



ORDINARY MEETING

MINUTES

8 NOVEMBER 2016

The minutes of this meeting were confirmed at the Council Meeting on 22 November 2016.

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MINUTES OF THE ORDINARY MEETING HELD AT COUNCIL CHAMBERS, ANZAC PARADE, YEPPON ON TUESDAY, 8 NOVEMBER 2016 COMMENCING AT 9.07AM

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:

Mrs Chris Murdoch – Chief Executive Officer
Mr Ron Posselt – Director Corporate Services
Mr Dan Toon – Director Infrastructure Services
Mr Dave Mazzaferri – Manager Disaster Management, Recovery and Resilience
Mr Ian Dare – Manager Community Wellbeing
Mr David Battese – Manager Strategy and Development
Ms Erin McCabe – Co-ordinator – Development Assessment
Ms Rhiannon Casey – Assistant Planning Officer
Mr Matthew Mansfield – Marketing and Communications Officer
Ms Lucy Merry – Executive Support Officer
Ms Yvonne Carson – EA to Director Infrastructure Services

3 LEAVE OF ABSENCE / APOLOGIES

3.1 LEAVE OF ABSENCE FOR MAYOR LUDWIG - 17 NOVEMBER TO 6 DECEMBER 2016 INCLUSIVE

File No: GV13.4.1
Attachments: Nil
Responsible Officer: Chris Murdoch - Chief Executive Officer

SUMMARY

Mayor Ludwig has requested leave of absence from 17 November to 6 December 2016 inclusive.

COUNCIL RESOLUTION

THAT leave of absence be granted to Mayor Ludwig for the period 17 November to 6 December 2016 inclusive.

Moved by: Councillor Kelly
Seconded by: Councillor Wyatt

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 25 October 2016 be taken as read and adopted as a correct record.

Moved by: Councillor Kelly

Seconded by: Councillor Wyatt

MOTION CARRIED

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

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 LIVINGSTONE SHIRE LOCAL DISASTER MANAGEMENT GROUP MINUTES - 27 JULY 2016

File No:	ES9.1.3
Attachments:	1. Livingstone Shire Local Disaster Management Group Meeting Minutes - 27 July 2016
Responsible Officer:	David Mazzaferri - Manager Disaster Management Brett Bacon - Director Community & Planning Services
Author:	Karen Sandy - Resilience and Volunteer Coordination Officer

SUMMARY

The purpose of this report is to notify council of the recent meeting of the Livingstone Shire Local Disaster Management Group. This group is established under the Disaster Management Act 2003 section 29 which states a local government must establish a Local Disaster Management Group for the local government area.

OFFICER'S RECOMMENDATION

THAT Council receives the minutes of the Livingstone Shire Local Disaster Management Group meeting held on Wednesday, 27 July 2016.

Procedural Motion

COUNCIL RESOLUTION

That pursuant to s34(1)(f) and s40 Council Meeting Procedures the matter 12.1 Livingstone Shire Local Disaster Management Group Minutes – 27 July 2016 be referred to a future Workshop Meeting for further discussion.

Moved by: Mayor Ludwig
Seconded by: Deputy Mayor, Councillor Scott

MOTION CARRIED

12.2 MONTHLY FINANCIAL REPORT FOR PERIOD ENDING 30 SEPTEMBER 2016

File No: FM12.14.1
Attachments: 1. Monthly Financial Report - September 2016
Responsible Officer: Ron Posselt - Director Corporate Services
Author: Andrea Ellis - Chief Financial Officer

SUMMARY

Presentation of the Livingstone Shire Council Monthly Financial Report for the period ended 30 September 2016 by the Chief Financial Officer.

COUNCIL RESOLUTION

THAT the Livingstone Shire Council Monthly Financial Report for the Period Ended 30 September 2016 be 'received'.

