



ORDINARY MEETING

AGENDA

1 APRIL 2019

Your attendance is required at an Ordinary meeting of Council to be held in the Council Chambers, 4 Lagoon Place, Yeppoon on 1 April 2019 commencing at 1pm for transaction of the enclosed business.

A handwritten signature in dark ink, appearing to read "Alan Lee", is positioned above the title of the Chief Executive Officer.

CHIEF EXECUTIVE OFFICER
27 March 2019

Next Meeting Date: 16.04.19

Please note:

In accordance with the *Local Government Regulation 2012*, please be advised that all discussion held during the meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, staff member or a member of the public.

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1 OPENING

2 ATTENDANCE

Members Present:

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

Officers in Attendance:

Mrs Chris Murdoch – Chief Executive Officer
Mr Brett Bacon – Executive Director Liveability and Wellbeing
Mr Dan Toon – Executive Director Infrastructure
Mrs Andrea Ellis – Chief Financial Officer
Mr Matthew Willcocks - Chief Technology Officer
Mr Nick Sheehan - Chief Human Resources Officer

3 LEAVE OF ABSENCE / APOLOGIES

Nil

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the Ordinary Meeting held 19 March 2019.

5 DECLARATION OF INTEREST IN MATTERS ON THE AGENDA

6 PUBLIC FORUMS/DEPUTATIONS

6.1 SALVATION ARMY RED SHIELD APPEAL LAUNCH - YEPPOON LAGOON

File No: GV13.4.1
Attachments: Nil
Responsible Officer: Chris Murdoch - Chief Executive Officer
Author: Sue Schluter - Executive Assistant to Mayor

SUMMARY

Mrs Judy Dash from Salvation Army will make deputation to Council regarding use Lagoon areas for the 2019 Red Shield Appeal launch.

OFFICER'S RECOMMENDATION

THAT Council receive the deputation made by the Salvation Army

BACKGROUND

Councillors were briefed on the matter on Monday 1 April, 2019.

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) Transparent and effective processes, and decision-making in the public interest; and
- (b) Sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) Democratic representation, social inclusion and meaningful community engagement; and
- (d) Good governance of, and by, local government; and
- (e) Ethical and legal behaviour of councillors and local government employees.

7 BUSINESS ARISING OR OUTSTANDING FROM PREVIOUS MEETINGS

Nil

8 PRESENTATION OF PETITIONS

Nil

9 MAYORAL MINUTE

Nil

10 COUNCILLOR/DELEGATE REPORTS

Nil

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

Nil

12 REPORTS

12.1 COUNCILLOR AGENDA ITEM REQUESTS

File No: GV13.4.1
Attachments: Nil
Responsible Officer: Chris Murdoch - Chief Executive Officer
Author: Nicole Robertson - Coordinator Executive Support

SUMMARY

This report is to provide information in relation to Councillor requests for agenda items.

OFFICER'S RECOMMENDATION

THAT Council receive the report in relation to the following items requested by Councillors for inclusion in an agenda:

- Parking for Service Providers – Anzac Parade
- Kangaroo Signs & Dead Animal Collection
- Kerbside Collection
- Reticulated Water to Mabel Edmund Park
- Tookers Road Upgrade

BACKGROUND

The information contained in the commentary of this report is being provided in accordance with *Council Meeting's Procedures Policy*, s2.9.2 Request by a Councillor to Place an Item on the Agenda.

COMMENTARY

Councillor	Subject	Action	Outcome / Update
Mather	Parking for Service Providers – Anzac Parade.	The matter is currently being dealt with operationally due to another Councillor raising the same matter, via Council's customer request system, prior to Cr Mather raising this matter with Council.	Briefing being provided to Councillors on 1 April 2019.
Mather	Kangaroo Signs & Dead Animal Collection	Referred to a Briefing Session in the first instance.	Briefing was provided to Councillors on 18/3/19. Management of these matters will continue to be dealt with operationally as they arise.
Belot	Kerbside collection	Referred to a Briefing Session in the first instance.	Briefing was provided to Councillors on 18/3/19. Information on disposal options will be published operationally on Council's website for the reference of residents.
Kelly	Reticulated Water to Mabel Edmund Park	Referred to a Briefing Session in the first instance.	Briefing was provided to Councillors on 18/3/19. A

			further briefing to be given in relation to options for the supply of water.
Councillor	Subject	Action	Outcome / Update
Mather	Tookers Road Upgrade	Referred to a Briefing Session in the first instance.	Briefing being provided to Councillors on 15/04/19.

CORPORATE/OPERATIONAL PLAN

Corporate Plan Reference: Strategy GO4: Provide transparent and accountable decision making reflecting positive leadership to the community.

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) Transparent and effective processes, and decision-making in the public interest; and
- (b) Sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) Democratic representation, social inclusion and meaningful community engagement; and
- (d) Good governance of, and by, local government; and
- (e) Ethical and legal behaviour of councillors and local government employees.

CONCLUSION

This report, presented in accordance with the *Meeting Procedures Policy* is provided for the information of Councillors.

12.2 LIVINGSTONE COMMUNITY GRANTS ASSESSMENT OUTCOME - ROUND 2 2018/19.

File No: CR2.15.3

Attachments: 1. Livingstone Community Grants Procedure.[↓](#)

Responsible Officer: Brett Bacon - Executive Director Liveability and Wellbeing
Jared Thomsen - Senior Sport & Education Officer

Author: Molly Saunders - Community Development Officer

SUMMARY

This report outlines the outcome of assessments completed by the Assessment Panel for applications received to the Livingstone Community Grants Scheme, Round Two, 2018/19.

OFFICER'S RECOMMENDATION

THAT in accordance with the recommendation of the Livingstone Community Grants Assessment Panel, Council resolve to fund the following applicants to the Livingstone Community Grants.

Applicant	Detail	Amount
Capricorn Coast Football Club	Purchase of a canteen refrigerator.	\$1,969.00
Yeppoon Gymnastics and Movement Centre	Replace chairs in gym with multipurpose aluminium bench seats.	\$2,000.00
Yeppoon Rugby League Football Club	Purchase of a Lifepak CR Plus Defibrillator for Webb Park.	\$2,000.00
Yeppoon Golf Club	Purchase driving/hitting nets.	\$2,000.00
Marlborough Public Hall Committee	Purchase new tables for the community hall.	\$2,000.00
Keppel Coast Country Music Club	Purchase patio blinds for the barbecue area.	\$978.50
Wildlife Rehabilitation HQ.	Purchase of washing basins for care of rescued animals.	\$1,450.00
Marlborough Agricultural Show Association	Purchase of electronic timers for horse events.	\$1,750.00
Marlborough Public Swimming Pool Club	Training of community members in Swim Instruction (accredited).	\$2,000.00
RSL of Australia (QLD Branch) Yeppoon Sub-Branch	Purchase of shade sails for the deck.	\$1,500.00
NAG Radio Broadcasting Association	Purchase of generator and associated equipment.	\$1,599.40
Emu Park & District Men's Activity Shed.	Purchase of tools and equipment for metal working.	\$2,000.00
Yeppoon Little Theatre Group	Purchase of communication system.	\$2,000.00
Yeppoon Probus Club	Purchase of a projector.	\$1,299.00

Keppel Coast Girl Guides	Lifesaving training, purchase of security screens, purchase of printer.	\$1,967.00
The Caves State School P&C Association	Purchase of flexible seating for outdoor classroom.	\$2,000.00
Keppel Sands Community Advancement League	Purchase of a new bowls mat for indoor bowls.	\$2,000.00
CQ Rural Health - Livingstone	Suicide prevention information and resources.	\$850.00

BACKGROUND

The Livingstone Community Grants Scheme provides an opportunity for eligible not-for-profit community organisations to support and enhance community wellbeing and liveability, by building capacity and resilience of these organisations across the Shire.

Applications to Round Two of Livingstone Community Grants Scheme 2018/19 opened on Monday 4 February 2019 and closed Friday 8 March 2019. Within this period, the Community Development and Sport and Recreation team delivered two education sessions (in Yeppoon and Emu Park) where eligible not-for-profit community organisations were provided with an overview of the online application platform, associated grant guidelines, and evaluation process.

COMMENTARY

At the close of the application period twenty-one (21) applications progressed to the assessment stage and were in turn reviewed and evaluated individually by the Assessment Panel, in line with the agreed criteria outlined in the Livingstone Community Grants Procedure (refer Attachment One). Individual assessments were completed by the Assessment Panel and then collated to inform the final outcome of the evaluation process.

The following table details not-for-profit community organisations throughout the Shire which have been successful in their application to Round Two of the Livingstone Community Grants Scheme 2018/19.

Successful Applicant	Initiative Description	Grant Amount
Capricorn Coast Football Club	Purchase of a canteen refrigerator.	\$1,969.00
Yeppoon Gymnastics and Movement Centre	Replace chairs in gym with multipurpose aluminium bench seats.	\$2,000.00
Yeppoon Rugby League Football Club	Purchase of a Lifepak CR Plus Defibrillator for Webb Park.	\$2,000.00
Yeppoon Golf Club	Purchase driving/hitting nets.	\$2,000.00
Marlborough Public Hall Committee	Purchase new tables for the community hall.	\$2,000.00
Keppel Coast Country Music Club	Purchase patio blinds for the barbecue area.	\$978.50
Wildlife Rehabilitation HQ.	Purchase of washing basins for care of rescued animals.	\$1,450.00
Marlborough Agricultural Show Association	Purchase of electronic timers for horse events.	\$1,750.00
Marlborough Public Swimming Pool Club	Training of community members in Swim Instruction (accredited).	\$2,000.00
RSL of Australia (QLD)	Purchase of shade sails for the deck.	\$1,500.00

Branch) Yeppoon Sub-Branch		
NAG Radio Broadcasting Association	Purchase of generator and associated equipment.	\$1,599.40
Emu Park & District Men's Activity Shed.	Purchase of tools and equipment for metal working.	\$2,000.00
Yeppoon Little Theatre Group	Purchase of communication system.	\$2,000.00
Yeppoon Probus Club	Purchase of a projector.	\$1,299.00
Keppel Coast Girl Guides	Lifesaving training, purchase of security screens, purchase of printer.	\$1,967.00
The Caves State School P&C Association	Purchase of flexible seating for outdoor classroom.	\$2,000.00
Keppel Sands Community Advancement League	Purchase of a new bowls mat for indoor bowls.	\$2,000.00
CQ Rural Health - Livingstone	Suicide prevention information and resources.	\$850.00
TOTAL		\$31,363.80

When combined with the applicant contributions and/or other financial support gained by individual applicants, the total value of initiatives delivered in line with Round Two of the Livingstone Community Grants Scheme 2018/19 is expected to total more than \$50,000.

PREVIOUS DECISIONS

No previous decisions have been made relating to the assessment of applications received to Round Two of the Livingstone Community Grants Scheme 2018/19.

BUDGET IMPLICATIONS

The provision of funds in line with the completed evaluation of applications will be accommodated within the existing Livingstone Community Grants Scheme budget allocation.

LEGISLATIVE CONTEXT

Section 194(a)(i), (ii), and (b) of the *Local Government Regulation (2012)*, states that:

'A local government may give a grant to a community organization only –

(a) If the local government is satisfied -

(i) the grant will be used for a purpose that is in the public interest; and

(ii) the community organisation meets the criteria stated in the local government's community grants policy; and

(b) in a way that is consistent with the local government's community grants policy.'

Section 195 of the *Local Government Regulation (2012)*, states that:

'A local government must prepare and adopt a policy about local government grants to community organisations (a community grants policy), which includes the criteria for a community organisation to be eligible for a grant from the local government.'

LEGAL IMPLICATIONS

There are no identified legal implications relating to the consideration of this matter.

STAFFING IMPLICATIONS

The delivery of the Livingstone Community Grants is accommodated within the existing operational capacity of the Community Development and Sport and Recreation team.

RISK ASSESSMENT

The following risks associated with not supporting the completed evaluation have been identified:

- 1) Governance – Council may potentially risk operating outside and approved policy and/or procedure should it not follow the requisite processes; and
- 2) Reputation – Council may risk reputational damage if it does not act with consistency throughout the delivery of this grant.

There have been no significant risks associated with supporting the completed evaluation.

CORPORATE/OPERATIONAL PLAN

Strategy CO1 of Council's Corporate Plan states: *'Facilitate, encourage and enable self-sustainable community associations and volunteer groups to pursue their diverse aspirations.'*

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) *Transparent and effective processes, and decision-making in the public interest; and*
- (b) *Sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- (c) *Democratic representation, social inclusion and meaningful community engagement; and*
- (d) *Good governance of, and by, local government; and*
- (e) *Ethical and legal behaviour of councillors and local government employees.*

CONCLUSION

In confirming the evaluation process completed by the Assessment Panel, Council will enable the provision of funds to not-for-profit community organisations across the Shire to support a range of initiatives that build capacity and increase resilience of these organisations, and also provide enhanced community wellbeing and liveability outcomes for the wider Livingstone community.

