



## **ORDINARY MEETING**

## **MINUTES**

**19 SEPTEMBER 2017**

The resolutions contained within these minutes were confirmed at Council Meeting  
on 3 October 2017.

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**MINUTES OF THE ORDINARY MEETING HELD AT COUNCIL CHAMBERS, ANZAC PARADE, YEPPON ON TUESDAY, 19 SEPTEMBER 2017 COMMENCING AT 9.01AM**

**1 OPENING**

**2 PRESENT**

Members Present:

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

In Attendance:

Mrs Chris Murdoch – Chief Executive Officer  
Mr Ron Posselt – Director Corporate Services  
Mr David Battese – Acting Director Community and Planning Services  
Mr Dan Toon – Director Infrastructure Services  
Mr Russell Claus – Acting Director Strategic Growth and Development  
Ms Erin McCabe – Coordinator Development Assessment  
Ms Jenna Brosseuk – Senior Planning Officer  
Mr Bradley Crook – Senior Building Surveyor  
Mr Marcus Vycke – Manager Growth and Economic Development  
Ms Andrea Ellis – Chief Financial Officer  
Ms Trish Weir – Manager Customer Engagement and Communications  
Ms Lucy Merry – Executive Support Officer  
Ms Sue Schluter – EA to the Mayor

### 3 LEAVE OF ABSENCE / APOLOGIES

#### 3.1 LEAVE OF ABSENCE FOR COUNCILLOR TOM WYATT - 18 TO 20 SEPTEMBER 2017 INCLUSIVE

**File No:** GV14.4.1  
**Attachments:** Nil  
**Responsible Officer:** Chris Murdoch - Chief Executive Officer

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#### SUMMARY

*Councillor Tom Wyatt has requested leave of absence from 18 to 20 September 2017 inclusive.*

#### COUNCIL RESOLUTION

THAT leave of absence be granted to Councillor Tom Wyatt for the period 18 to 20 September 2017 inclusive.

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

**4 PUBLIC FORUMS/DEPUTATIONS**

Nil

**5 MAYORAL MINUTE**

Nil

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

### **COUNCIL RESOLUTION**

THAT the minutes of the Ordinary Meeting held on 5 September 2017 be taken as read and adopted as a correct record.

**Moved by:** Councillor Kelly

**Seconded by:** Deputy Mayor, Councillor Hutton

**MOTION CARRIED**



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

### **9.06AM**

In accordance with s173(2) of the *Local Government Act 2009*, Councillor Graham Scott disclosed a perceived conflict of interest in respect of Item 12.4 – Development Application for a Development Permit for a Material Change of Use for a Shop, Restaurant and Take-Away Food Store due to Calibre Engineering completing work on the project. Councillor Scott considered his position and did not take part in the debate and left the meeting.

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

### **8.1 BUSINESS OUTSTANDING TABLE FOR ORDINARY COUNCIL MEETING**

**File No:** GV13.4.1

**Attachments:** 1. **Business Outstanding Table - 19 September 2017** [⇒](#)

**Responsible Officer:** Chris Murdoch - Chief Executive Officer

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#### **SUMMARY**

*The Business Outstanding table is used as a tool to monitor outstanding items resolved at previous Council or Committee Meetings. The current Business Outstanding table for the Ordinary Council Meeting is presented for Councillors' information.*

#### **COUNCIL RESOLUTION**

THAT the Business Outstanding table for the Ordinary Council Meeting be received.

**Moved by:** Councillor Kelly

**Seconded by:** Councillor Scott

**MOTION CARRIED**

## 9 PRESENTATION OF PETITIONS

### 9.1 PETION - GREAT KEPPEL ISLAND

**File No:** GV13.4.1

**Responsible Officer:** Chris Murdoch - Chief Executive Officer

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#### SUMMARY

Councillor Adam Belot presented a petition to the table submitted by Shane Bonney (head petitioner) on behalf of residents at Great Keppel Island regarding the public toilets, rubbish bins and shaded picnic tables at Fisherman's Beach, Great Keppel Island.

