon Central Zone. By allowing development which is both inconsistent and not preferred within the subject zone and in turn have the potential to further increase vacancies within the Yeppoon Central Zone, where the development is preferred.
  - ii) There is no demonstrated overriding need for the development to occur on the subject site given vacancies and opportunities within the Yeppoon Central Zone.
- 2.0 The proposal conflicts with the provisions of the *Livingstone Shire Planning Scheme 2005* in regard to the Purpose and Elements of the Residential Zone, including inter alia:
  - (i) The subject site is currently located within the Residential Zone, whereby the development is inconsistent and not preferred. Although the subject site is located within a mixed use area, the surrounding area to the south is predominately residential uses and is likely to remain residential in the future. A restaurant will adversely impact on the amenity these residential sites enjoy.
  - (ii) The proposed development has a significant short fall in the required on-site car parking, which has the potential to result in unnecessary impacts to the on-street centre parking within Queen Street, which cannot be guaranteed to remain in the long term considering the proposed upgrades to Queen Street.

### *Procedural Motion*

### COUNCIL RESOLUTION

That the matter lay on the table pending further information to return to the next Council Workshop

**Moved by:** Councillor Mather

**Seconded by:** Councillor Wyatt

**MOTION CARRIED**

**12.11 DRAFT PLANNING SCHEME - COMMUNITY ENGAGEMENT PLAN**

**File No:** LU18.3.5-002  
**Attachments:** 1. Livingstone Planning Scheme 2016  
Community Engagement Plan  
**Responsible Officer:** Brett Bacon - Director Community & Planning Services  
**Author:** Melissa Warwick - Senior Strategic Planner

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**SUMMARY**

*On 22 September 2015 Council resolved to forward the draft Livingstone Planning Scheme 2016 to the Deputy Premier and Minister for Infrastructure, Local Government and Planning Jackie Trad to undertake a State interest review. The draft Livingstone Planning Scheme 2016 was submitted for State interest review on 16 October 2015. Following on from the Council Workshop of 4 August 2015, where the legislative public consultation phase of drafting a planning scheme was discussed, this report seeks endorsement for the formal public consultation stage of the planning scheme process via the Livingstone Planning Scheme 2016 Community Engagement Plan.*

**COUNCIL RESOLUTION**

THAT Council adopt the *Livingstone Planning Scheme 2016 Community Engagement Plan* (as attached) for the public consultation stage of preparing a new planning scheme.

**Moved by:** Deputy Mayor, Councillor Scott

**Seconded by:** Councillor Hutton

**MOTION CARRIED**

**12.12 COUNCIL BUDGET REVISION 2015-16**

<b>File No:</b>	<b>FM12.5.2</b>
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. <b>Revised LTFP Assumptions</b></li><li>2. <b>Revised Income and Expenditure Statement</b></li><li>3. <b>Revised Statement of Financial Position</b></li><li>4. <b>Revised Statement of Cash Flow</b></li><li>5. <b>Revised Statement of Changes in Equity</b></li><li>6. <b>Revised Relevant Measures of Financial Sustainability</b></li><li>7. <b>Revised Estimated Activity Statement</b></li><li>8. <b>Revised Debt Policy</b></li><li>9. <b>Revised Capital Summary 3 Years</b></li><li>10. <b>Revised 2015-16 Capital Changes</b></li><li>11. <b>Revised Capital Budget 2015-16</b></li></ol>

**Responsible Officer:** Chris Murdoch - Director Corporate Services  
**Author:** Darryll Schurmann - Chief Financial Officer

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**SUMMARY**

*A Revised Budget for 2015-16 is presented to Council for adoption recognising changes to the financial position facing Council since the budget was adopted in July 2015. Explanations of the changes are provided in the following commentary.*

**COUNCIL RESOLUTION**

THAT

1. Council receive and adopt the 2015-16 Revised Budget for the 2015-16 financial year, 2016-17 financial year and 2017-18 financial year, in accordance with Sections 169 and 170 of the Local Government Regulation 2012:
  - a) Budgeted Income and Expenditure Statement,
  - b) Budgeted Statement of Financial Position,
  - c) Budgeted Statement of Cash Flow,
  - d) Budgeted Statement of Changes in Equity, and
  - e) The relevant measures of Financial Sustainability.
2. Council adopts the Revised Long Term Financial Forecast as provided, which includes the Income Statement, and Statement of Financial Position, in accordance with Sections 169 & 171 of the Local Government Regulation 2012.
3. In accordance with Sections 34 and 169(3)(i) of the Local Government Regulation 2012, Council receive the Estimated Activity Statement for each business activity unit being:
  1. Water and Sewerage
  2. Waste
  3. Building Certification
  4. Caravan Parks
4. Council receives the list detailing the Revised 2015-16 Capital Works Program.
5. Council adopts the Revised 2015-16 Debt Policy, in accordance with Section 192 of



the *Local Government Regulation 2012*.