12.2 - LIVINGSTONE COMMUNITY GRANTS ASSESSMENT OUTCOME - ROUND 2 2018/19.

Livingstone Community Grants Procedure.

Meeting Date: 1 April 2019

Attachment No: 1



LIVINGSTONE COMMUNITY GRANTS PROCEDURE

1. Scope

The Livingstone Community Grants Procedure (this 'Procedure') applies to all Livingstone Shire Council employees, Elected Members, and Assessment Panel Members associated with the administration of the Livingstone Community Grants to eligible community organisations within the Livingstone Shire local government area.

2. Purpose

The purpose of the Livingstone Community Grants Procedure is:

- 1) to ensure a fair, equitable, accountable, and transparent framework is established and maintained in the administration and provision of funds for eligible initiatives within the Shire through the Livingstone Community Grants; and
- 2) to clearly establish a process which enables the allocation of funds through the Livingstone Community Grants to support and enhance community wellbeing and liveability by building the capacity and resilience of not-for-profit community organisations within the Shire.

3. Related Documents

Primary

Community Assistance Programmes Policy

Legislative reference

Crime and Corruption Act 2001

Local Government Act 2009

Local Government Regulation 2012

Public Sector Ethics Act 1994

Related documents

Code of Conduct

Financial Delegations Directive

Procurement Policy

Queensland Government Guidelines for Local Government Administration of Community Grants

Rates Rebates and Remissions Policy

4. Definitions

To assist in interpretation, the following definitions shall apply:

Donation	Contribution of goods or cash without an expectation of direct counter-supply or serviceable deliverables, given unconditionally and voluntarily.
Government Agency	A local, state, or federal government department, agency, or body.

Livingstone Community Grants Procedure

Adopted/Approved: Approved, 21 August 2018

Version: 2

Portfolio: Liveability and Wellbeing
Business Unit: Community Wellbeing

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Grant	A financial payment from Council for non-commercial projects, activities or items which meet specific criteria within a formal application, assessment and acquittal process.
Incorporated	A community organisation incorporated under the: (a) <i>Associations Incorporations Act 1981</i> (Qld); (b) <i>Corporations Act 2001</i> ; (c) <i>Cooperatives Act 1997</i> (Qld); or (d) <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> .
Not-For-Profit	An Organisation which does not operate for the profit, personal gain or other benefit of a particular person, people, or members.
Once-off Funding	Financial assistance which is provided as a once-off allocation.
Community Organisation	Interchangeable with a 'club', 'association', or 'community group', including those which meet the eligibility criteria outlined within this procedure and provides programmes and services to the community.
Sponsoring Body	An incorporated community organisation sponsoring an application under Council's scheme where the applicant is a non-incorporated community organisation.

5. Procedure Statement

5.1 Livingstone Community Grants Classifications

The programme provides once-off funding to initiatives which:

- (i) build the capacity and resilience of community organisations;
- (ii) strengthen social cohesion, inclusion, and collaboration;
- (iii) enhance the Shire's overall liveability; and
- (iv) meet one or more of the objectives outlined in Council's Corporate Plan.

5.1.1 Programme Rounds

Applications for funding from the Livingstone Community Grants will be called twice per financial year, generally February and August. Each round will be advertised publicly for a minimum of four (4) weeks prior to the nominated closing date.

The amount of funds available within each round will be determined following the adoption of Council's annual budget.

Council will establish an Assessment Panel to evaluate applications in order to ensure fair, accountable, and transparent practices are maintained and to ensure resources are utilised efficiently and effectively to maximise community benefit (as outlined in section 6.2.1).

5.1.2 Eligible Applicants

Community Organisations must demonstrate compliance with the following criteria in order to be eligible to submit an application to the programme:

- (i) primary operation within the Shire;

- (ii) primary objectives provide a benefit to communities within the Shire;
- (iii) sole not-for-profit status is established and maintained;
- (iv) be properly constituted and incorporated;
- (v) hold public liability insurance (minimum \$20,000,000 coverage); and
- (vi) have no outstanding matters before Council.

5.1.3 Ineligible Applicants

The following entities are ineligible to submit an application to the programme:

- (i) community organisations which do not meet the requirements outlined in section 5.1.2;
- (ii) community organisations which have received funding through the Livingstone Community Grants round immediately previous to the current round;
- (iii) government agencies;
- (iv) for-profit organisations;
- (v) individuals;
- (vi) political organisations; and
- (vii) TAFE, Universities, or Colleges.

5.1.4 Ineligible Initiatives

Ineligible initiatives which will not be considered under the programme include:

- (i) ongoing or current maintenance, salaries, or standard costs associated with the operation of the organisation;
- (ii) initiatives which have already commenced or have been completed;
- (iii) initiatives which will be delivered (part or in full) outside the Shire;
- (iv) initiatives which support political or discriminatory ideologies and/or practices;
- (v) initiatives which contravene laws and regulations set by Government agencies; and
- (vi) initiatives which are eligible under the following alternative funding programmes:
 - (a) Rates Rebates and Remissions Policy;
 - (b) Regional Arts Development Fund;
 - (c) Event Sponsorship Programme;
 - (d) In-Kind Support Programme; and/or
 - (e) Mayor's Discretionary Fund.

5.1.5 Goods and Services Tax and Australian Business Number

Depending upon the applicant's status with the Australian Tax Office, funding from the Livingstone Community Grants may attract goods and services tax. Community organisations submitting an application for funding are therefore required to declare whether or not they are goods and services tax registered and provide an Australian Business Number.

Organisations which do not have an Australian Business Number must supply a Statement of Supplier form indicating the reason for not quoting an Australian Business Number. Without an Australian Business Number or Statement of Supplier form, Council will be required to withhold and forward 48.5 per cent of any approved grant to the Australian Tax Office.

5.2 Assessment

5.2.1 Assessment Panel

The Chief Executive Officer or delegated officer will establish an Assessment Panel to evaluate applications received under the Livingstone Community Grants.

The Assessment Panel will consist of up to five (5) people which may include Council Officers, Councillors, and community representatives. The Chief Executive Officer or delegated officer will appoint one of the members of the Assessment Panel as Chairperson.

Pursuant to the *Local Government Act 2009*, *Public Sector Ethics Act 1994*, and Council's Code of Conduct, members of the Assessment Panel are required to declare any conflict of interest in the evaluation of applications, and if necessary withdraw from any evaluations of applications and/or round of applications. If such a person is the appointed Chairperson of the Assessment Panel, the Chief Executive Officer or delegated Officer will nominate a replacement Chairperson from the remaining Assessment Panel for the duration of the relevant evaluations.

The Chief Executive Officer or delegated Officer may appoint replacement members to the Assessment Panel where panel members are unable to take part in evaluations.

Should the Assessment Panel consider it appropriate, it may seek advice from appropriate Council officers on specialist matters relating to individual applications, however these officers will not take part in the decision making processes, deliberations, or evaluations completed by the Assessment Panel.

The Assessment Panel will evaluate all eligible applications in accordance with Council's Community Assistance Programmes Policy, the Livingstone Community Grants assessment criteria (as outlined in section 5.2.2), and with respect to the relevant Council budget allocation.

The Assessment Panel will ensure compliance with the evaluation process to ensure fair, equitable, accountable, and transparent evaluations are completed. The Assessment Panel will utilise the electronic platform established by Council and adhere to all associated requirements in the evaluation of eligible applications.

All records will be retained by Council in accordance with Council's Record Management Directive.

The Assessment Panel will have its membership reviewed annually, generally in September, to inform and guide any associated updates and/or changes. This review process will be completed by the Chief Executive Officer or delegated officer.

5.2.2 Assessment Criteria

Eligible applications submitted to the Livingstone Community Grants will be evaluated in accordance with the following criteria:

- (i) evidence which confirms the initiative's budget, detailing requested funding amount, associated quotations, and (if required) applicant contribution;
- (ii) evidence which demonstrates the initiative can be delivered within the required timeframes;
- (iii) evidence which identifies the need for the initiative within the community;
- (iv) evidence which demonstrates the initiative will address the identified need;
- (v) evidence which clarifies alignment of the initiative to one or more objectives within Council's Corporate Plan;
- (vi) evidence which confirms the number of participants / community members who will benefit from the delivery of the initiative;
- (vii) evidence which details the initiative's potential to attract visitors to, or growth of the Shire; and
- (viii) evidence which demonstrates the initiative will support and enhance community wellbeing and liveability by building capacity and resilience of the applicant.

5.2.3 Offer of Funding

Following acceptance and endorsement of the Assessment Panel's recommendations by Council through formal resolution, applicants will be advised of the outcome of their application in writing within ten (10) working days.

Unsuccessful applicants will be notified accordingly and invited to request further clarification on the evaluation of the application. Council officers will provide feedback in accordance with the evaluation of the application by the Assessment Panel.

The requisite funding agreement, payment authority form, acquittal outcome report template, and other relevant operational requirements will be provided to successful applicants, detailing the conditions for receipt and acquittal of the approved funds, acknowledgement of Council's funding, and feedback requirements.

Confirmation and acceptance of the funding agreement and payment authority form are required in accordance with the Articles of Incorporation Rules for the incorporated body or sponsoring body, and must be returned by the specified date prior to the release of any funds. Successful applicants will be advised that failure to comply may result in the offer of funding being revoked.

Details of all approved applications and associated initiatives, including name of the successful applicant, a brief description of the initiative, and the amount funded will be made public via Council's standard media and communications channels.

Funding decisions formally resolved by Council are final, subject to any appeal to the Queensland Civil and Administrative Tribunal. Appeals for reassessment will not be considered by Council however applicants may seek feedback in relation to how to improve future applications. Where any funding decision appeal is made to the Queensland Civil and Administrative Tribunal, Council will fund all other successful applications in that round while awaiting the outcome of any such appeal.

Depending upon the quantum of the appeal to the Queensland Civil and Administrative Tribunal, Council may suspend or delay further rounds of the Livingstone Community Grants.

6. Changes to this Procedure

This Procedure is to remain in force until otherwise amended / replaced or other circumstances.

7. Repeals/Amendments

This Procedure repeals the former Livingstone Shire Council Procedure titled 'Community Assistance Programme Procedure (v1)'.

Version	Date	Action
1	08/04/2014	Adopted
2	21/08/2018	Amended Procedure Approved

BRETT BACON
EXECUTIVE DIRECTOR LIVEABILITY AND WELLBEING

12.3 PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOTS 34 AND 35 ON CROWN PLAN LIV401023**File No:** GR14.4.2**Attachments:**
1. [Location Plan](#)
2. [Proposed closure area](#)**Responsible Officer:** Brett Bacon - Executive Director Liveability and Wellbeing**Author:** Maddie Crigan - Property Officer

SUMMARY

This report pertains to a proposal to permanently close approximately 6.55 hectares of road reserve adjoining the north-eastern boundary of Lots 34 and 35 on Crown Plan LIV401023 - Balnagowan Road, Joskeleigh to enable it to be amalgamated with these lots.

OFFICER'S RECOMMENDATION

THAT Council resolve to:

- 1) advise the owner of Lots 34 and 35 on Crown Plan LIV401023 that it offers no objection to the proposal to permanently close approximately 6.55 hectares of road reserve adjoining the north-eastern boundary of these lots to enable it to be amalgamated with same; and
- 2) authorise the Manager Engineering Services to sign a 'Statement in relation to an application under the *Land Act 1994* over State Land (Part C)' as confirmation to Department of Natural Resources, Mines and Energy that Council, as Road Manager, does not object to the proposed permanent road closure.

BACKGROUND

On 1 March 2019, Council received a request from the owner of Lots 34 and 35 on Crown Plan LIV401023 at Balnagowan Road, Joskeleigh for its views on a proposal to permanently close approximately 6.55 hectares of road reserve so that this area can be incorporated into the adjoining freehold land (Attachment Two depicts the proposed permanent road closure area).

COMMENTARY

Under the *Land Act 1994*, an adjoining land owner may apply to have an area of road permanently closed and incorporated into the applicant's adjoining freehold land. The owner of Lots 34 and 35 on Crown Plan LIV401023 is seeking Council's views on the proposal to permanently close approximately 6.55 hectares of road reserve adjoining these lots, prior to lodging an application with the Department of Natural Resources, Mines and Energy for the closure.

Comment was sought from Council's Development Assessment section, Infrastructure Portfolio, Natural Resource Management section, Disaster Management and Resilience section and Community Partnerships section. No objections were raised to the proposed closure, however the following comments were provided.