#### COUNCIL RESOLUTION

THAT the petition be received.

**Moved by:** Councillor Belot

**Seconded by:** Councillor Mather

**MOTION CARRIED**

**10    AUDIT, RISK AND BUSINESS IMPROVEMENT COMMITTEE  
      REPORTS**

Nil

**11 COUNCILLOR/DELEGATE REPORTS**

Nil

The Mayor sought leave of the meeting to deal with item 12.4 before returning to item 12.1 of the agenda.

**Leave Granted.**

09:07AM Councillor Scott left the meeting due to a perceived conflict of interest he declared in respect of item 12.4.

## 12 REPORTS

### 12.1 LGAQ 121ST ANNUAL CONFERENCE - 16-18 OCTOBER 2017

**File No:** CR2.2.13

**Attachments:**

1. [LGAQ 121st Annual Conference Program](#)
2. [Councillor Letter](#)

**Responsible Officer:** Chris Murdoch - Chief Executive Officer

**Author:** Lucy Merry - Executive Support Officer

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#### SUMMARY

*Discussions were held at Workshop Meeting 5 September 2017 to establish which Council representatives will attend the LGAQ 121<sup>ST</sup> Annual Conference on 16-18 October 2017 at Gladstone Entertainment Centre.*

#### COUNCIL RESOLUTION

THAT Mayor Bill Ludwig and Councillor Adam Belot attend the LGAQ 121<sup>st</sup> Annual Conference on 16-18 October 2017 at Gladstone Entertainment Convention Centre.

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

**Seconded by:** Councillor Kelly

**MOTION CARRIED**

**12.2 MONTHLY FINANCIAL REPORT FOR PERIOD ENDING 31 JULY 2017**

**File No:** FM12.14.1  
**Attachments:** 1. **Monthly Financial Report - July 2017** [↗](#)

**Responsible Officer:** Ron Posselt - Director Corporate Services  
**Author:** Andrea Ellis - Chief Financial Officer

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**SUMMARY**

*Presentation of the Livingstone Shire Council Monthly Financial Report for the period ended 31 July 2017 by the Chief Financial Officer.*

**COUNCIL RESOLUTION**

THAT the Livingstone Shire Council Monthly Financial Report for the period ended 31 July 2017 be noted.

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

**MOTION CARRIED**

**12.3 AUDIT, RISK AND BUSINESS IMPROVEMENT COMMITTEE MEETING - 6  
SEPTEMBER 2017**

<b>File No:</b>	<b>GV13.4.2</b>
<b>Attachments:</b>	<b>1. ARaBIC Minutes 6 September 2017 - Unconfirmed</b> <a href="#">⇒</a>
<b>Responsible Officer:</b>	<b>Ron Posselt - Director Corporate Services</b>
<b>Author:</b>	<b>Robyn Black - Executive Assistant to the Director Corporate Services</b>

**SUMMARY**

*The Audit, Risk and Business Improvement committee met on 6 September 2017 and this report provides the recommendations from the committee for consideration and adoption by Council. The reports from the meeting are available for viewing by Councillors on the Councillor Portal.*

**COUNCIL RESOLUTION**

THAT the unconfirmed minutes of the Audit, Risk and Business Improvement Committee meeting held on 6 September 2017 be received and the following recommendations contained within those minutes be adopted.

**1 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

THAT the minutes of the Audit, Risk and Business Improvement Committee held on 11 July 2017 be taken as read and adopted as a correct record.

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

THAT the Business Outstanding Table for the Audit, Risk and Business Improvement Committee meeting be received.

**7.1 COMMITTEE WORK PROGRAM STATUS**

THAT the Committee receives the status of the Annual Work Program.

**7.2 DRAFT CONTENT FOR THE ANNUAL REPORT RE ARABIC AND INTERNAL AUDIT**

THAT ARaBIC receive this report containing the draft content for the Annual Report on Internal Audit and ARaBIC.