Moved by: Councillor Hutton
Seconded by: Councillor Kelly

MOTION CARRIED

12.3 LIVINGSTONE SHIRE COUCIL / KEPPEL BAY SAILING CLUB / INVERNESS YEPPON COMMUNITY GRANTS SCHEME ROUND ONE 2016 - 2017

File No: CR2.15.3
Attachments: Nil
Responsible Officer: Ian Dare - Manager Community Wellbeing
 Brett Bacon - Director Community & Planning Services
Author: Melissa Minter - Co-ordinator Community Partnership

SUMMARY

The August 2016 round of the 2016 - 2017 Livingstone Shire Council / Keppel Bay Sailing Club / Inverness Yeppoon Community Grants Scheme "We Give Where We Live" closed on 14 October 2016. A total of twenty nine (29) applications were received and subsequently assessed by the Funding Panel. This report provides an overview of the assessment and makes recommendations pertaining to the distribution of funds from the current round.

COUNCIL RESOLUTION

THAT Council approve the following grant applications, to be funded through Round One (1) of the 2016 - 2017 Livingstone Shire Council / Keppel Bay Sailing Club / Inverness Yeppoon Community Grants Scheme:

Applicant	Detail	Location	Amount (\$)
Capricornia Blokart Club Inc	Marquee and Shadow (sidecar)	YEPPOON	\$4,340.27
Cawarral School of Arts Association Inc	Painting	CAWARRAL	\$3,594.00
Edmund Rice Camps Central Queensland (CQ)	Edmund Rice Camps CQ Teen Leadership Camp	YEPPOON	\$2,725.00
Emu Park Sports & Recreation Association Inc	Shelving for storage shed	EMU PARK	\$4,528.00
Home Support Association Inc - Yellow Door Books & Gifts	People with Disabilities Retail Training Program	YEPPOON	\$499.00 Part funded
Lioness Club of Yeppoon	Purchase of computer equipment	YEPPOON	\$1,632.80
Lions Club of Emu Park Inc	Purchase of equipment and furnishings	EMU PARK	\$4,879.00
Marlborough Historical Museum Inc	Marlborough Historical Museum Building Restoration Project	MARLBOROUGH	\$5,000.00
Marlborough Recreational Group Incorporated	Upgrade to Men's Amenities – Purchase & Installation of a Gas Hot Water System	MARLBOROUGH	\$2,500.00
Meals On Wheels Yeppoon	Purchase new stove	YEPPOON	\$5,000.00
Nerimbera Community School House Inc	Overhaul of Ablutions	NERIMBERA	\$3,500.00
QCWA Emu Park	Electrical Upgrade	EMU PARK	\$4,106.72
The Caves Recreational Hall	Reroof kitchen attached to hall	THE CAVES	\$5,000.00

The Emu Park Gallery	Purchase of A3 Color Printer	EMU PARK	\$2,200.00
Yeppoon Surf Life Saving Club Inc	CCTV security system	YEPPOON	\$4,983.00
TOTAL Expended			\$54,487.79

Moved by: Councillor Kelly
Seconded by: Councillor Hutton
MOTION CARRIED

**12.4 POLICY REVIEW - INTERMITTENT SEALING OF UNSEALED RURAL ROADS
POLICY AND PROCEDURE**

File No: CM4.7.28
Attachments: 1. Policy Version 2
2. Procedure Version 2
Responsible Officer: Dan Toon - Director Infrastructure Services
Author: Carrie Burnett - Policy & Planning Officer

SUMMARY

This report seeks Councils adoption of version 2 of the Intermittent Sealing of Unsealed Rural Roads Policy.

COUNCIL RESOLUTION

THAT Council:

1. Adopt the Intermittent Sealing of Unsealed Rural Roads Policy (V2); and

Endorse the approval of the Intermittent Sealing of Unsealed Rural Roads Procedure (V2) by the Director Infrastructure Services.

Moved by: Councillor Mather

Seconded by: Councillor Kelly

MOTION CARRIED

12.5 REGIONAL ARTS DEVELOPMENT FUND ROUND ONE 2016/2017

File No: GS15.2.5
Attachments: Nil
Responsible Officer: Ian Dare - Manager Community Wellbeing
 Brett Bacon - Director Community & Planning Services
Author: Judy Couttie - Cultural Development Officer

SUMMARY

Seven applications were received for Round One of the 2016/2017 Regional Arts Development Fund which closed on 17 October 2016, with a total amount of \$37,478 requested. The budget available for rounds one and two of Regional Arts Development Fund for 2016-17 is \$65,000.