Engineering Services

Engineering Services offers no objection to the proposed road closure and has no requirements in this regard. The section of road reserve in question has been assessed as not being required for its gazetted purpose, that being for a road. Both properties that adjoin this section of road have alternative legal and practical road access. There are no existing Council assets in the subject section of road reserve and there are no plans for infrastructure to be constructed in the road reserve.

Engineering Services support the proposed road closure.

Natural Resources Management

Natural Resource Management has consulted with the Pest and Vector Management sections of Council and no objections to this change of tenure have been raised.

As evidenced from the above comments, the reserve offers no strategic or practical purpose to Council and thus its permanent closure can be supported.

PREVIOUS DECISIONS

This specific request has not been the subject of any previous Council resolution or direction.

BUDGET IMPLICATIONS

There are no budget implications associated with the consideration of this matter.

LEGISLATIVE CONTEXT

The disposal of public land is undertaken in accordance with the provisions of the *Land Act 1994*.

LEGAL IMPLICATIONS

There are no legal implications associated with the consideration of this matter.

STAFFING IMPLICATIONS

There are no staffing implications for Council associated with the consideration of this matter.

RISK ASSESSMENT

There are no risks associated with the consideration of this matter.

CORPORATE/OPERATIONAL PLAN

Strategy AM4 of Council's Corporate Plan states: '*Operate, maintain and use Council assets to deliver efficient and cost effective services to the community.*'

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) *Transparent and effective processes, and decision-making in the public interest; and*
- (b) *Sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- (c) *Democratic representation, social inclusion and meaningful community engagement; and*
- (d) *Good governance of, and by, local government; and*
- (e) *Ethical and legal behaviour of councillors and local government employees.*

CONCLUSION

The owner of Lots 34 and 35 on Crown Plan LIV401023 is seeking Council's views on a proposal to permanently close an area of road reserve adjoining his property prior to lodging an application with the Department of Natural Resources Mines and Energy. An assessment of the request has concluded that the reserve offers no strategic or practical purpose to Council and thus its permanent closure can be supported.

12.3 - PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOTS 34 AND 35 ON CROWN PLAN LIV401023

Location Plan

Meeting Date: 1 April 2019

Attachment No: 1

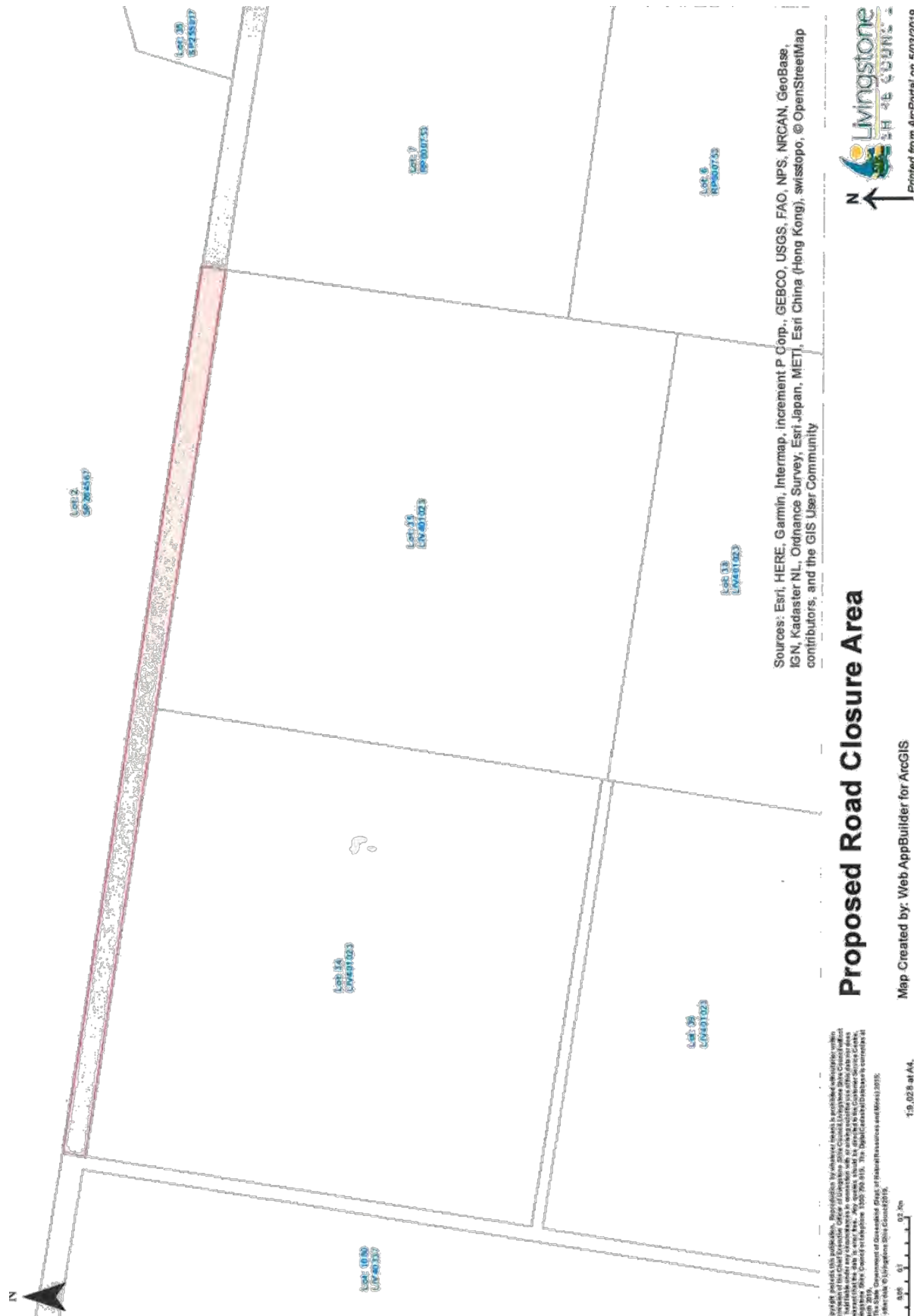


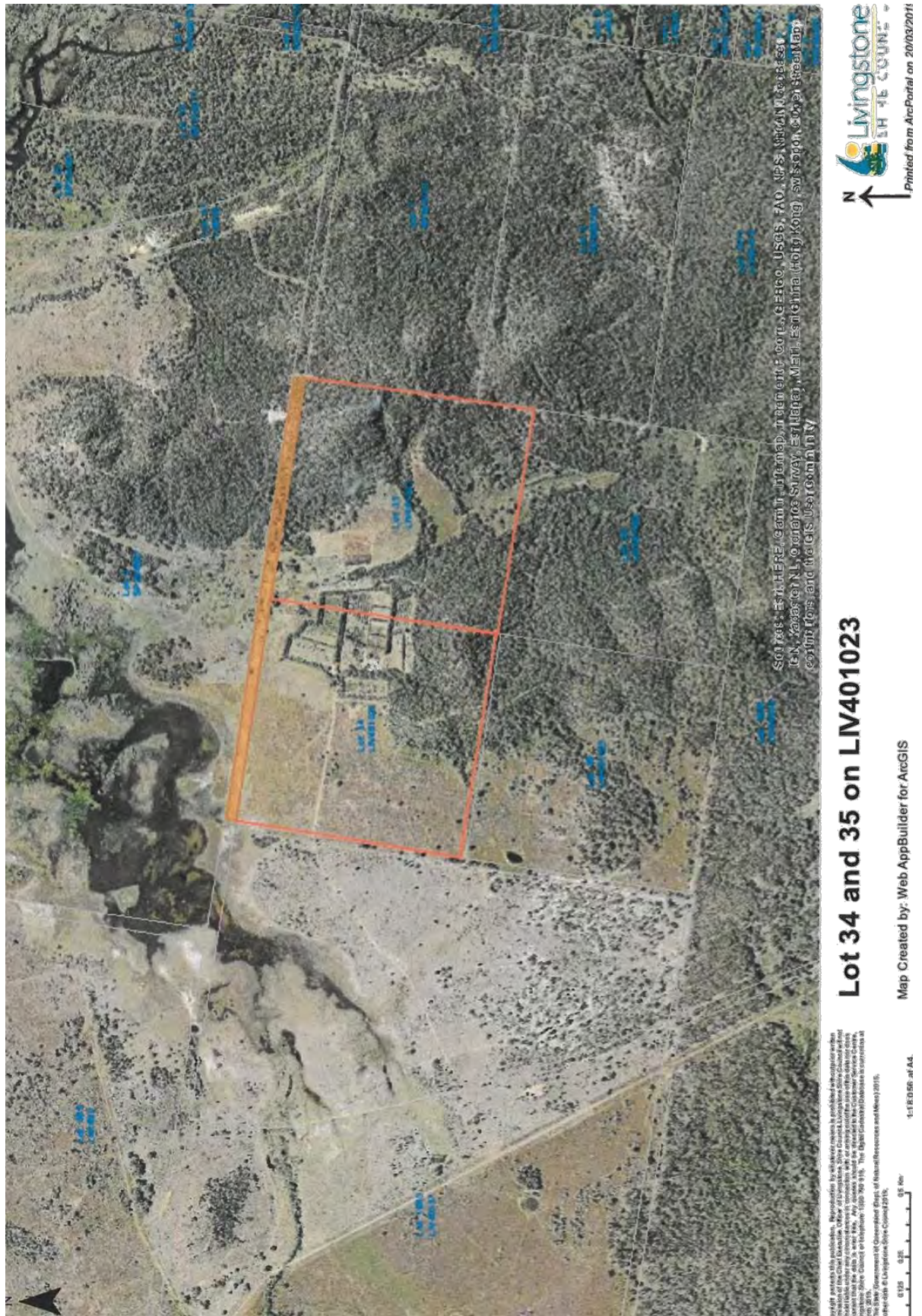
12.3 - PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOTS 34 AND 35 ON CROWN PLAN LIV401023

Proposed closure area

Meeting Date: 1 April 2019

Attachment No: 2





12.4 PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOT 41 ON SP153929**File No:** GR14.4.2**Attachments:**

1. Plan of proposed closure area [↓](#)
2. Statement in relation to an application under the Land Act 1994 over State land [↓](#)
3. Letter from the Department of Natural Resources, Mines and Energy [↓](#)

Responsible Officer: Mark McLean - Principal Property Officer
Brett Bacon - Executive Director Liveability and Wellbeing**Author:** Maddie Crigan - Property Officer

SUMMARY

This report pertains to an application to permanently close approximately 14.9 square metres of road reserve adjoining Lot 41 on Survey Plan 153929, corner of Antioch Court and Eucalyptus Avenue, Lammermoor, to rationalise an infrastructure encroachment which has emanated from the owners building a shed in an incorrect location.

OFFICER'S RECOMMENDATION

THAT Council resolve to advise the Department of Natural Resources, Mines and Energy that it offers no objection to the proposed permanent closure of approximately 14.9 square metres of road reserve adjoining Lot 41 on Survey Plan 153929.

BACKGROUND

In October 2018, Council received a request from the owners of Lot 41 on Survey Plan 153929, corner of Antioch Court and Eucalyptus Avenue, Lammermoor, for its support for a proposal to permanently close approximately 14.9 square metres of road reserve adjoining their property, to rationalise an infrastructure encroachment which has arisen from the incorrect placement of a shed. In 2018, a shed was constructed on the site which extended past the existing boundary of Lot 41 on to the Eucalyptus Avenue road reserve by approximately 500 millimetres (refer Attachment One for a plan of the proposed closure area).

In October 2018, Council provided the owner of Lot 41 on Survey Plan 153929 with a signed 'Statement in relation to an application under the *Land Act 1994* over State Land (Part C)' as confirmation to the Department of Natural Resources, Mines and Energy that, should an application be submitted to permanently close this area of road Council, as Road Manager, would not object to the application (refer Attachment Two for a copy of the Statement provided to the applicant).

COMMENTARY

On 1 March 2019, Council received a letter from the Department of Natural Resources, Mines and Energy advising that it has received an application in relation to the proposed permanent closure of part of the Eucalyptus Avenue road reserve and requesting confirmation that Council's position on this matter is still current (refer Attachment Three for a copy of the letter).

This matter was considered by Council's Development Control Unit on 13 March 2019, and no objections were raised to the proposed closure. Consultation also occurred with Council's Infrastructure Portfolio with no objections raised. Council's Construction and Maintenance section identified that closure of this small portion of road reserve will result in an irregular boundary to Lot 41 on Survey Plan 153929 and the Eucalyptus Avenue road reserve. It

suggested that it may be more appropriate to consider closure of the entire length of Lot 41 to avoid this irregularity.

Council's Encroachment on Public Land Policy and Procedure contain remedies to rectify encroachments on public land. For an exclusive encroachment, which includes shed structures, the options to remedy include complete removal of the encroachment or consideration to sell the portion of public land to the encroacher.