**7.3 CFO UPDATE**

THAT the Audit Risk and Business Improvement Committee receive the Chief Financial Officer's update.

**7.4 2016/17 UNAUDITED GENERAL PURPOSE FINANCIAL STATEMENTS**

THAT Council resolves the following recommendations from the Audit, Risk and Business Improvement Committee:

- (i) The Committee notes the report from the Chief Financial Officer on the status of the 2016-17 Financial Statements as at 6 September 2017;
- (ii) The Committee receives the unaudited 2016-17 Financial Statements as presented; and
- (iii) A statement of adjusted and unadjusted audit differences be provided to the next meeting of the Audit, Risk and Business Improvement Committee.

**7.5 EXTERNAL AUDITOR'S UPDATE**



THAT the Committee receive the External Auditor's Update Report.

#### **7.6 INTERNAL AUDIT UPDATE**

THAT the Committee receive the report on Internal Audit.

#### **7.7 UPDATE ON DEVELOPMENT OF AN INTERNAL CONTROL FRAMEWORK**

THAT the Committee receive this report on the development of an Internal Control Framework.

#### **7.8 OPERATIONAL PLAN UPDATE REPORT**

THAT the 2016-17 Operational Plan Q4 progress report be received.

THAT the 2017-18 Operational Plan be endorsed.

#### **11.1 RISK MANAGEMENT**

THAT the Committee receive the Risk Management Report for information.

#### **11.2 REVIEW DEBT WRITE-OFF REPORT**

THAT Council note that the Review of Debt Write-Off report is endorsed by the Audit, Risk and Business Improvement Committee.

#### **11.3 LOSS REPORT**

THAT Council note that the Audit, Risk and Business Improvement Committee endorse the Loss Report to the Chief Executive Officer.

#### **11.4 CEO UPDATE ON EMERGING ISSUES**

THAT the Committee receives the verbal update provided by Chief Executive Officer on emerging issues.

#### **11.5 CONFIRM WHETHER MEMBERS' BRIEFING SESSION IS REQUIRED**

THAT the Chair confirm whether any member requires a Members' Briefing following the main meeting.

**Moved by:** Councillor Kelly

**Seconded by:** Deputy Mayor, Councillor Hutton

**MOTION CARRIED**

09:46AM Mayor Ludwig left the meeting and Deputy Mayor, Councillor Nigel Hutton became the chairperson for the meeting.

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**12.4 DEVELOPMENT APPLICATION FOR A DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE FOR A SHOP, RESTAURANT AND TAKE-AWAY FOOD STORE**

**File No:** D-73-2017  
**Attachments:** 1. [Locality Plan](#)⇒  
2. [Proposal Plans](#)⇒  
**Responsible Officer:** David Battese - Manager Strategy & Development  
**Author:** Jenna Brosseuk - Senior Planning Officer

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**SUMMARY**

**Development Application Number:** D-73-2017  
**Applicant:** Livingstone Shire Council  
**Real Property Address:** Lot 65 on SP234671  
Lot 43 on LN2675  
Lot 114 on SP294303  
Lot 35 on SP294304 (and adjoining road reserve)  
**Common Property Address:** Lot 65 Anzac Parade, Yeppoon  
Lot 43 Anzac Parade, Yeppoon  
Lot 114 Appleton Drive, Yeppoon  
60 Anzac Parade, Yeppoon  
**Area of Site:** 2.9964 hectares  
**Area of Proposed Development:** 876 square metres (Buildings A Floor Area)  
621 square metres (Building A Gross Floor Area)  
**Planning Scheme:** *Livingstone Shire Planning Scheme 2005*  
**Planning Scheme Zoning:** Open Space Zone  
**Planning Scheme Overlays:** Overlay Map O2 – Drainage Problem and Erosion Prone Land  
Overlay Map O3 – Wetlands and Wetlands 100 metre buffer  
Overlay Map O5 – Stormtide Hazard  
Overlay Map O8 – Acid Sulfate Soils  
Overlay Map O9 – Capricorn Coast Landscape Area (Green Breaks and Precinct B)  
Cultural Significance – Hoop Pines  
**Existing Development:** Public Space (including the Kraken, and Amphitheatre)  
**Existing Approvals:** Development Permit D-72-2017 for a Material Change of Use for Outdoor recreation (lagoon pool and associated structures being Building A and Building B) and Operational Works for Prescribed Tidal Works (including boardwalks,