The Regional Arts Development Fund Committee assessed the applications and nominated that five applicants met the programme criteria and recommended they be funded for the total amount of \$31,308.

COUNCIL RESOLUTION

THAT in accordance with the recommendation of the Livingstone Regional Arts Development Fund Committee, the following grant applications be funded from the Regional Arts Development Fund.

Name	Purpose of Grant	Total Project Expenses \$	Grant Requested \$	Grant Recommended \$
Keppel Coast Arts	Towards the costs of costume design and creation for staging the performance of a musical play commissioned in the aftermath of TC Marcia.	87,500	5,000	5,000
Rotary Club of Yeppoon	Towards the costs of a week-long event culminating in a gala concert with finale composed by students from Conservatorium of Music and performed by students of three combined High Schools.	24,180	9,030	9,030
James Schafer	Towards the costs of an Individual Professional Development grant to attend the International Woodturning Symposium – Turnfest 2017.	1,245	808	808
The Mill Gallery	Towards the costs of co-ordination, marketing	27,220	9,870	9,870

	and artist tutor fees for a collaborative community arts workshops programme at Emu Park Gallery and The Mill Gallery during 2017 – 12 Adult workshops and 10 children’s workshops.			
Yeppoon Original Music Organisation (YOMO)	Towards costs of recording a CD of original songs by 12 local musicians for festivals entry and promotion of Livingstone Shire’s cultural identity.	9,950	6,600	6,600

Moved by: Councillor Hutton

Seconded by: Councillor Kelly

MOTION CARRIED

**12.6 A PLUS MOTORCYCLE TRAINING REQUEST - BARMARYEE MULTISPORT
PRECINCT**

File No: CP5.9.2
Attachments: 1. Barmaryee Multisport Precinct - Car Parking Areas
Responsible Officer: Ian Dare - Manager Community Wellbeing
Brett Bacon - Director Community & Planning Services
Author: Jared Thomsen - Senior Sport & Education Officer

SUMMARY

This report discusses a request from Aegis Training Services (operating as A Plus Motorcycle Training) to utilise the established car parks at the Barmaryee Multisport Precinct to conduct a motorcycle training business.

COUNCIL RESOLUTION

THAT Council

1. Approve a six (6) month trial period allowing A Plus Motorcycle Training to utilise carpark areas at the Barmaryee Multisport Precinct and that approval be given to the Chief Executive Officer (or delegate) to negotiate terms and conditions of use.
2. Prior to the commencement of the trial, the CEO appraises the Council of the conditions of the trial.

Moved by: Councillor Kelly
Seconded by: Deputy Mayor, Councillor Scott
MOTION CARRIED

9.38AM

Mayor sought leave of the meeting to deal with remaining items on the agenda before returning to item 12.7 – Development Application D/56-2015 for a Material Change of Use for a Restaurant and Caretaker’s Residence.

Leave Granted

12.7 DEVELOPMENT APPLICATION D/56-2015 FOR A MATERIAL CHANGE OF USE FOR A RESTAURANT AND CARETAKER'S RESIDENCE

File No: D/56-2015

Attachments:

1. Locality Plan
2. Proposal Plans

Responsible Officer: Erin McCabe - Co-ordinator Development Assessment
David Battese - Manager Strategy & Development
Brett Bacon - Director Community & Planning Services

Author: Rhiannon Casey - Planning Officer

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: Vacant land (a cyclone damaged Dwelling house did exist when the application was lodged, however has since burnt down)

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:

<i>Application Lodged:</i>	31 March 2015
<i>Acknowledgement Notice issued:</i>	1 April 2015
<i>Updated Acknowledgement Noticed issued:</i>	14 April 2015
<i>Information Request issued:</i>	28 April 2015
<i>Meeting to discuss Information Request:</i>	11 May 2015
<i>Information Request response received:</i>	23 September 2015
<i>Public Notification commenced:</i>	30 September 2015
<i>Public Notification end:</i>	23 October 2015