It must be noted that had the shed been built in accordance with the approved plans this situation would not have arisen. Furthermore, had the location of the shed been confirmed by an inspection by the building certifier prior to the slab being poured, this situation would have been avoided. This situation has arisen as a consequence of no involved party taking responsibility for its obligations in the construction of the shed.

PREVIOUS DECISIONS

The subject matter of this report has not been the subject of any previous Council resolution or direction.

BUDGET IMPLICATIONS

There are no known budget implications associated with the consideration of this matter.

LEGISLATIVE CONTEXT

The disposal of public land is undertaken in accordance with the provisions of the *Land Act 1994*.

LEGAL IMPLICATIONS

There are no known legal implications associated with the consideration of this matter.

STAFFING IMPLICATIONS

There are no known staffing implications associated with the consideration of this matter.

RISK ASSESSMENT

The risk associated with the permanent closure of this area of road reserve is that it will no longer be available for its gazetted purpose. There is also the possibility that this will be interpreted by some that there is no real imperative to contain structures within property boundaries, as any encroachment will be remedied with the sale of the land occupied by the encroachment (a convenient way to garner further property).

CORPORATE/OPERATIONAL PLAN

Strategy AM4 of Council's corporate Plan states: '*Operate, maintain and use Council assets to deliver efficient and cost effective services to the community.*'

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) *Transparent and effective processes, and decision-making in the public interest; and*
- (b) *Sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- (c) *Democratic representation, social inclusion and meaningful community engagement; and*
- (d) *Good governance of, and by, local government; and*
- (e) *Ethical and legal behaviour of councillors and local government employees.*

CONCLUSION

The Department of Natural Resources, Mines and Energy is seeking confirmation that Council's position in relation to the proposed permanent closure of approximately 14.9

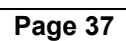
square metres of the Eucalyptus Avenue road reserve adjoining Lot 41 on Survey Plan 153929, being that it offers no objection, is still current.

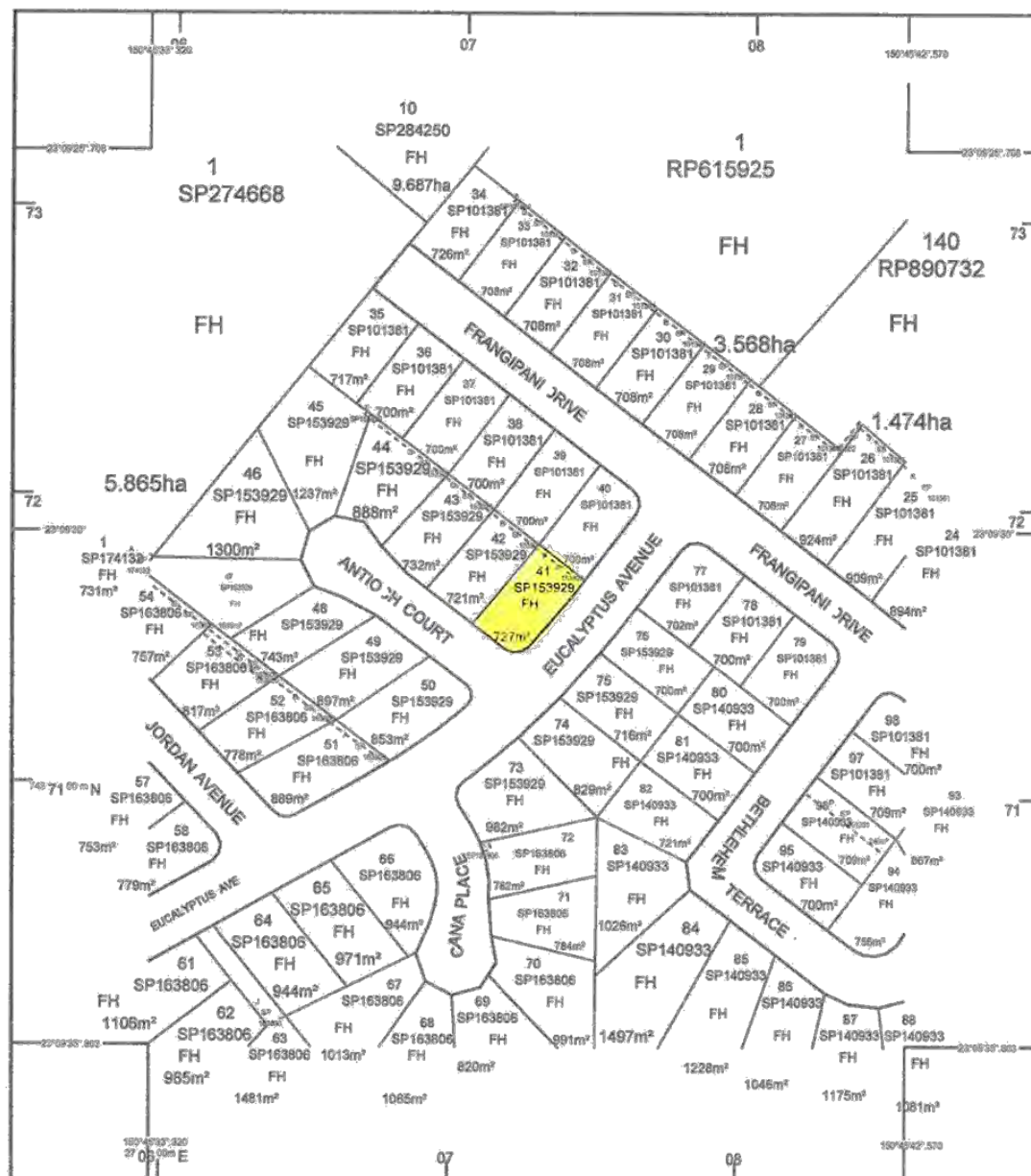
12.4 - PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOT 41 ON SP153929

Plan of proposed closure area

Meeting Date: 1 April 2019

Attachment No: 1





STANDARD MAP NUMBER
9051-13434

MAP WINDOW POSITION AND
NEAREST LOCATION



SUBJECT PARCEL DESCRIPTION

OCDB
Lot/Plan
Area/Volume
Tenure
Local Government
Locality
Segment/Parcel

No Lot/Plan Selected
No Lot/Plan Selected
No Lot/Plan Selected
No Lot/Plan Selected
No Lot/Plan Selected
No Lot/Plan Selected

CLIENT SERVICE STANDARDS

PRINTED (6dmm/yyyy) 01/03/2019

OCDB 26/02/2019

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SmartMap

An External Product of
SmartMap Information Services
Based upon an extraction from the
Digital Cadastral Data Base



Queensland
Government
(c) The State of Queensland,
(Department of
Natural Resources,
Mines and Energy) 2019.



12.4 - PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOT 41 ON SP153929

**Statement in relation to an application
under the Land Act 1994 over State
land**

Meeting Date: 1 April 2019

Attachment No: 2



DEPARTMENT OF NATURAL RESOURCES, MINES AND ENERGY
**Statement in relation to an application under
the *Land Act 1994* over State land
Part C**

Supplementary requirements

1. This form (Part C) is to be used to support the following applications under the *Land Act 1994* (Land Act):
 - Application for Road Closure. [Part B Form LA18](#)
 - Application for a Permit to Occupy. [Part B Form LA03](#)
2. Refer to the [DNRME web site](#) and relevant Part B for specific application requirements.

Important information

3. Notice of your application must be first provided to the road manager or trustee of the reserve to determine the impacts of your application.
Road Manager is –
 - the local government for a road that is under the control of the a local government; or
 - for a State-controlled road—the chief executive of the department administering the *Transport Infrastructure Act 1994*.
4. Section 68 of the *Local Government Act 2009* and section 74 of the *City of Brisbane Act 2010*, requires notice of any proposed closure or opening be provided to the local government. The local government must fully state its reasons for its decision, which this department will consider.
5. The local government may have a specific local law for administering the use of local roads and reserves.
6. A Permit to Occupy application over a reserve or road must include the support of the reserve trustee or the road manager. For reserve land, the trustee of the reserve must provide additional comments stating why a trustee lease is not supported.
7. This form must be supported by a drawing (minimum size A4) which includes the following information:
 - general location
 - area of land under application
 - Lot on Plan information
 - scale
 - dimensions
 - a north point
8. This form must be lodged with the application, including Part A and Part B, within three months.

I/We MICHAEL PRIOR, MANAROL ENGINEERING SERVICES, as
LIVINGSTONE SHIRE COUNCIL

Please tick relevant fields -

- ☒ Road Manager; or
- ☐ Trustee of a reserve issued under the Land Act 1994.

have considered information from the applicant including:

- ☒ Completed copy of the application form, namely Part A and Part B - Application under the Land Act
- ☒ Copy of drawing referred to as
CSG sketch dated 26-9-18 (copy attached, endorsed by the road manager or trustee).

and advise the Department of Natural Resources, Mines and Energy (DNRME) that use of the land as proposed:

- ☒ Will be authorised by the road manager or trustee of the reserve land and advise that no further contact with DNRME is needed at this time. A formal application to the road manager will be required.
- ☐ Can be authorised by the road manager or trustee of the reserve, however it is not supported for the reasons detailed in the additional comments.
- ☐ Is unable to be authorised by the road manager or trustee of the reserve and it is not supported for the reasons detailed in the additional comments.
- ☐ Can be authorised by the road manager or trustee of the reserve, however for the reasons detailed in the additional comments, requests DNRME to consider an application under the Land Act.
- ☐ Is unable to be authorised by the road manager or trustee of the reserve, however for the reasons detailed in the additional comments, requests DNRME to consider an application under the Land Act.

Additional comments –

Provide information or requirements that you believe should be considered when assessing this application.

Does the road manager or trustee require further contact from the department before a decision is made on the application?	
<input checked="checked" type="checkbox"/> Yes	<input type="checkbox"/> No
Note – a different form of tenure may be considered a more appropriate tenure once the application has been assessed.	

Authorisation


I certify that I have the authorisation to make this statement and the information I have provided is true and accurate.

I have signed a copy of the attached drawing provided by the applicant in relation to this application.

Full name and position of person making this
declaration on behalf of the road manager or
trustee

Signature

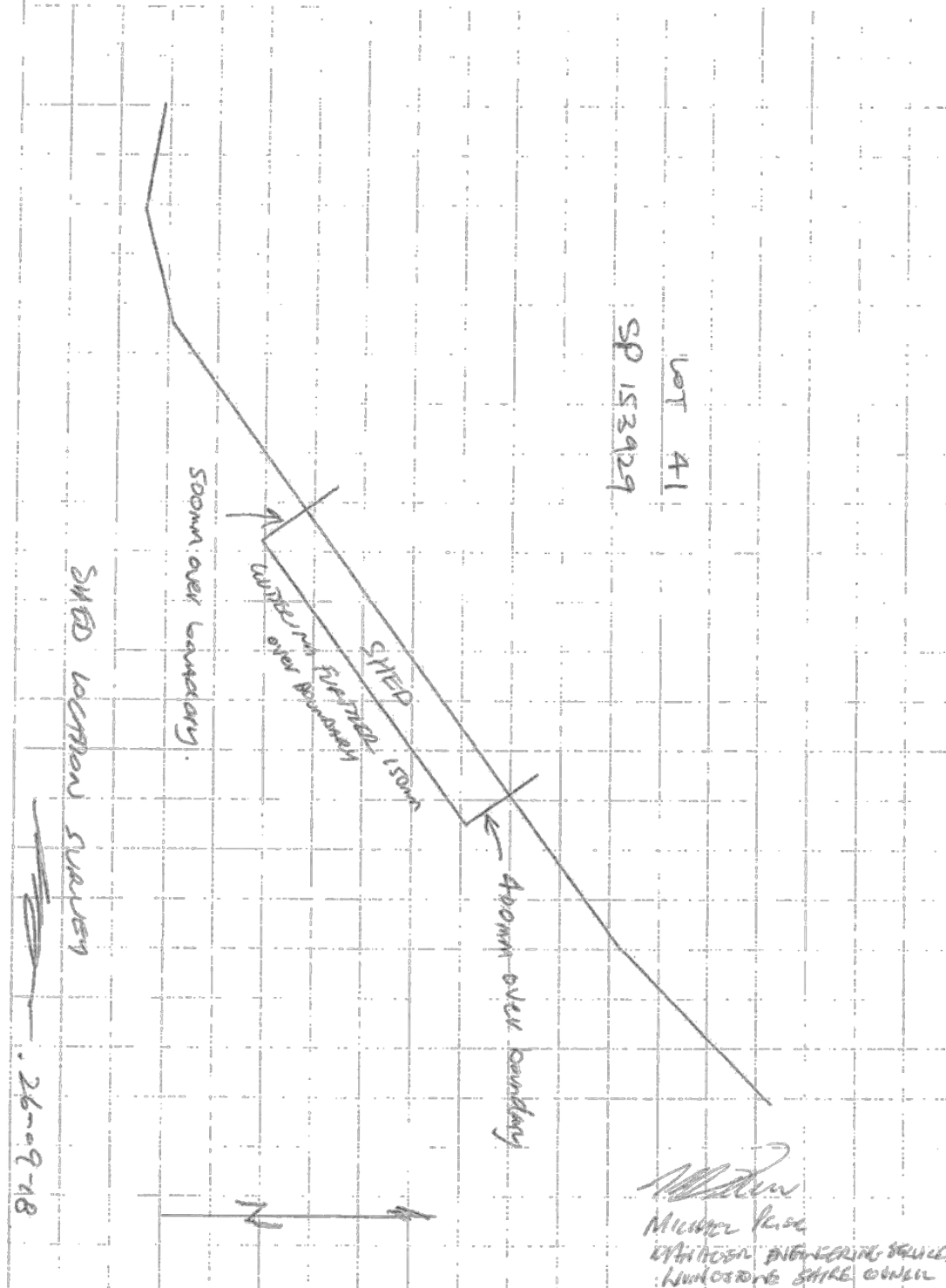
MICHAEL PRIOR
MANAGER ENGINEERING SERVICES
LIVINGSTONE SHIRE COUNCIL



Date: 30 / 10 / 18

This information will not otherwise be disclosed outside of the department unless required or authorised by law such as under the
Right to Information Act 2009.