**Moved by:** Councillor Mather

**Seconded by:** Councillor Hutton

**MOTION CARRIED**

**12.13 CAPRICORN EQUESTRIAN GROUP INC**

**File No:** CR2.5.1  
**Attachments:** Nil  
**Responsible Officer:** Chris Murdoch - Director Corporate Services  
**Author:** Trish Weir - Manager Customer Service

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**SUMMARY**

*Capricorn Equestrian Group Inc formed in early 2015, previously called Rockhampton Equestrian Group, and currently has 75 members. The group is planning several events in 2016 and are seeking financial support from Council to assist. The group uses the Yeppoon Pony Club grounds in Millroy Drive on a regular monthly basis.*

**COUNCIL RESOLUTION**

THAT Council considers contributing \$4,000 towards supporting their 2016 Annual Show Jumping and Hacking Championships in March.

**Moved by:** Mayor Ludwig  
**Seconded by:** Councillor Wyatt

**MOTION CARRIED UNANIMOUSLY**

**12.14 ST BRENDAN'S COLLEGE, TEQUILA MOCKINGBIRD**

**File No:** CR2.5.1  
**Attachments:** Nil  
**Responsible Officer:** Chris Murdoch - Director Corporate Services  
**Author:** Trish Weir - Manager Customer Service

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**SUMMARY**

*St Brendan's College is seeking a partnership with Livingstone Shire Council to bring the Shake and Stir Theatre Company's famed production of Tequila Mockingbird to the Capricorn Coast in 2016. The production was sold out at QPAC in 2014 and won the 2014 Matilda Award for Best Mainstage Production. It will provide a professional, cultural performance and workshop experience to the Capricorn Coast.*

**COUNCIL RESOLUTION**

THAT Council commits to partner with St Brendan's College and contribute up to \$6,000 (GST inclusive) support towards bringing this cultural experience for the Capricorn Coast in October 2016 subject to approval of funding in the 2016-17 budget.

**Moved by:** Councillor Hutton  
**Seconded by:** Councillor Kelly

**MOTION CARRIED UNANIMOUSLY**

**12.15 SUB METERS FOR TRADE WASTE CHARGING**

**File No:** WS32.2.2  
**Attachments:** 1. Proposed Change to TWEMP Section 12 -  
Determination of Discharge Quantity  
**Responsible Officer:** Dan Toon - Director Infrastructure Services  
**Author:** Sean Fallis - Manager Water & Waste Operations

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**SUMMARY**

*The intention of this report is to amend the Trade Waste Approval Process to include the requirement for premises with shared water meters to install sub meters to allow accurate charging for Trade Waste.*

**COUNCIL RESOLUTION**

THAT Council resolve to amend the Trade Waste Environmental Management Plan to include the following provision under section 12 Determination of Discharge Quality:

‘When a Trade Waste Generator shares a water meter with at least one other business and has the potential to generate a Category 2 discharge, the installation of a sub meter may be required as a condition of Approval.’

**Moved by:** Councillor Mather

**Seconded by:** Councillor Belot

**MOTION CARRIED**

**12.16 LIVINGSTONE SHIRE COUNCIL WASTE REDUCTION AND RECYCLING PLAN  
2016-2026****File No:** WM31.6.1**Attachments:**

1. Draft Livingstone Shire Council Waste Reduction and Recycling Plan 2016-2026
2. Draft Livingstone Shire Council Waste Reduction and Recycling Plan 2016-2026 Summary Document

**Responsible Officer:** Dan Toon - Director Infrastructure Services**Author:** Sean Fallis - Manager Water & Waste Operations

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**SUMMARY**

*The intention of this report is to provide a Waste Reduction and Recycling Plan 2016-2026 and Summary Document to be made available for public comment.*

**COUNCIL RESOLUTION**

THAT Council resolve to adopt the attached Waste Reduction and Recycling Plan and Summary Document. Further, that the Summary Document be made available for public comment.