<i>Notice of Compliance received:</i>	<i>4 November 2015</i>
<i>Council Meeting:</i>	<i>8 December 2015</i>
<i>Council Workshop:</i>	<i>19 January 2016</i>
<i>Council Meeting:</i>	<i>12 April 2016</i>
<i>Council Workshop (deputation):</i>	<i>7 June 2016</i>
<i>Amended plans received:</i>	<i>23 August 2016</i>
<i>Council Workshop:</i>	<i>18 October 2016</i>
<i>Council Workshop:</i>	<i>25 October 2016</i>
<i>Council Workshop:</i>	<i>1 November 2016</i>
<i>Council Meeting:</i>	<i>8 November 2016</i>
<i>Statutory determination date:</i>	<i>28 November 2016</i>

COUNCIL RESOLUTION

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 for the following reasons:

- 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.*

COUNCIL RESOLUTION

RECOMMENDATION A

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 and located at 86 Queen Street, Yeppoon, Council resolves to approve the

application despite its conflict with the planning scheme and provides the following grounds to justify the decision despite the conflict:

- (a) A restaurant has previously been approved on the site.
- (b) The restaurant is located within a 'transition area' proximal to the Yeppoon town centre.

RECOMMENDATION B

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 and located at 86 Queen Street, Yeppoon, 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 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 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 Operational Works:
 - (i) Road Works;
 - (ii) Access and Parking Works;
 - (iii) Roof and Allotment Drainage Works;
 - (iv) Site Works; and
 - (v) Landscaping Works.
 - 1.6.2 Plumbing and Drainage Works; and
 - 1.6.3 Building Works.
 - 1.7 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.
 - 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 Number</u>	<u>Dated</u>
Proposed Ground Floor Plan	109201 Revision P2	22 August 2016
Proposed First Floor Plan	109202 Revision P2	22 August 2016
North, South and East Elevations	109203 Revision P2	22 August 2016
West Elevation and Section A-A	109204 Revision P2	22 August 2016

- 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 ROAD WORKS
- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road 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*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 A concrete pathway, with a minimum width of two (2) metres must be constructed on Queen Street and Morris Street for the full frontage of the subject site.
- 3.4 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for Access and Mobility"*.
- 4.0 ACCESS AND PARKING WORKS
- 4.1 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.
- 4.2 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 and parking works).
- 4.3 A new access driveway must be constructed for the proposed development at the Morris Street frontage. Direct vehicular access onto Queen Street is prohibited.
- 4.4 All ingress and egress movements to and from the development must be in a forward direction.
- 4.5 All access driveways, parking spaces and all associated vehicle manoeuvring areas within the property must be surfaced in accordance with the approved plans (refer condition 2.1) and a Development Permit for Operational Works (access and parking works).
- 4.6 A minimum of eight (8) off-street parking spaces including one (1) universal access parking space, and sufficient on-site vehicle manoeuvring areas must be provided.
- 4.7 The universal access parking space indicated on the Proposed Site and Ground Floor Plan, 109201 and dated 22 August 2016, must not be used for deliveries.
- 4.8 Servicing and delivery vehicle access to the site must only occur outside operating hours when patrons are on site.
- 4.9 Stormwater runoff from access, parking and vehicular manoeuvring areas must be

drained so as to demonstrate lawful discharge in accordance with *Queensland Urban Drainage Manual*.

- 4.10 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*.
- 4.11 If necessary, 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*.

5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained prior to the commencement of use.
- 5.2 All plumbing and drainage 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* and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.3 The development must be connected to Council's reticulated sewerage and water networks.
- 5.4 The existing sewerage and water connection point(s) must be retained and upgraded, if necessary, to service the development.
- 5.5 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface level and must be provided with trafficable lids.
- 5.6 Alteration or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under *Plumbing and Drainage Act*.
- 5.7 A sewerage trade waste permit must be obtained for the discharge of any commercial or non-domestic waste into Council's reticulated sewerage network. Please contact Council's Water and Waste Operations unit for further information.

6.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 6.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained to the commencement of any drainage works on the site.
- 6.2 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*, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 6.3 All stormwater, including roof and allotment drainage, 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 have the potential to cause damage to other infrastructures.

7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 7.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 7.3 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.