END DOCUMENT



12.4 - PROPOSED PERMANENT ROAD CLOSURE ADJOINING LOT 41 ON SP153929

Letter from the Department of Natural Resources, Mines and Energy

Meeting Date: 1 April 2019

Attachment No: 3

Author Taylah Hopper
File / Ref number 2018/006282
Directorate / Unit State Land Asset Management
Phone (07) 4222 5427

1 March 2019

Chief Executive Officer
Livingstone Shire Council
PO Box 2292
Yeppoon, QLD 4703

Email to enquiries@livingstone.qld.gov.au



Department of
Natural Resources,
Mines and Energy

Dear Sir/Madam,

RE: Application for permanent road closure as shown as road to be permanently closed on Drawing 19/760/CEN, Location: Lammermoor, Livingstone

Please find enclosed a copy of the Notice published in the Government Gazette of 1 March 2019 relative to the above application.

You are requested to display the notice at your office for the purpose of being viewed by the public in terms of Section 100 of the *Land Act 1994*. Reference is made to Application Form LA30 Part C, signed by Council dated 30 October 2018. Could you please confirm these views are current.

The applicant advises that the proposed use of the subject area, if the road closure is approved would be to include the land into their adjoining freehold property, which will rationalise an existing infrastructure encroachment.

Please advise the department of any views or requirements that the department should consider when assessing this application. Objections to the application, and any views or requirements that may affect the future use of the land should be received by close of business on **11 April 2019**. Where Council offer an objection to the application, a full explanation stating the reason for such an objection should be forwarded to this Office,

If Council wish to provide a response but are unable to do so before the due date, please contact the author before the due date to arrange a more suitable timeframe. If a response is not received by the due date and no alternative arrangements have been made, it will be considered Council has no objection or requirements in relation to this matter.

This information has been provided in confidence for the purpose of seeking Council's views on this matter. It is not to be used for any other purpose, or distributed further to any person, company, or organisation, without the express written permission of the department unless required.

Any objections received may be viewed by other parties interested in the proposed road closure in accordance with the provisions of the *Right to Information Act 2009*.

Postal :
DNRME Cairns
PO Box 5318
Townsville QLD 4810

Telephone : (07) 4222 5427

If you wish to discuss this matter please contact Taylah Hopper on (07) 4222 5427.

All future correspondence relative to this matter is to be referred to the contact Officer at the address below or by email to Townsville.SLAMS@dnrme.qld.gov.au. Any hard copy correspondence received will be electronically scanned and filed. For this reason, it is recommended that any attached plans, sketches or maps be no larger than A3-sized.

Please quote reference number 2018/006282 in any future correspondence.

Yours sincerely



Taylah Hopper
Land Administration Officer
State Land Asset Management

[159]



Queensland Government Gazette

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VOL. 380]

FRIDAY 1 MARCH 2019

[No. 38

*Land Act 1994**Land Regulation 2009*

DECLARATION OF HARDSHIP AREA NOTICE (No 02) 2019

Short title

1. This notice may be cited as the *Declaration of Hardship Area Notice (No 02) 2019*.

Hardship Area [s.40D of the Regulation]

2. Notice is given that the Governor in Council has declared the particular areas stated in Schedule 1 as a hardship area due to the areas being severely affected by natural disaster for deferral of rental for the stated tenures.

SCHEDULE 1

- (1) All tenures defined under sections 28, 29, 30, 31, 32, 33(1), 33(2), 33(3) and 34 of the Regulation within the following local government areas impacted by North and Far North Queensland Monsoon Trough and associated rainfall and flooding between 25 January 2019 and 14 February 2019 and declared eligible for Disaster Recovery Funding Arrangements (Personal Hardship Assistance Scheme and Disaster Assistance for Primary Producers):

Burke	Croydon	Etheridge
Torres	Torres Strait Island	

- (2) The annual rental for these tenures is wholly deferred.

- (3) The deferral applies from 1 March 2019 to 1 December 2019.

ENDNOTES

- Made by the Governor in Council on 28 February 2019.
- Published in the Gazette on 1 March 2019.
- Not required to be laid before the Legislative Assembly.
- The administering agency is the Department of Natural Resources, Mines and Energy.

Land Act 1994

OBJECTIONS TO PROPOSED ROAD CLOSURE NOTICE (No 06) 2019

Short title

1. This notice may be cited as the *Objections to Proposed Road Closure Notice (No 06) 2019*.

Application for road closure [s.100 of the Act]

2. Applications have been made for the permanent and temporary closure of the roads mentioned in the Schedule.

Objections

3.(1) An objection (in writing) to the proposed road closure mentioned in the Schedule may be lodged with the Regional Service Director, Department of Natural Resources, Mines and Energy, at the regional office for the region in which the road is situated.

- (2) Latest day for lodgement of objections is 11 April 2019.

(3) Any objections received may be viewed by other parties interested in the proposed road closure under the provisions of the *Right to Information Act 2009*. If you lodge an objection, please include in your objection letter whether you would like to be consulted if this issue becomes the subject of an access request under the *Right to Information Act 2009*.

Plans

4. Inspection of the plans of the proposed road closures may be made at:
- the Department of Natural Resources, Mines and Energy Offices at Longreach, Rockhampton, Bundaberg and Cairns; and
 - the Local Government Offices of Barcaldine Regional Council, Livingstone Shire Council, Bundaberg Regional Council and Tablelands Regional Council;

for a particular plan in that district or that local government area.

SCHEDULE

PERMANENT CLOSURE

Central Region, Longreach Office

1. An area of about 98.3 ha being the road intersecting Lot 4 on MX54 (locality of Hobartville) and shown as proposed road to be permanently closed on Drawing 19/756/CEN. (2019/000699)

Central Region, Rockhampton Office

2. An area of about 14.9 m2 being part of Eucalyptus Avenue adjoining the south-eastern boundary of Lot 41 on SP153929 (locality of Lammemoor) and shown as proposed road to be permanently closed on Drawing 19/760/CEN. (2018/006282)

South Region, Bundaberg Office

3. An area of about 1.05 ha being part of an unnamed road separating Lot 3 on RP22928 from Lot 2 on RP83121 (locality of Isis Central) and shown as road proposed to be permanently closed on Drawing 19/013. (2018/006818)

4. An area of about 2.90 ha being part of an unnamed road adjoining Lot 11 on SP200557 and Lot 1 on RP46786; and part of Iletis Road adjoining Lot 6 on RP194864 (locality of Isis Central) and shown as road proposed to be permanently closed on Drawing 19/043. (2019/000424)

TEMPORARY CLOSURE

North Region, Cairns Office

5. Areas totalling about 1.388 ha being part of Binnie Road abutting Lot 16 on NR348 and shown as plan of Lots A and C; proposed temporary road closure on Drawing CNS19/010P. (2019/000047)

ENDNOTES

- Published in the Gazette on 1 March 2019.
- Not required to be laid before the Legislative Assembly.
- The administering agency is the Department of Natural Resources, Mines and Energy.

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BRISBANE
1 March 2019

Application for Closure of Road

1 MARCH 2019

File / Ref number 2018/006282

Notice is given of an application made under section 100 of the *Land Act 1994* for the permanent closure of the road described as:

DESCRIPTION OF ROAD

Description of proposed road closure:

An area of about 14.9m² of Eucalyptus Avenue adjoining the south-eastern boundary of Lot 41 on SP153929, as shown as road to be permanently closed on Drawing 19/760/CEN.

Locality: Lammermoor

Local Government: Livingstone Regional Council

Any person who may consider their interest affected by the application is required to submit their objections and/or enquires in writing by close of business on **11 April 2019** to the Department:

Postal Address –
DNRME Townsville
PO Box 5318
Townsville, Qld, 4810

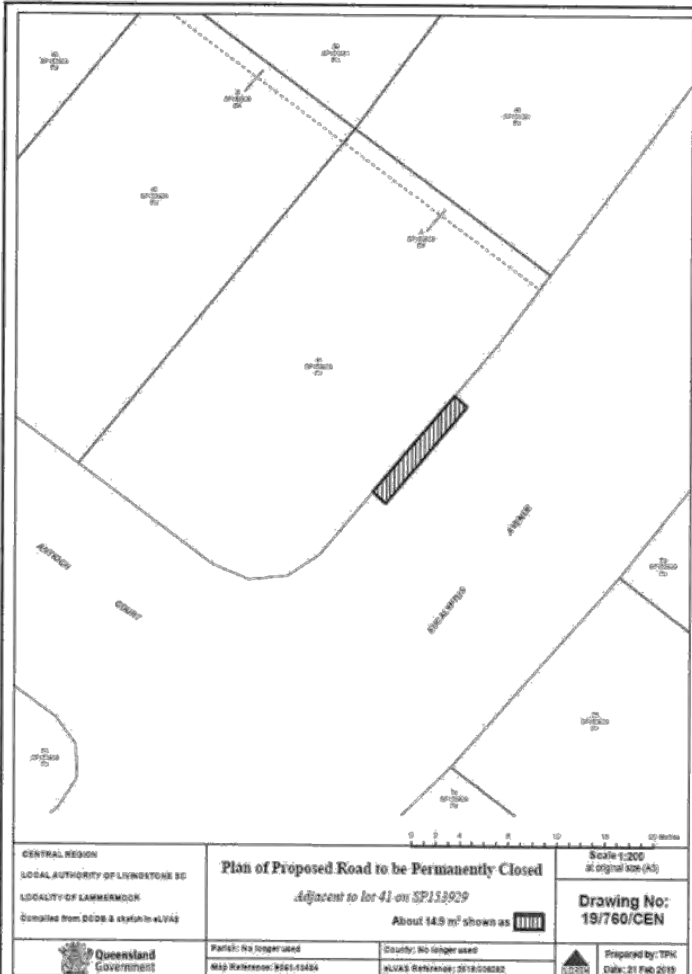
Delivery Address –
DNRME Rockhampton
State Government Building
Level 1, 209 Bolsover Street
Rockhampton, QLD, 4700

Telephone: (07) 4222 5427

Email:
Townsville.SLAMS@dhrme.qld.gov.au

Any objections received may be viewed by other parties interested in the proposed road closure under the provisions of the *Right to Information Act 2009* (the RTI Act).

If you lodge an objection, please include in your objection letter whether you would like to be consulted if this issue becomes the subject of an access request under the RTI Act.



CENTRAL REGION LOCAL AUTHORITY OF LIVINGSTONE SC LOCALITY OF LAMMERMOOR Generated from DOOB & system to ALV44	Plan of Proposed Road to be Permanently Closed Adjacent to lot 41 on SP153929 About 14.9 m² shown as	Scale 1:200 at original size (A3) Drawing No: 19/760/CEN Prepared by: TPK Date: 21 Feb 2019
	Partials: No longer used Map Reference: 9445-11424	County: No longer used ALKS Reference: 2018-006282

LATEST DATE FOR OBJECTIONS – 11 APRIL 2019

12.5 PALM CREEK PARK, CAWARRAL**File No:** CP5.2.8**Attachments:**

1. Report - Palm Creek Park Community Meeting [↓](#)
2. Plan - Palm Creek Park [↓](#)

Responsible Officer: Brett Bacon - Executive Director Liveability and Wellbeing**Author:** Mark McLean - Principal Property Officer

SUMMARY

This report pertains to a request from the Department of Natural Resources, Mines and Energy for Council to accept trusteeship of reserve land at Cawarral known as Palm Creek Park.