**Moved by:** Councillor Belot**Seconded by:** Councillor Kelly**MOTION CARRIED**

**12.17 ROADS ASSET MANAGEMENT PLAN**

**File No:** FM12.2.2  
**Attachments:** 1. Livingstone Shire Council - Roads - Asset Management Plan  
**Responsible Officer:** Dan Toon - Director Infrastructure Services  
**Author:** Daniel Pearce - Manager Assets & GIS

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**SUMMARY**

*This report provides the Roads Asset Management Plan for adoption, containing relevant financial information to assist informed decision making by understanding what Road Infrastructure Council has, what it will cost to renew and maintain these assets into the future and set practical and specific service levels for Road related infrastructure.*

**COUNCIL RESOLUTION**

THAT the Roads Asset Management Plan including the setting of specific service levels applicable to road infrastructure be adopted.

**Moved by:** Deputy Mayor, Councillor Scott  
**Seconded by:** Councillor Mather

**MOTION CARRIED**

Mayor Ludwig sought leave of the meeting to suspend meeting procedures for lunch.

**Leave granted.**

Meeting procedures were suspended at 12 noon.

Meeting procedures resumed at 12:35pm.

**12:37PM** Cr. Wyatt returned to the meeting

**12.18 UPDATE ON LIVINGSTONE SHIRE COUNCIL'S ROADS BLACKSPOT FUNDING  
2016-17 APPLICATION**

**File No:** GS15.2.10  
**Attachments:** 1. Report to Council Meeting 28 July 2015 -  
Black Spot 2016-17 Funding Application  
**Responsible Officer:** Justin Commons - Chief Executive Officer  
**Author:** Dan Toon - Director Infrastructure Services

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**SUMMARY**

*This report provides a brief update for the status of Livingstone Shire Council's Roads Blackspot Funding 2016-17 Funding Application in relation to the road linkage from Hoskyn Drive to Hidden Valley Road.*

**COUNCIL RESOLUTION**

THAT Council receive this report providing an update on the status of Livingstone Shire Council's Roads Blackspot Funding 2016-17 application.

**Moved by:** Councillor Kelly  
**Seconded by:** Councillor Wyatt

**MOTION CARRIED**

## 13 QUESTIONS/STATEMENT/MOTIONS ON NOTICE FROM COUNCILLORS

### 13.1 NOTICE OF MOTION - COUNCILLOR ADAM BELOT - LIGHTER ROOF COLOURS IN LIVINGSTONE

**File No:** GV13.4.4

**Attachments:** 1. Notice of Motion - Lighter Roof Colours in Livingstone

**Responsible Officer:** Justin Commons - Chief Executive Officer

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#### SUMMARY

*Councillor Adam Belot has indicated his intention to move the following Notice of Motion at the Council Meeting on 8 December 2015 as follows:*

#### COUNCIL RESOLUTION

THAT Livingstone Shire Council consider developing a roof colour policy entitled 'Lighter Roofs for Livingstone = A Better Environment' to encourage home owners to select lighter colours that are environmentally positive and socially acceptable.

**Moved by:** Councillor Belot

**Seconded by:** Councillor Mather

**MOTION CARRIED**



**13.2 NOTICE OF MOTION - COUNCILLOR GLENDA MATHER - KEPPEL SANDS HOUSE NUMBERS**

**File No:** GV13.4.4  
**Attachments:** 1. Notice of Motion - Keppel Sands House Numbers  
**Responsible Officer:** Justin Commons - Chief Executive Officer

---

**SUMMARY**

*Councillor Glenda Mather has indicated her intention to move the following Notice of Motion at the Council Meeting on 8 December 2015, as follows:*

**COUNCIL RESOLUTION**

THAT Shire wide, Council include with the next rates notice (February 2016), advice to residents suggesting they install the number of their property in a clear position on their property for identification purposes for emergency and service personnel.