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	retaining structures, stairs, piles and associated structures)
	Development Permit D-109-2015 for Building Works Assessable Against the Planning Scheme for a Deck (Lot 65 Anzac Parade, Yeppoon being the Sailing Club) (lapsed)
Approval Sought:	Development Permit for a Material Change of Use for a Shop, Restaurant and Take-away food store
Level of Assessment:	Impact assessment
Submissions:	Eleven submissions in total including seven properly made submissions
Referral Agency(s):	Department of Infrastructure, Local Government and Planning (Pre-referral undertaken)
Adopted Infrastructure Charges Area:	Partly in Charge Area One (1) and partly located outside the Priority Infrastructure Area
Application Progress:	

Application Lodged:	31 March 2017
State Agency notified (pre-referral request):	30 March 2017
Application properly made:	25 July 2017
Acknowledgement Notice sent:	28 July 2017
No information request required sent:	28 July 2017
Submission period commenced:	3 August 2017
Submission period end:	25 August 2017
Concurrence Agency Response:	30 June 2017
Last receipt of information from applicant:	30 August 2017
Council Meeting date:	19 September 2017
Statutory determination date:	27 September 2017

## COUNCIL RESOLUTION

### **RECOMMENDATION A**

THAT in relation to the application for a Development Permit for a Material Change of Use for a Shop, Restaurant and Take-away food store, made by Livingstone Shire Council, on Lot 65 on SP234671, Lot 43 on LN2675, Lot 114 on SP294303 and Lot 35 on SP294304 (and adjoining road reserve) and located at Lot 65 Anzac Parade, Lot 43 Appleton Drive, Lot 114 Anzac Parade and 60 Anzac Parade, Yeppoon, Council resolves to Approve the development application, including the Shop and Office component, despite the conflict with the planning scheme and provide the following grounds to justify the decision despite the conflict:

- (a) A Restaurant and Take-away food store are considered to be appropriate land uses within the Open Space Zone due to the zone code being considered out of date with respect to where such facilities should be established. The draft *Livingstone Planning Scheme*, expected to commence in October 2017, encourages food, bar, function and dining facilities in this location as the site is within the Yeppoon foreshore tourism

- and recreation precinct and would only require a code assessable application to Council.
- (b) The Shop use will provide a small-scale retail offering (limited by conditions to 100 square metres), complementing the recreation activities supported in the precinct and bookending the Yeppoon Foreshore and Town Centre Revitalisation Project.
  - (c) The uses provide for the leisure, entertainment and information needs of the community, tourists and visitors and does not compromise the preferred use of the precinct for public recreation purposes.
  - (d) The development will activate the lagoon precinct outside the main operating hours of the outdoor recreation use on the same site.

### **RECOMMENDATION B**

That in relation to the application for a Development Permit for a Material Change of Use for a Shop, Restaurant and Take-away food store, made by Livingstone Shire Council, on Lot 65 on SP234671, Lot 43 on LN2675, Lot 114 on SP294303 and Lot 35 on SP294304 (and adjoining road reserve) and located at Lot 65 Anzac Parade, Lot 43 Appleton Drive, Lot 114 Anzac Parade and 60 Anzac Parade, Yeppoon, Council resolves that it is satisfied under section 304 of the *Sustainable Planning Act 2009* that the following non-compliances with notification procedures have not adversely affected the awareness of the public or restricted the opportunity of the public to make properly made submissions:

- (i) typographical error in the public notification newspaper advertisement, such that the proposed development was incorrectly advertised as a Take-away food shop, not the correct definition being a Take-away food store; and
- (ii) an administrative error for the common address of Lot 65 on SP234671 as it was advertised as 65 Anzac Parade, Yeppoon, not Lot 65 Anzac Parade, Yeppoon. The building in which the proposed uses are to be located within, is not located on Lot 65 on SP234671 and the Keppel Bay Sailing Club Common Property address is 65 Anzac Parade, Yeppoon, which is a lease area with Livingstone Shire Council as trustee.