7.4 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:

7.4.1 the location of cut and/or fill;

7.4.2 the type of fill to be used and the manner in which it is to be compacted;

7.4.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;

7.4.4 retaining structures, if any.

7.5 Any vegetation cleared or removed must be:

(i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or

(ii) removed for disposal at a location approved by Council;

within sixty (60) days of clearing. Any vegetation removed must not be burnt.

8.0 BUILDING WORKS

8.1 All structures must maintain a clearance of two (2) metres to any sewerage infrastructure.

8.2 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.

8.3 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'*.

8.4 A 1.8 metre high solid fence must be provided along the southern and eastern boundaries to ensure privacy and security to adjoining residential properties.

8.5 Fencing (indicated as 'existing 1800 high fence blockwork posts with metal infill) shown on the approved plans, is not a mandatory component of the design and may be removed without further approval.

8.6 Fencing and pergola structures along the Queen Street frontage is not a mandatory component of the design and may be removed without further approval.

8.7 Fencing and pergola structures may be erected along the Morris Street frontage from the alignment of the building façade (north-western corner). The fencing and pergola structure must be an integrated structure, landscaped with suitable climbing species that are sustainable to a western aspect.

8.8 The full frontage of Queen Street (internal to the site) must be used for outdoor dining with the exception of the restaurant entry location.

8.9 The ground level façade on Queen Street must be open (through windows or door openings) to a minimum extent of eighty (80) per cent.

9.0 LANDSCAPING WORKS

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

9.2 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 2.1) and must include, but is not limited to, the following:

- 9.2.1 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, planters, 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.
- 9.2.2 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.
- 9.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 9.4 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 asset.
- 9.5 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 10.0 ELECTRICITY AND TELECOMMUNICATIONS
- 10.1 Electricity and telecommunication connections must be provided to the proposed development to the requirements of the relevant authorities.
- 11.0 ASSET MANAGEMENT
- 11.1 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.
- 11.2 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.
- 11.3 ‘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.

12.0 ENVIRONMENTAL

12.1 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.

12.2 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.

12.3 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.

12.4 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.

13.0 OPERATING PROCEDURES

13.1 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 Queen Street or Morris Street.

13.2 The 'screened bin enclosure' must be moved to the eastern boundary of the site.

13.3 All waste must be stored within a bin area (such as general waste, recyclable waste,

pallets, empty drums, etcetera).

13.4 The owner of the land must ensure that the bin area is:

13.4.1 Screened to obstruct from view the contents of the bin compound; and

13.4.2 kept in a clean and tidy condition.

13.5 The hours of operations must be limited to 1100 hours to 1500 hours and 1700 hours to 2200 hours seven (7) days per week.

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 and Multicultural Affairs website www.datsima.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

The proposed food business is an activity licensable by Livingstone Shire Council. Council's Environmental Health Unit must be consulted to assess the suitability for a new food business licence. Approval for a food business licence must be obtained before 'fitout' and operation.

NOTE 5. Trade Waste

A sewerage trade waste permit and the installation of an appropriate pre-treatment device (such as a diversion valve with subsequent discharge to sewer) may be required to be obtained for the discharge of any commercial or non-domestic waste into Council's reticulated sewerage network, which includes the waste as a result of cleaning of vehicles on-site. Please contact Council's Water and Waste Operations unit for further information.

NOTE 6. Live water and sewer connection works

Council or a licenced plumber approved by Council can carry out the water and sewerage connection works.

In accordance with the *Water Supply (Safety and Reliability) Act*, prior to carrying out any live service connections, the applicant must obtain relevant service provider(s) consent.

NOTE 7. Commercial Use of Roads/Footpaths

Council recommends applying for a 'Use of Local Government Controlled Areas, Facilities and Roads' permit in order to allow temporary on street planter boxes in accordance with Council's *Commercial Use of Footpath Guideline* to facilitate landscaping along the Queen Street frontage without compromising the inclusion

of additional seating areas internal to the site on this frontage.

NOTE 8. Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Infrastructure Charges Notice which has been supplied with this decision notice.

RECOMMENDATION C

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 and located at 86 Queen Street, Yeppoon, Council resolves that the contribution of \$9,850.00 is payable and will be reflected in an Infrastructure Charges Notice for the development.