OFFICER'S RECOMMENDATION

THAT Council resolves to accept trusteeship of Reserve for Park and Environmental Purposes – Lot 7 on Survey Plan 167135.

BACKGROUND

On 24 April 2018, the Department of Natural Resources, Mines and Energy wrote to Council in relation to State Land (Reserve for Park and Environmental Purposes) known as Lot 7 on Survey Plan 167135, at Cawarral, which comprises about 9.08 hectares and is known as Palm Creek Park. The Department of Natural Resources, Mines and Energy was seeking a formal response from Council regarding its willingness to accept trusteeship of this community purpose reserve.

After general consultation with Councillors and with the community there is a consensus that Council should accept trusteeship of this reserve.

COMMENTARY

As part of consultation with the community, Council conducted an online Get Involved Survey aimed at Cawarral residents. In addition, a community meeting was held at the Cawarral Community Hall on 13 February 2019 (the report from that meeting is included as Attachment One).

As detailed in the report, the outcome of the meeting was that the community is in favour of Council assuming trusteeship of the reserve and establishing a master plan to enhance the usability, accessibility and awareness of the park. The community also agreed that, in the short term, the park needs to be maintained for locals and tourists to use.

At the meeting, a plan was prepared which divided the reserve into four areas (refer to Attachment Two for a copy of the plan). Agreement was reached on the proposed use of these areas as follows:

Area 1 – establish picnic tables, playgrounds etcetera;

Area 2 – establish a maintenance regime to keep the area slashed;

Area 3 – to be revegetated, keeping in mind that it will need to be burned every two to three years. Consultation to be undertaken with the rural fire brigade regarding the revegetation and ongoing maintenance; and

Area 4 – the Cawarral Rural Fire Brigade has made a request to the State Government for an additional area of land to be included into the adjoining operational reserve

which it currently occupies. Council and the Public Safety Business Agency are joint trustees of this reserve.

There is an obvious desire from the community for Council to assume responsibility for the reserve, as Trustee. There will be resourcing implications (budgetary and staffing) associated with Council becoming the Trustee. However, those implications cannot be quantified at this juncture and cannot be quantified until the proposed uses and maintenance regimes have been determined.

PREVIOUS DECISIONS

The subject matter of this report has not been the subject of any Council resolution or direction.

BUDGET IMPLICATIONS

Should Council accept trusteeship of this reserve, its management and maintenance will need to be incorporated into the relevant operational programmes and, in the instances of capital improvements, capital programmes. Operational activities will have an impact on the budget and/or Council's maintenance regimes, as Council has not previously maintained this reserve. The magnitude of the impact has not yet been defined with any accuracy.

LEGISLATIVE CONTEXT

The management and disposal of public land is controlled by the *Land Act 1994* and *Native Title (Queensland) Act 1993*.

LEGAL IMPLICATIONS

There are no legal implications associated with this matter.

STAFFING IMPLICATIONS

The inclusion of an additional nine hectares into Council's open spaces management and maintenance programmes will have some impact on staff operations. However, until an agreed maintenance regime has been adopted, the impact cannot be quantified with any precision.

RISK ASSESSMENT

If Council accepts trusteeship of this site, it will assume all risk associated with this large open space area.

CORPORATE/OPERATIONAL PLAN

Strategy AM4 of Council's Corporate Plan states: '*Operate, maintain and use Council assets to deliver efficient and cost effective services to the community.*'

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) *Transparent and effective processes, and decision-making in the public interest; and*
- (b) *Sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- (c) *Democratic representation, social inclusion and meaningful community engagement; and*
- (d) *Good governance of, and by, local government; and*
- (e) *Ethical and legal behaviour of councillors and local government employees.*

CONCLUSION

The Department of Natural Resources, Mines and Energy has requested Council to accept trusteeship of reserve land at Cawarral known as Palm Creek Park. After consultation with the Cawarral community, it is recommended that Council accept the trusteeship.

12.5 - PALM CREEK PARK, CAWARRAL

Report - Palm Creek Park Community Meeting

Meeting Date: 1 April 2019

Attachment No: 1

Attachment 1



Consultation Name	Palm Creek Park		
Venue	Cawarral Community Hall	Wednesday 13 February 2019 6.30pm	
Attendees	Registered 28/ Not Registered 8	Cr's Ludwig, Hutton, Mather, Kelly and Wyatt	
Demographic	Cawarral residents	Officers	Meegan Armstrong, Trish Weir and Maddie Crigan
Purpose	<p>Council is currently in discussions with the Department of Natural Resources, Mines and Energy in relation to the future of the reserve land known as Palm Creek Park which is located at Cawarral Road, Cawarral.</p> <p>This land, which is a reserve for park and environmental purposes, was placed under the trusteeship of the Department in 2016 after the former trustee, the Cawarral School of Arts Association Inc, relinquished its trusteeship.</p> <p>As the park comprises a significant area of land within the Cawarral Township, Council would like to provide residents with the opportunity to provide their views on the future use of this area. This feedback will assist Council in its discussions with the Department.</p>		
Feedback Summary	<p>Current status</p> <ul style="list-style-type: none"> Flooding issues; Takes approximately 6 hours per week to mow and maintain area; Maintenance of the area needs to improve; Stated that approximately 20 caravans/motorhomes pass this area daily; Soil in the middle of the reserve area is very infertile; and Tourism generates income for broader Shire <p>Freedom Camping Feedback</p> <ul style="list-style-type: none"> Majority voted against this and prefer to keep area as it is - quiet and clean; Inadequate parking facilities to accommodate free camping and impact to hall toilets; Concerns about safety for children with increase strangers in town; and Town not big enough to accommodate this 		
General Feedback What would you like to see in the park...	<ul style="list-style-type: none"> Picnic Tables; Skate park; Play ground with shade; Kids play areas; Good signage showing the parks facilities; Bike tracks (BMX track) no concrete just gravel tracks; Interpretive Signage on the history of the town; Somewhere for the kids to ride their horses; Toilet facilities; Swimming Pool; Maintain pathways around the park; Carparking for caravans and cars; and Dog training area 		

Areas for use: (Map displayed at Community Session)	<ul style="list-style-type: none"> Place Picnic tables, playgrounds etc up the northern end of the park as shown on map as Area 1; Rural Fire Brigade has applied to have their leased area extended and this area will be able to incorporate a helipad in the future; Keep slashing/maintaining Area 2 as shown on Map; Revegetate Area 3 keeping in mind that it will need to be burned every 2 to 3 years – close consultation with the rural fire brigade to be done in regards to this area and how it is revegetated and maintained; and Keep tracks around the park to make burning off easier. 																																																																		
Voting The attendees were asked to vote on the items they wanted as a priority																																																																			
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<p>In summary, the Cawarral community are in favour of Livingstone Shire Council considering taking over the ownership of this land and putting in place a masterplan to enhance the useability, accessibility and awareness of the park. However, in the short term, they have all agreed that the park needs to be maintained for locals and tourists to continue to use it in its current state, some members provided their name for the mower volunteer list that Council holds (training will be required).</p> <p>The Cawarral Rural Fire Brigade advised that they have made a request to the State Government for an additional area of land to be added to their current lease, they then intend to have a helipad in the future.</p> <p>Community consultation – the person to person events and online was well received, reflective and positive with valued input from Cawarral residents.</p>																																																																			

12.5 - PALM CREEK PARK, CAWARRAL

Plan - Palm Creek Park

Meeting Date: 1 April 2019

Attachment No: 2



12.6 DEVELOPMENT APPLICATION FOR A DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE FOR A SERVICE STATION AND RETAIL WAREHOUSE - LOT 50 FRED LAWN DRIVE, YEPPOON

File No: D-4-2017

Attachments:

1. Locality plan [↓](#)
2. Proposal plans [↓](#)
3. Referral agency responses [↓](#)

Responsible Officer: Erin McCabe - Co-ordinator Development Assessment
David Battese - Manager Strategy & Development

Author: Jenna Davies - Principal Planning Officer

SUMMARY

Development Application Number: D-4-2017

Applicant: Retail Fuel Developments

Real Property Address: Lot 50 on SP207759

Common Property Address: Lot 50 Fred Lawn Drive, Yeppoon

Area of Site: 1.696 hectares

Planning Scheme: Livingstone Shire Planning Scheme 2005

Planning Scheme Zoning: Industry Zone, Light Industry Precinct

Planning Scheme Overlays: Overlay Map O2 – Drainage Problem
Overlay Map O3 – Waterways 100 metre buffer
Overlay Map O8 – Acid sulfate soils (land below twenty metres Australian Height Datum)
Overlay Map O9 – Capricorn Coast Landscape Area (Precinct B)

Existing Development: Vacant

Existing Approvals: Nil

Approval Sought: Development Permit for a Material Change of Use for a Service station and Retail warehouse

Level of Assessment: Service station – Code assessable
Retail warehouse – Impact assessable

Submissions: One submission (from Ergon Energy)

Referral Agency(s): Department of State Development, Manufacturing, Infrastructure and Planning as Concurrence agency (State-controlled road)
Ergon Energy as Advice agency

Adopted Infrastructure Charges Area: Charge area one

Application progress:

Application Lodged:	5 January 2017
Application properly made:	10 March 2017
Acknowledgement Notice Issued:	21 March 2017

Request for Further Information sent:	19 April 2017
Request for Further Information responded to:	4 September 2017
Submission period commenced:	28 September 2017
Submission period end:	20 October 2017
Application Referred to Advice agency:	24 April 2017
Advice agency response:	29 June 2017
Application Referred to SARA as concurrence agency:	4 April 2017
Information Request Issued by SARA:	19 April 2017
SARA Information Request responded to:	1 September 2017
Extension to referral agency assessment period:	Notice received 28 September 2017 and extended until 31 October 2017
Extension to referral agency assessment period:	Notice received 31 October 2017 and extended until 14 November 2017
Extension to referral agency assessment period:	Notice received 14 December 2017 and extended until 22 January 2018
Extension to referral agency assessment period:	Notice received 22 January 2018 and extended until 21 February 2018
Extension to referral agency assessment period:	Notice received 16 February 2018 and extended until 22 May 2018
Concurrence agency response received:	21 May 2018
Representations lodged with the State:	28 August 2018
Amended State Response received:	6 December 2018
Response to Council request for further information:	4 December 2018
Decision period stopped in accordance with section 320 of the <i>Sustainable Planning Act 2009</i> :	Stopped from 6 June 2018 and recommenced on 7 September 2018 (being a total of three months)
Decision period extended:	10 September 2018 and extended until 8 October 2018
Decision period extended by agreement:	3 October 2018 and extended by agreement until 5 November 2018 Agreement received 3 October 2018
Decision period extended by agreement:	1 November 2018 and extended by agreement until 4 December 2018 Agreement received 1 November 2018
Decision period extended by agreement:	3 December 2018 and extended by agreement until 18 January 2019 Agreement received 3 December 2018
Decision period extended by agreement:	15 January 2019 and extended by agreement until 22 February 2019 Agreement received 15 January 2019
Request for further information sent:	19 December 2018
Decision period extended by agreement:	19 March 2019

	Agreement received 20 March 2019
Last receipt of information from applicant:	20 March 2019
Statutory determination date:	5 April 2019

OFFICER'S RECOMMENDATION**RECOMMENDATION A**

THAT in relation to the application for a Development Permit for a Material Change of Use for a Service station and Retail warehouse, made by Retail Fuel Developments, on Lot 50 on SP207759, and located at Lot 50 Fred Lawn Drive, Yeppoon, Council resolves to Approve the application despite its conflict with the planning scheme and provide the following grounds to justify the decision despite the conflict:

- (a) Assessment of the development against the Specific Outcomes of the Industry Zone Code and the relevant planning scheme codes, demonstrates that the proposed use will not cause significant adverse impacts on the surrounding natural environment, built environment, infrastructure or local character and amenity.
- (b) The site is located within a predominantly light industrial area along McBean Street and commercial area along Hoskyn Drive and Fairfax Court, Yeppoon. The proposed development is considered to be reflective of the light industrial and commercial land use pattern in the locality.
- (c) Assessment of the development demonstrates that the Planning Scheme Shire Wide Desired Environmental Outcomes will not be compromised; despite non-compliance with outcome (e) and providing a service to the wider community and not solely the residents in the surrounding area.