### **RECOMMENDATION C**

That in relation to the application for a Development Permit for a Material Change of Use for a Shop, Restaurant and Take-away food store, made by Livingstone Shire Council, on Lot 65 on SP234671, Lot 43 on LN2675, Lot 114 on SP294303 and Lot 35 on SP294304 (and adjoining road reserve) and located at Lot 65 Anzac Parade, Lot 43 Appleton Drive, Lot 114 Anzac Parade and 60 Anzac Parade, Yeppoon, Council resolves to Approve the application, despite the non-compliance as per recommendation B, 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 commencement of the use, 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

commencement of the use, 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 Building Works; and

1.6.2 Plumbing and Drainage Works.

- 1.7 All Development Permits for Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.

- 1.8 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

- 1.9 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.

## 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>
Proposed Site Plan	DD-0902, Revision A	23 March 2017
General Arrangement Plan - Building A Ground	DD-2003, Revision A	23 March 2017
General Arrangement Plan – Building A Level 1	DD-2004, Revision A	23 March 2017
Elevations – Building A	DD-3001, Revision A	23 March 2017
GFA Diagrams – Building A & B	DD-9701, Revision A	23 March 2017

- 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 Building Works.

## 3.0 PLUMBING AND DRAINAGE WORKS

- 3.1 Development Permit for Plumbing and Drainage Works must be obtained prior to the commencement of any plumbing and drainage 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, 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.

- 3.3 The development must be connected to Council's reticulated water and sewerage networks.

- 3.4 The existing water and sewerage connection points must be retained to service the development.

- 3.5 A sewerage trade waste permit must be obtained for the discharge of any non-

domestic waste into Council's sewerage reticulation. Arrester traps must be provided where commercial or non-domestic waste water is proposed to be discharged into the sewerage system.

- 3.6 All internal plumbing and sanitary drainage works for each proposed unit and commercial tenancy must be independent and in accordance with regulated work under the *Plumbing and Drainage Act*.

#### 4.0 STORMWATER WORKS

- 4.1 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines* and sound engineering practice.
- 4.2 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure.
- 4.3 The proposed development must not increase peak stormwater runoff for a selected range of storm events up to and including the one in one hundred year storm event (100 year Average Recurrence Interval) for the post development condition.

#### 5.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 5.1 All roof and allotment drainage must be in accordance with the requirements of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*.
- 5.2 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.

#### 6.0 BUILDING WORKS

- 6.1 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.

#### 7.0 SITE WORKS

- 7.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 7.2 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.

#### 8.0 LANDSCAPING WORKS

- 8.1 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).

#### 9.0 ELECTRICITY AND TELECOMMUNICATIONS

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

#### 10.0 ASSET MANAGEMENT

- 10.1 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.
- 10.2 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.

- 10.3 '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 use. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### 11.0 ENVIRONMENTAL

- 11.1 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.

#### 12.0 OPERATING PROCEDURES

- 12.1 This approval is for Shops, Restaurants and Take-away food stores. The composition of uses is limited by this approval in accordance with the following:

12.1.1 Shops must not exceed a combined total of 100 square metres of gross floor area.

- 12.2 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 Mangrove Drive or Anzac Parade.

- 12.3 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*'.

- 12.4 All waste storage areas must be:

12.4.1 designed to obstruct from view the contents of the bin compound from any public place; and

12.4.2 of a minimum size to accommodate residential and commercial type bins in accordance with the *Environmental Protection Act* and *Environmental Protection Regulations*.

12.4.3 kept in a clean, tidy condition in accordance with *Environmental Protection Act* and *Environmental Protection Regulations*.