Moved by: Deputy Mayor, Councillor Scott

Seconded by: Councillor Wyatt

MOTION CARRIED

DIVISION:

Crs A Belot, N Hutton, B Ludwig, G Mather, G Scott and T Wyatt voted in the affirmative.

Cr J Kelly voted in the negative.

12.8 IMPLEMENTATION OF THE CAPRICORN COAST STORM TIDE STUDY

File No:	LU18.3.5 and LU18.3.7
Attachments:	1. 2015 Capricorn Coast Storm Tide Study Upgrade – Final Report 2. Adoption Report - Council Meeting 24 May 2016 3. 2003 Capricorn Coast Storm Tide Hazard Investigation Report
Responsible Officer:	David Battese - Manager Strategy & Development Brett Bacon - Director Community & Planning Services
Author:	Erin McCabe - Co-ordinator Development Assessment

SUMMARY

This report discusses the implementation of the updated 2015 storm tide report titled 'Capricorn Coast Storm Tide Study Upgrade – Final Report' dated 29 October 2015 by Aurecon Consulting Engineering' which was adopted by Council on 24 May 2016.

COUNCIL RESOLUTION

THAT Council resolve to:

- 1) Rescind the resolution made 24 May 2016 which states: "That Council resolve to adopt the 2015 'Capricorn Coast Storm Tide Study upgrade – Final Report' dated 29 October 2015 by Aurecon Consulting Engineering for use by Council and the Local Government staff in assessment and recommendation of permit conditions of development applications";
- 2) Continue to use the '2003 Connell Wagner Storm Tide Hazard Report' for development assessment purposes for development applications assessed against the 2005 Planning Scheme for the purposes of nominating habitable floor levels as part of the development assessment process, for potential inundation areas;
- 3) Until the commencement of the new Livingstone Planning Scheme in early 2017, advise persons making development enquiries and applications to Council of the draft Livingstone Planning Scheme studies, including the 2015 'Capricorn Coast Storm Tide Study upgrade – Final Report' dated 29 October 2015 by Aurecon, and the existence of the State Planning Policy (SPP) Interactive Mapping System for hazards (including storm tide and flood inundation areas) as information that has informed the new policy directions in the drafting of a new planning scheme and should be taken into consideration in new developments as a duty of care;
- 4) Receive the 2015 'Capricorn Coast Storm Tide Study upgrade – Final Report' dated 29 October 2015 by Aurecon Consulting Engineering and that its recommendations regarding 2100 levels inclusive of 0.8 metre with a one (1) per cent Annual Exceedence Probability be included in the draft Livingstone Planning Scheme as potential inundation areas and triggers for development assessment to satisfy the states interest regarding storm tide hazard;
- 5) Maintain on Council's website the 2015 'Capricorn Coast Storm Tide Study upgrade – Final Report' dated 29 October 2015 by Aurecon Consulting Engineering with the list of specialist reports done for preparation of the draft Livingstone Planning Scheme; and
- 6) Commission Aurecon as an extension of the 2015 'Capricorn Coast Storm Tide Study upgrade – Final Report' dated 29 October 2015, to undertake coastal and inland mapping for localities along the urban area of the Capricorn Coast to refine

habitable floor levels – with a priority given to the localities of Yeppoon, Mulambin, Zilzie, Lammermoor and Rosslyn.

Moved by: Deputy Mayor, Councillor Scott

Seconded by: Mayor Ludwig

MOTION CARRIED UNANIMOUSLY

13 QUESTIONS/STATEMENT/MOTIONS ON NOTICE FROM COUNCILLORS

13.1 NOTICE OF MOTION - COUNCILLOR ADAM BELOT - PROVISION OF SHADE STRUCTURES

File No: GV13.4.4
Attachments: 1. Notice of Motion - Provision of Shade Structures
Responsible Officer: Chris Murdoch - Chief Executive Officer

SUMMARY

Councillor Belot has indicated his intention to move the following Notice of Motion at the next Council Meeting 8 November 2016, as follows:

RECOMMENDATION

THAT Council develop a framework which establishes the standards and level of service for the provision of shade or shade structures to the various existing playgrounds and any future playgrounds to be built throughout the Livingstone shire.