RECOMMENDATION B

THAT in relation to the application for a Development Permit for a Material Change of Use for a Service station and Retail warehouse, made by Retail Fuel Developments, on Lot 50 on SP207759, and located at Lot 50 Fred Lawn Drive, 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 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 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) Sewerage Works;
- (iv) Water Works;
- (v) Stormwater Works;
- (vi) Site Works;
- (vii) Advertising device(s);
- (viii) Landscaping Works;

1.6.2 Building Works; and

1.6.3 Plumbing and Drainage Works.

- 1.7 All Development Permits for Operational Works must be obtained prior to the issue of a Development Permit for Plumbing and Drainage Works and 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.
- 1.10 Unless otherwise expressly stated, the conditions must be read as being applicable to both land uses.

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>
Site Plan	DA A-02, Revision 15	20 March 2019
Floor plan	DA A-03, Revision 9	20 March 2019
North Elevation, East Elevation, South Elevation and West Elevation	DA A-04, Revision 5	13 December 2018
Service Station floor plan	DA A-07, Revision 2	13 December 2018
Supplementary Traffic Assessment Report	614-TRG03	15 February 2019
Site Based Stormwater Management Plan	F0002-10006580-AAR (Rev 3)	29 October 2018
Engineering Services Report	F0001-10006580-AAR (Rev 3)	29 October 2018
Water supply network analysis report	None	12 October 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 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), the *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 Any application for Operational works (road works);
- (i) must be accompanied by a detailed swept path analysis of the design vehicle and address relevant traffic and safety issues; and
 - (ii) must include detailed engineering plans with details of any new road works, or modifications to the existing roads, including road drainage, street lighting, traffic signs and pavement markings.
- 3.4 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)*.
- 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 All access, parking and associated vehicle manoeuvring areas must be sealed.
- 4.4 Any application for a Development Permit for Operational Works (access and parking works) must provide details and demonstrate sufficient entering queue space is available at the site entry at the ultimate development stage.
- 4.5 Any application for a Development Permit for Operational Works (access and parking works) must provide a detailed plan to demonstrate safe and free flow of traffic along with line marking and signage to clarify circulation paths and permitted movements.
- 4.6 A commercial standard access driveway to facilitate two-way traffic movements for the development must be designed and constructed on the Tabone Street frontage. The width of the access driveway and its location must demonstrate compliance with the detailed swept path analysis (refer to condition 3.3) of the design vehicle.
- 4.7 Lawful access rights over the existing easement (in favour of Ergon Energy) and minimum clearance between moving traffic and any existing infrastructure within the easement or relocation of any existing infrastructure (if necessary) must be agreed and approved by relevant authorities.
- 4.8 All ingress and egress traffic movements to and from the development must be in a forward direction (forward gear).
- 4.9 A minimum of five (5) on-site car parking spaces must be provided in front of the Service station building.
- 4.10 A minimum of forty-six (46) on-site car parking spaces must be provided for the Retail warehouse.
- 4.11 Access driveways and trafficable areas over Council infrastructure must be avoided

where possible. Any Council infrastructure located within trafficable areas must be raised or lowered to suit the finished surface level and must be provided with heavy duty trafficable lids.

- 4.12 Universal parking spaces must be provided in accordance with *Australian Standard AS2890.6 "Parking Facilities - Off-Street parking for people with disabilities"*.
- 4.13 All vehicle operations associated with the proposed use must be directed by suitable directional, informative, regulatory or warning signs in accordance with the *Manual of Uniform Traffic Control Devices (Queensland)*.
- 4.14 All lighting must be provided in accordance with *Australian Standard AS1158 "Lighting for Roads and Public Spaces"*.
- 4.15 All stormwater runoff from the site, including parking and vehicular manoeuvring areas, must be collected on the site and drained lawfully in accordance with the *Queensland Urban Drainage Manual*.
- 4.16 An Internal Traffic and Parking Management Plan must be maintained to address internal vehicle parking, service vehicle entries and traffic management in order to meet the requirements of separate users adequately and orderly. The Internal Traffic and Parking Management Plan must be implemented for the Service station use and relevant Retail warehouse use(s) within the site on an on-going basis.

5.0 SEWERAGE WORKS

- 5.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the site.
- 5.2 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* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 A new non-trunk gravity sewer main must be designed and constructed from the corner of Tabone Street and Yeppoon Road, along the northern verge of Yeppoon Road and connect to the existing reticulated gravity main located adjacent to Lot 1 on RP620025 at the corner of McBean Street and Tanby Road.
- 5.4 A new sewerage connection point must be provided from the new gravity sewer main.
- 5.5 Sewer infrastructure including connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with trafficable lids.

6.0 WATER WORKS

- 6.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works on the site.
- 6.2 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*, the approved Water supply network analysis report, the *Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (water works).
- 6.3 All external reticulated water works must comply with the approved water supply network analysis report. Specifically, the following non-trunk works must be designed and constructed;
 - (i) A 150 millimetre diameter water main interconnection from the existing 450 millimetre diameter trunk water main on Tanby Road to the existing 100 millimetre diameter water main on McBean Street; and
 - (ii) A new 150 millimetre diameter non-trunk water main to the proposed development site from the existing 150 millimetre diameter main on the western

side of the Tabone Street.

- 6.4 A new water connection point must be provided to service the development.
- 6.5 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface level and must be provided with heavy duty trafficable lids.

7.0 PLUMBING AND DRAINAGE WORKS

- 7.1 A Development Permit for Plumbing and Drainage Works must be obtained prior to the commencement of any Plumbing and Drainage Works on the site.
- 7.2 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.
- 7.3 The development must be connected to Council's reticulated sewerage and water networks.
- 7.4 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.

8.0 STORMWATER WORKS

- 8.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 8.2 All stormwater management 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*, Urban Stormwater Quality Planning Guidelines, *State Planning Policy*, the approved stormwater management report, sound engineering practice, and the provisions of a Development Permit for Operational Works (stormwater works).
- 8.3 All stormwater including roof and allotment drainage must achieve demonstrated lawful discharge and must not adversely affect the upstream or downstream land when compared to pre-development condition by way of blocking, altering or diverting existing stormwater runoff patterns or cause an actionable nuisance or damage infrastructure.
- 8.4 A drainage easement(s) must be dedicated in favour of Council over all major overland flow paths (land inundated by the Defined Flood Event) and major drainage systems to provide drainage corridors suitable for the conveyance of peak stormwater flows through the subject land during the Defined Flood Event. (Note: The trunk stormwater infrastructure (D-16), Yeppoon Creek Tributary E drainage system is identified within the subject site.)
- 8.5 Any application for a Development Permit for Operational Works (stormwater works) must include;
 - (i) Detail design of the detention system. The volume of the detention system 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 the Defined Flood Event (inclusive) for a range of storm durations, including critical storm duration;
 - (ii) Full calculations, including electronic modelling files from industry standard modelling software, (inclusive of both electronic model files and results files) and all details of the modelling assumptions to support the proposed stormwater management strategy;

- (iii) Layouts showing the extent of the one (1) percent Annual Exceedance Probability event (Defined Flood Event) inundation areas, along with the final trunk drainage easement extent (refer condition 9.4) and details of the available freeboard to the finished ground and floor levels;
 - (iv) 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;
 - (v) Detail designs for outlet systems for the proposed drainage systems taking into account critical scour velocity, discharge frequency/duration at discharge location(s) and relevant management measures; and
 - (vi) Details of ongoing maintenance and management actions required with regard to any proposed detention system and stormwater quality management devices.
- 8.6 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*. The submitted MUSIC model must be amended using relevant rainfall and Potential Evapo Transpiration (PET) data complying with Council's current MUSIC modelling guidelines.
- 8.7 All ongoing maintenance and management actions necessary for the proposed stormwater quality management devices must be carried out by suitably qualified person(s) in a timely manner. A completed log book must be maintained and must be available on-site for inspection by Council and /or relevant authorities.
- 9.0 SITE WORKS
- 9.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 9.2 All site works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments*, and sound engineering practice and the provisions of a Development Permit for Operational Works (site works).
- 9.3 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 an actionable nuisance or worsening to adjoining properties or damage infrastructure.
- 9.4 All site works must be undertaken to ensure that no actionable nuisance results from:
- 9.4.1 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 (AEP) events up to Defined Flood Event (inclusive);
 - 9.4.2 an increase in downstream or upstream inundation levels; and
 - 9.4.3 increase in velocity profiles.
- 9.5 Any application for a Development Permit for Operational Works (site works) must be accompanied by a preliminary site investigation into acid sulphate soils in accordance with the latest Queensland Sampling Guidelines and soil analyses (according to the Laboratory Methods Guidelines or *Australian Standard 4969*). 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).
- 9.6 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.

- 9.7 Vegetation must not be cleared unless and until written approval has been provided by Council. A Development Permit for Operational Works constitutes written approval, only for the purposes of clearing vegetation directly pertinent to the operational works which are the subject of the Development Permit.

- 9.8 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.

10.0 BUILDING WORKS

- 10.1 A Development Permit for Building Works must be obtained prior to the commencement of any building works on the site.
- 10.2 All structures must comply with the provisions of the *Queensland Development Code Mandatory Part 1.4 (MP 1.4)*, relative to relevant infrastructure.
- 10.3 All stationary plant and equipment external to the building must be designed, installed and maintained to comply with the requirements of the *Environmental Protection (Noise) Policy 2008*.
- 10.4 All external elements, such as air conditioners, and plant and service facilities, must be adequately enclosed or screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners and refrigeration motors, and any other regulated audible devices, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 10.5 Impervious paved and drained washdown areas to accommodate all refuse containers must be provided. The areas must be aesthetically screened from any road frontage or adjoining property. A suitable hosecock (with backflow prevention) and hoses must be provided at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement, in accordance with a Plumbing and Drainage Permit and Sewerage Trade Waste Permit.
- 10.6 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*.
- 10.7 A 2.7-metre-wide pedestrian footpath must be constructed to the southern side of the retail warehouse building.
- 10.8 Amended elevation plans for the Retail warehouse building must be submitted to Council for written approval, prior to the lodgement of a Building Works application. The amended elevations for the Retail warehouse building must be generally in accordance with the design and appearance of the approved plans (refer to condition 2.1).
- #### 11.0 LANDSCAPING WORKS
- 11.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works on the site.
- 11.2 Any application for a Development Permit for Operational Works (landscaping works) must include, but is not limited to, the following:
- 11.2.1 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 overlayed 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. The trees along the western and southern edge of the waterway proposed to be retained must also be shown;
- (iv) underground and overhead services;
- (v) typical details of critical design elements (stabilisation of batters, retaining walls, trees in car park areas and fences);
- (vi) details of landscape structures including areas of deep planting; and
- (vii) specification notes on mulching and soil preparation.

11.2.2 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. Endemic species must be incorporated into the landscaping; and
- (v) shrubs and trees must be planted along the development footprint frontage (not inclusive of the existing vegetation) to Yeppoon Road and Tabone Street. A minimum of one (1) tree every eight (8) metres is required to be planted.

11.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.

11.4 Landscaping must include endemic species, including (but not limited to) the following species:

11.4.1 Trees for confined/narrow spaces:

- (i) *Mallotus discolor* (Yellow Kamala); or
- (ii) *Mallotus philippensis* (Red Kamala); or
- (iii) *Banksia integrifolia* (Coast Banksia); or
- (iv) *Diospyros geminata* (Scaly Ebony); or
- (v) *Cupaniopsis anacardioides* (Tuckeroo).

11.4.2 Shrubs and ground cover:

- (i) *Eugenia reinwardtiana* (Beach Cherry); or
- (ii) *Hibiscus heterophyllus* (Native hibiscus); or
- (iii) *Breynia oblongifolia* (Native Coffee Bush); or
- (iv) *Dianella caerulea* (Blue Flax Lily); or
- (v) *Hibbertia Scandens* (Climbing Guinea Vine); or

- (vi) *Carpobrotus glaucescens* (Pig Face); or
- (vii) *Crinum pendiculatum* (River Lily); or
- (viii) *Lomandra longifolia* (Spiny Mat Rush).

11.5 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.

11.6 All landscaping must be planted and or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works), prior to the commencement of use.

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

12.0 ELECTRICITY AND TELECOMMUNICATIONS

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

13.0 ASSET MANAGEMENT

13.1 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.

13.2 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.

13.3 '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.

14.0 ENVIRONMENTAL

14.1 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.
- 14.2 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) site location / topography / soil type;
 - (ii) objectives;
 - (iii) concept;
 - (iv) design details;
 - (v) implementation procedures for construction and post construction phases of work.
 - (vi) vegetation;
 - (vii) interim drainage plan during construction;
 - (viii) dust suppression;
 - (ix) top soil management;
 - (x) Acid sulphate soils; and
 - (xi) erosion susceptibility and risk.
- 14.3 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.
- 14.4 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.
- 15.0 ADEVERTISING DEVICE
- 15.1 A Development Permit for Operational Works (advertising device) must be obtained prior to the commencement of any advertising on the site.
- 16.0 OPERATING PROCEDURES
- 16.1 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 Rockhampton-Yeppoon Road or Tabone Street.
- 16.2 All waste storage areas must be:
- 16.2.1 Aesthetically screened from any frontage or adjoining property;
 - 16.2.2 Of a minimum size to accommodate commercial type bins.
- 16.3 The hours of operation for the Service station are twenty-four hours, Monday to Sunday.