**Moved by:** Councillor Mather  
**Seconded by:** Councillor Wyatt  
**MOTION CARRIED**

**13.3 NOTICE OF MOTION - COUNCILLOR GLENDA MATHER - HIDDEN VALLEY ROAD ACCESS**

**File No:** GV13.4.4  
**Attachments:** 1. Notice of Motion - Hidden Valley Road Access  
**Responsible Officer:** Justin Commons - Chief Executive Officer

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**SUMMARY**

*Councillor Glenda Mather has indicated her intention to move the following Notice of Motion at the Council Meeting on 8 December 2015, as follows:*

**COUNCIL RESOLUTION**

THAT due to the increasing traffic hazards identified at the Hidden Valley and Rockhampton/Yeppoon Road intersection, the Infrastructure Department prepare an updated report as information becomes available.

**Moved by:** Councillor Mather

**Seconded by:** Councillor Hutton

**MOTION CARRIED**

**13.4 NOTICE OF MOTION - COUNCILLOR GLENDA MATHER - DRAINAGE/HEALTH  
ISSUE SCENIC HIGHWAY, KINKA**

**File No:** GV13.4.4  
**Attachments:** 1. Notice of Motion - Kinka Swamp  
**Responsible Officer:** Justin Commons - Chief Executive Officer

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**SUMMARY**

*Councillor Glenda Mather has indicated her intention to move the following Notice of Motion at the Council Meeting on 8 December 2015, as follows:*

**COUNCIL RESOLUTION**

THAT a report come back to Council as to what appropriate action may be taken to address the drainage issues at 1043 Scenic Highway, Kinka which has been allowed to become an overgrown swamp in recent years, posing a potential health hazard to residents in the area.

**Moved by:** Councillor Mather

**Seconded by:** Councillor Hutton

**MOTION CARRIED**

**14 URGENT BUSINESS QUESTIONS**

Nil

UNCONFIRMED

## 15 CLOSED SESSION

In accordance with the provisions of section 275 of the *Local Government Regulation 2012*, a local government may resolve to close a meeting to the public to discuss confidential items, such that its Councillors or members consider it necessary to close the meeting.

### COUNCIL RESOLUTION

1:22PM

THAT the meeting be closed to the public to discuss the following items, which are considered confidential in accordance with section 275 of the *Local Government Regulation 2012*, for the reasons indicated.

**16.1 Northern Strategic Link Road - Panorama Drive - Resumption of Land for Road Purposes**

This report is considered confidential in accordance with section 275(1)(h), of the *Local Government Regulation 2012*, as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

**16.2 CEO Performance Review 2014/15**

This report is considered confidential in accordance with section 275(1)(h), of the *Local Government Regulation 2012*, as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

**16.3 Senior Executive Employment Contract**

This report is considered confidential in accordance with section 275(1)(h), of the *Local Government Regulation 2012*, as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

**16.4 The Gateway Estate Sale of Lot 4 - Proposed Land Swap**

This report is considered confidential in accordance with section 275(1)(e) (h), of the *Local Government Regulation 2012*, as it contains information relating to contracts proposed to be made by it; AND other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

**Moved by: Councillor Mather**

**Seconded by: Councillor Kelly**

**MOTION CARRIED**

1:32PM Deputy Mayor, Councillor Scott left the meeting and did not participate in discussions associated with Agenda Item 16.4.

1:35PM Deputy Mayor, Councillor Scott returned to the meeting.

### COUNCIL RESOLUTION

1:35PM

THAT the meeting moves out of closed session and be open to the public.

**Moved by: Councillor Kelly**

**Seconded by: Councillor Mather**

**MOTION CARRIED**

## 16 CONFIDENTIAL REPORTS

### 16.1 NORTHERN STRATEGIC LINK ROAD - PANORAMA DRIVE - RESUMPTION OF LAND FOR ROAD PURPOSES

**File No:** 14-118

**Attachments:**

1. Drawing No 14-118-183 (v2) - *(Confidential)*
2. Written objections - *(Confidential)*
3. Report of the delegate - *(Confidential)*
4. Background Information Document served with the Notice of Intention to Resume - *(Confidential)*
5. Objectors comments on delegates report - *(Confidential)*

**Responsible Officer:** Dan Toon - Director Infrastructure Services

**Author:** Carrie Burnett - Policy & Planning Officer

This report is considered confidential in accordance with section 275(1)(h), of the *Local Government Regulation 2012*, as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

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#### SUMMARY

*This report provides Council an opportunity to consider objections lodged by parties affected by the resumption of land for road purposes from Lot 3 SP153336 for the Northern Strategic Link Road – Panorama Drive and affords Council an opportunity to resolve to discontinue, amend the Notice of Intention to Resume ('NIR') or apply to the Minister that the land be taken.*

#### COUNCIL RESOLUTION

THAT

1. In relation to Lot 3 SP153336, having considered the report, the Council is of the opinion that the land described as 'proposed road acquisition area' on Drawing No. 14-118-183(v2) is required for the purpose of road, for which it is proposed to be taken; and
2. The Council apply to the appropriate Minister that the land be taken as prescribed by Section 9 of the Acquisition of Land Act 1967.