#### 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. Licensable Activities

Should an activity licensable by Livingstone Shire Council be proposed for the premises, Council's Environmental Health Unit must be consulted to determine whether any approvals are required. Such activities may include food business licensing or devolved Environmental Relevant Activity. Approval for such activities is required before 'fit out' and operation.

**RECOMMENDATION D**

That in relation to the application for a Development Permit for a Material Change of Use for a Shop, Restaurant and Take-away food store, made by Livingstone Shire Council, on Shop, Restaurant and Take-away food store, made by Livingstone Shire Council, on Lot 65 on SP234671, Lot 43 on LN2675, Lot 114 on SP294303 and Lot 35 on SP294304 (and adjoining road reserve) and located at Lot 65 Anzac Parade, Lot 43 Appleton Drive, Lot 114 Anzac Parade and 60 Anzac Parade, Yeppoon, Council resolves not to issue an Infrastructure Charges Notice due to the credit that attaches to the four land parcels subject to this development application.

**Moved by:** Mayor Ludwig

**Seconded by:** Deputy Mayor, Councillor Hutton

**MOTION CARRIED**

**DIVISION:**

Crs N Hutton, J Kelly and B Ludwig voted in the affirmative.

Crs A Belot and G Mather voted in the negative.

09:33AM Councillor Scott returned to the meeting.



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

Nil

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

**Leave granted.**

Meeting procedures were suspended at 9:47AM.

Meeting procedures resumed at 9:57AM.

## 14 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

**9:57AM**

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.

#### **15.1 Acquisition of Land for Road Purposes - Shared Pathway linking Statue Bay to Rosslyn Bay Boat Harbour**

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 .

**Moved by: Councillor Mather**

**Seconded by: Councillor Scott**

**MOTION CARRIED**

### COUNCIL RESOLUTION

**10:22AM**

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

**Moved by: Councillor Kelly**

**Seconded by: Councillor Scott**

**MOTION CARRIED**

## 15 CONFIDENTIAL REPORTS

### 15.1 ACQUISITION OF LAND FOR ROAD PURPOSES - SHARED PATHWAY LINKING STATUE BAY TO ROSSLYN BAY BOAT HARBOUR

**File No:** 17-006

**Attachments:**

1. Drawing No 17-089-51 (ver B) - *(Confidential)*
2. Ordinary Meeting Agenda 24 January 2017 - *(Confidential)*
3. Confidential Ordinary Meeting Agenda 7 March 2017 - *(Confidential)*
4. Confidential Ordinary Meeting Agenda 4 July 2017 - *(Confidential)*
5. Councillor Workshop Agenda 5 September 2017 - *(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 seeks a resolution of Council to discontinue negotiations with the owner of Lot 3 SP192259 in relation to the acquisition of land for road purposes for the shared pathway linking Statue Bay to Rosslyn Bay Boat Harbour.*

#### COUNCIL RESOLUTION

THAT Council:

1. Discontinue negotiations with the owner of Lot 3 SP192259 to dedicate a portion of that property as road for the shared pathway linking Statue Bay to Keppel Bay Marina and;
2. Endorse the withdrawal of Council's previous offer dated 7 July 2017 to purchase land from Lot 3 SP192259 for road purposes.

**Moved by:** Councillor Kelly

**Seconded by:** Councillor Scott

**MOTION CARRIED**

**16 URGENT BUSINESS QUESTIONS****16.1 YEPPON REDEVELOPMENT - PROVISION OF TREES****File No:** CR2.13.28**Responsible Officer:** Russell Claus – Acting Director Strategic Growth and Development

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**SUMMARY**

Councillor Hutton raised the above report seeking advice from the table.

**COUNCIL RESOLUTION**

THAT Council request advice from officers in a Workshop Meeting to provide guidance on the process for the redevelopment including maintaining, restoration and protection of street tree scapes, in particular on Yeppoon Rockhampton Road.

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

**17 CLOSURE OF MEETING**

There being no further business the meeting closed at 10:23AM.

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

\_\_\_\_\_  
DATE