Procedural Motion

COUNCIL RESOLUTION

That pursuant to s34(1)(f) and s40 Council Meeting Procedures the matter 13.1 Notice of Motion – Councillor Adam Belot – Provision of Shade Structure be referred to a future Workshop meeting for further discussion.

Moved by: Mayor Ludwig
Seconded by: Councillor Kelly

MOTION CARRIED

13.2 NOTICE OF MOTION - COUNCILLOR GLENDA MATHER - BUS SHELTER ETNA CREEK

File No: GV13.4.4
Attachments: 1. Notice of Motion - Bus Shelter Etna Creek
Responsible Officer: Chris Murdoch - Chief Executive Officer

SUMMARY

Councillor Mather has indicated her intention to move the following Notice of Motion at the next Council Meeting 8 November 2016, as follows:

RECOMMENDATION

THAT

Notwithstanding the recently adopted guidelines for the construction of new bus shelters in the shire, Council replace the bus shelter on the Bruce Highway adjacent to Vass Road Etna Creek in a like/similar structure to the one which was destroyed by the cyclone.

Procedural Motion**COUNCIL RESOLUTION**

That pursuant to s34(1)(f) and s40 Council Meeting Procedures the matter 13.2 Notice of Motion – Councillor Glenda Mather – Bus Shelter Etna Creek be referred to a future workshop meeting for further discussion.

Moved by: Mayor Ludwig
Seconded by: Councillor Kelly

MOTION CARRIED

14 URGENT BUSINESS QUESTIONS

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

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.

10.09AM

16.1 Compensation for the Acquisition of Land for Road Purposes Pacific Heights Road, Pacific Heights

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 GKI Loader Disposal FINAL

This report is considered confidential in accordance with section 275(1)(e), of the *Local Government Regulation 2012*, as it contains information relating to contracts proposed to be made by it.

Moved by: Deputy Mayor, Councillor Scott

Seconded by: Councillor Wyatt

MOTION CARRIED

COUNCIL RESOLUTION

11.09AM

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

Moved by: Councillor Kelly

Seconded by: Councillor Hutton

MOTION CARRIED

16 CONFIDENTIAL REPORTS

16.1 COMPENSATION FOR THE ACQUISITION OF LAND FOR ROAD PURPOSES PACIFIC HEIGHTS ROAD, PACIFIC HEIGHTS

File No: 14-118

Attachments:

1. Email from landowner - *(Confidential)*
2. SP285464 - *(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 .

SUMMARY

This report seeks direction from Council on how it wishes to resolve an outstanding compensation matter relating to the resumption of land for road purposes.

COUNCIL RESOLUTION

THAT Council refer the matter of outstanding compensation for the resumption of Lot 203 SP285464 to its solicitors to resolve on Council's behalf as outlined in Option 3 of this report.

Moved by: Deputy Mayor, Councillor Scott

Seconded by: Councillor Wyatt

MOTION CARRIED

16.2 GKI LOADER DISPOSAL FINAL

File No: CP5.9.1
Attachments: Nil
Responsible Officer: Ron Posselt - Director Corporate Services
Author: Rachel Jackson - Coordinator Property and Procurement

This report is considered confidential in accordance with section 275(1)(e), of the *Local Government Regulation 2012*, as it contains information relating to contracts proposed to be made by it.

SUMMARY

The Memorandum of Understanding between Council and GKI Bar & Resort Pty Ltd is to be terminated and the Hyundai Loader located at Great Keppel Island is to be disposed of through a public tender process.

COUNCIL RESOLUTION

THAT

- 1 Council terminate the Memorandum of Understanding with GKI Bar & Resort Pty Ltd (Hideaway) in relation to the gratuitous use and operation of the Hyundai Front End Loader HL740-7 and Council retrieve the keys as soon as possible;
- 2 Council disposes of the Hyundai Loader on an as is, where is basis, via a public tender process.

Moved by: Councillor Kelly
Seconded by: Councillor Wyatt

MOTION CARRIED

17 CLOSURE OF MEETING

There being no further business the meeting closed at 11.57pm.

Bill Ludwig
CHAIRPERSON

DATE