**Moved by:** Councillor Kelly

**Seconded by:** Councillor Wyatt

**MOTION CARRIED**

**16.2 CEO PERFORMANCE REVIEW 2014/15****File No:** PL22.9.1**Attachments:** Nil**Responsible Officer:** Suzanne Pambid - PA to the CEO  
Justin Commons - Chief Executive Officer**Author:** Jon Rutledge - Manager Human Resources

This report is considered confidential in accordance with section 275(1)(h), of the *Local Government Regulation 2012*, as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

**SUMMARY**

*In accordance the Local Government Act 2009, the CEO is to have a performance review annually. The Executive Performance Management Framework provides the process in which the performance review is carried out.*

**COUNCIL RESOLUTION**

THAT

1. Council resolve to adopt the results of the CEO's performance review as recommended by the Performance Review Panel; and
2. Council resolve to provide the Mayor with the power to negotiate a new employment contract with the CEO based on the revised Executive Employment Contract Template and the remuneration benchmark information provided by McArthur Pty Ltd.
3. Council resolve to adopt the Draft Senior Executive Appointment Policy
4. Council resolve to allow the provision of Council vehicles based on the draft Senior Executive Vehicle Policy, noting that the vehicle schedule contained within the draft Policy will be brought back to Council.

**Moved by:** Deputy Mayor, Councillor Scott**Seconded by:** Councillor Hutton**MOTION CARRIED**



**16.3 SENIOR EXECUTIVE EMPLOYMENT CONTRACT****File No:** 22.7**Attachments:**

1. Senior Executive Employment Contract Template
2. Legal Opinion - McCullough Robertson

**Responsible Officer:** Chris Murdoch - Director Corporate Services**Author:** Jon Rutledge - Manager Human Resources

This report is considered confidential in accordance with section 275(1)(h), of the *Local Government Regulation 2012*, as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

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**SUMMARY**

*Since De-amalgamation, Council has been operating with a range of different employment contracts for senior executives. A review has been undertaken, with legal opinion being sought from McCullough Robertson.*

**COUNCIL RESOLUTION**

THAT Council resolve to adopt the attached Senior Executive Employment Contract template.

**Moved by:** Deputy Mayor, Councillor Scott**Seconded by:** Councillor Hutton**MOTION CARRIED****2:07PM** Deputy Mayor, Councillor Scott left the meeting.

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**16.4 THE GATEWAY ESTATE SALE OF LOT 4 - PROPOSED LAND SWAP**

**File No:** ED8.3.2  
**Attachments:** Nil  
**Responsible Officer:** Justin Commons - Chief Executive Officer  
**Author:** James Gallagher - Executive Manager Economic & Property Development

This report is considered confidential in accordance with section 275(1)(e) (h), of the *Local Government Regulation 2012*, as it contains information relating to contracts proposed to be made by it; AND other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage .

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**SUMMARY**

Young's Bus Lines are seeking to purchase Lot 4 at the Gateway Business Park to establish a new bus depot. They are offering their existing property at 10 Burnett Street, Yeppoon as payment for the land.

**COUNCIL RESOLUTION**

THAT Council approves the Chief Executive Officer to sign a contract of sale for Lot 4 of the Gateway Estate on the basis of a straight land swap for the property at 10 Burnett Street, Yeppoon.

**Moved by:** Councillor Wyatt  
**Seconded by:** Councillor Kelly

**MOTION CARRIED****DIVISION:**

Crs A Belot, N Hutton, J Kelly, B Ludwig and T Wyatt voted in the affirmative.  
Cr G Mather voted in the negative.

**2:09PM** Deputy Mayor, Councillor Scott returned to the meeting.

**17 CLOSURE OF MEETING**

There being no further business the meeting closed at 2:10pm.

\_\_\_\_\_  
Bill Ludwig  
CHAIRPERSON

\_\_\_\_\_  
DATE