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. Trade Waste

In regards to condition 7.4 and 10.5, further information on trade waste is available on Council's website <http://www.livingstone.qld.gov.au/237/Trade-Waste>

NOTE 6. Infrastructure Charges Notice

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

The infrastructure charges for the Retail warehouse have been calculated based on a single level. If a mezzanine level is proposed through a Building Works application, additional infrastructure charges will apply in accordance with the resolution current at the time of application.

NOTE 7. 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 an activity is required before 'fit out' and operation.

NOTE 8. Ergon Energy Advice Agency response

The applicant must liaise with Ergon Energy in relation to the Advice Agency response in regards to:

Either:

- (a) the access driveway from Tabone Street into the subject land must be relocated outside of Easement F; or
- (b) prior to any works commencing on the subject land, the applicant enter into an agreement with Ergon Energy under section 112(3) of the *Electricity Act 1994* (Qld) (the agreement) on the following terms:
 - (i) relocation of the 66kV line (a pole and a stay wire) to a position to be

agreed; and

- (ii) Ergon Energy and the applicant bear their own cost with respect to the preparation, negotiation and execution of that agreement.

NOTE 9. Operational Works (advertising devices)

Operational Works (advertising devices) is accepted, subject to requirements in the table of assessment for operational works (Table 5.7.1) under the *Livingstone Planning Scheme 2018*. If any of the Acceptable Outcomes of the Development Works Code (outcomes relating to advertising devices) cannot be achieved, a Development Permit for Operational Works (advertising devices) is required to be obtained. If the acceptable outcomes can be achieved, this will satisfy condition 15.1.

RECOMMENDATION C

THAT in relation to the application for a Development Permit for a Material Change of Use for a Service station and Retail warehouse, made by Retail Fuel Developments, on Lot 50 on SP207759, and located at Lot 50 Fred Lawn Drive, Yeppoon, Council resolves to issue an Infrastructure Charges Notice for the amount of \$162,760.00.

BACKGROUND

Not applicable to this application.

COMMENTARY

Proposal in Detail

The proposed development is a Service station and one (1) Retail warehouse tenancy within one large building.

The Retail warehouse development proposes a large building, totalling 1,373 square metres in area. The development proposes a shared loading dock to service the tenancies, located on the north-eastern facade and screened from public view. There is an outdoor footpath along the rear of the buildings to access the loading dock and refuse area.

The retail warehouse building is 9.5 metres in height. There are currently no tenants secured to occupy the building and the proposed height affords the opportunity to the future tenant to install a mezzanine or second level. This proposal is for the building shell. The external presentation of the building has been designed with window openings and wall material variations. The building is also setback off of the main Yeppoon Road and is towards the northern side boundary.

The Service station development is located east of the retail warehouse building in the central area of the site. The Service station proposes four bowzers with eight refuelling stations. There is adequate queuing for one vehicle behind the vehicle refuelling. A large canopy is proposed over the bowzers and is 444 square metres in area. There is an ancillary store which is 199 square metres of gross floor area. The building is setback from Yeppoon Road, behind the Retail warehouse building. The canopy is setback 21.734 metres to Yeppoon Road. There are two underground fuel tanks.

The service station is proposed to be operated twenty-four (24) hours a day, seven (7) days per week.

There is one access location proposed, being ingress and egress to Tabone Street. The existing turning lane (on the west of Tabone Street) is proposed to be used, with upgrades required to the crossover to service and facilitate access to the development.

The site currently holds future stormwater trunk infrastructure. There is currently an open, unimproved gully that runs through the property, along the northern boundary. The channel will be protected and retained in its natural state and will ensure the protection of locally significant vegetation.

The vegetation that exists along the open channel is mapped as Locally Significant Vegetation and is proposed to be retained whilst still allowing the development to be accommodated on the site.

There are fifty-nine (59) car parking spaces proposed on site. Five (5) universally accessible spaces are proposed. There are nine (9) spaces and one (1) universally accessible space proposed adjacent to the Service station ancillary store and thirty-seven (37) spaces, including two (2) universally accessible spaces proposed elsewhere on the site and closer to the retail warehouse building. An additional seven (7) spaces are proposed towards the south of the site and five (5) staff parking spaces are proposed behind the service station building.

Landscaping is proposed around the site and a large area of the site to the east of the development footprint will be retained. The total area of landscaping and natural vegetation is 3,566 square metres and thirty-six (36) per cent of the site.

Minor change to the application

Through the application process, the application was changed to remove a Reconfiguring a Lot component originally part of the development application.

The layout of the proposed development also changed three times due to the requirements of the planning scheme and the State department conditions preventing access to Yeppoon Road.

On 20 March 2019, the proposal plans for the retail warehouse were amended to remove the building footprint from within the easement located in the north-western corner of the site.

Site and Locality

The subject site is 1.696 hectares in area, is relatively flat to the south and west of the waterway and is currently vacant. The site contains a waterway that traverses the site from the west towards the south-east. The site contains a significant amount of mature vegetation to the east and along the waterway.

The site contains a major electricity line and is burdened by an easement to the north-west corner. The site is located within an established urban area and is surrounded by industrial, residential and commercial land uses. The site has two road frontages, one to Yeppoon Road to the south and Tabone Street to the west.

The site also contains future trunk stormwater (D-16 – Yeppoon Creek tributary E drainage system) which connects with Yeppoon Creek.

Matters for Consideration

This application has been assessed by relevant Council planning, engineering, environmental health, and other technical officers as required. The assessment has been in accordance with the Integrated Development Assessment System provisions of the *Sustainable Planning Act 2009*, based on consideration of the relevant State Planning Policies; State Government guidelines; the Council's Town Planning Scheme, Planning Policies and other general policies and procedures, as well as other documents as considered relevant.

Development Engineering Unit– 28 February 2019

Supports, subject to conditions.

Natural Resource Management – 6 March 2019 (via email)

Supports, subject to conditions.

Environmental Health – 16 August 2017

No comments.

Town Planning Comments

State Planning Policy – July 2017

Part E of the State Planning Policy provides for interim development assessment benchmarks for local government until such time as the State Planning Policy is reflected within the planning scheme. The state interests identified are listed below.

Liveable Communities – not applicable

The development is for a commercial and industrial land use.

Mining and extractive resources – not applicable

The sites are not within a Key Resource Area.

Biodiversity – complies

The subject site contains Matters of State Environmental Significance regulated vegetation (category R and intersecting a watercourse). The development avoids the watercourse. The driveway will cross the category R vegetation, however the site is already clear and the significant vegetation is largely retained due to the planning scheme requirements.

Coastal environment – not applicable

The development is not in a coastal environment.

Water quality – Applicable

The development is for a Material Change of Use and the lot size is greater than 2,500 square metres, however, there are no dwelling houses proposed and the development will result in a net impervious area greater than twenty-five (25) per cent.

Assessment benchmarks – Water quality	
<p>Development is located, designed, constructed and operated to avoid or minimise adverse impacts on environmental values arising from:</p> <ul style="list-style-type: none"> (a) altered stormwater quality and hydrology (b) waste water (c) the creation or expansion of non-tidal artificial waterways (d) the release and mobilisation of nutrients and sediments. 	<p>A stormwater report was lodged as part of the application and will be required to be refined as part of a future Operational Works application and the detailed design of the proposal. The stormwater network will remain in its natural state and the development is located outside of the waterway. The report also identifies that stormwater quality measures will be implemented including a SPEL system which captures the runoff and separates the chemicals before water is discharged.</p>
<p>Development achieves the applicable stormwater management design objectives outlined in tables A and B (appendix 2)</p>	<p>A stormwater report was lodged as part of the application and will be required to be refined as part of a future Operational Works application and the detailed design of the proposal.</p>
<p>Development in a water supply buffer area avoids adverse impacts on drinking water supply environmental values.</p>	<p>There is no anticipated impact on the drinking water supply.</p>

Emissions and hazardous activities – Complies

The development involves a Service station which is an industrial development and involves the storage of hazardous chemicals, dangerous goods and flammable or combustible substances. The Service station development is setback from Yeppoon Road and it is buffered by the retail warehouse building to the west, where residential development is located. The development to the north of the Service station is largely vacant, with the

closest building being approximately seventy metres way to the north-east (the SES building).

The storage of hazardous chemicals, dangerous goods and flammable or combustible substances will be in accordance with the relevant Australian Standards and Workplace Health and Safety requirements. Further, the development of a Service station is consistent with the zone of the land.

Natural Hazards, risk and resilience – justified

The site is mapped as a flood hazard area under both the Queensland floodplain assessment mapping and the Local Government flood mapping area. Further, the eastern side of the site is mapped in the bushfire hazard - potential impact buffer area.

Assessment benchmarks – natural hazards, risk and resilience	
Erosion prone areas within a coastal management district	
(1) Development does not occur in an erosion prone area within a coastal management district unless the development cannot feasibly be located elsewhere and is: (a) coastal-dependent development; or (b) temporary, readily relocatable or able to be abandoned development; or (c) essential community infrastructure; or (d) minor redevelopment of an existing permanent building or structure that cannot be relocated or abandoned.	Not applicable
(2) Development permitted in (1) above, mitigates the risks to people and property to an acceptable or tolerable level.	Not applicable
Bushfire, flood, landslide, storm tide inundation, and erosion prone areas outside the coastal management district:	
(3) Development other than that assessed against (1) above, avoids natural hazard areas, or where it is not possible to avoid the natural hazard area, development mitigates the risks to people and property to an acceptable or tolerable level.	Justified The development is not located in the bushfire buffer area. The vegetation on the site is isolated in terms of bushfire hazard reduction, as it is separated by development to the north and Yeppoon Road to the south. The site has small areas of drainage problem under the <i>Livingstone Shire Planning Scheme 2005</i> . Under the <i>Livingstone Planning Scheme 2018</i> , the waterway is mapped as flood hazard area with small areas of drainage problem. The 2018 mapping is the most recent information and the development is located outside of the mapped flood hazard overlay. There is a small area of drainage problem which will be obsolete through the development of the vehicle driveways and car parking areas.

All natural hazard areas:	
(4) Development supports and does not hinder disaster management response or recovery capacity and capabilities.	<p>Complies</p> <p>The development is located outside the mapped bushfire hazard area.</p> <p>As stated above, the site has small areas of drainage problem under the <i>Livingstone Shire Planning Scheme 2005</i>. Under the <i>Livingstone Planning Scheme 2018</i>, the waterway is mapped as flood hazard area with small areas of drainage problem. There will be no increase the exposure of life and property to the hazard due to the development being located outside of the mapped flood hazard overlay. There is a small area of drainage problem which will be obsolete through the development of the vehicle driveways and car parking areas.</p> <p>The development on the site has a tolerable risk as a condition requiring the major overland flow path to be contained within an easement will be included.</p>
(5) Development directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties.	<p>Complies</p> <p>The development is located outside the mapped bushfire hazard area.</p> <p>The development is located outside of the mapped flood hazard area. Further, a condition requiring the major overland flow path to be contained within an easement will be included, ensuring the development is outside the major flow. Further, the application is supported by a stormwater report and will be subject to an Operational Works application. This will also ensure the stormwater runoff does not create a non-worsening effect.</p>
(6) Risks to public safety and the environment from the location of hazardous materials and the release of these materials as a result of a natural hazard are avoided.	<p>Complies</p> <p>The development is located outside the mapped bushfire hazard area.</p> <p>The development will involve hazardous materials, such as fuel in the service station. Hazardous materials from the Service station development will be suitably managed through the bunding of the service station ground and installation of a stormwater treatment device (SPEL system).</p>
(7) The natural processes and the protective function of landforms and the vegetation that can mitigate risks associated with the natural hazard are maintained or enhanced.	<p>Complies</p> <p>There is no proposed change to the existing vegetation to change the level of bushfire hazard.</p> <p>The waterway will be retained in its natural state to retain the natural flood function of the area. An Operational Works application will also be required to ensure the development suitably manages the stormwater discharge.</p>

Energy and water supply – applicable

The site contains major electrical infrastructure. Ergon Energy was an advice agency for the application.

Infrastructure integration – complies

The development will utilise existing services and networks available, such as the water supply network, stormwater network, Tabone Street as the Local Government road network and Yeppoon Road as part of the State road network. The site will utilise the electricity supply available to the site and will connect into the sewer network.

Transport infrastructure – Complies

The development has frontage to Yeppoon Road, however access to Yeppoon Road has not been permitted by the Department of State Development, Manufacturing, Infrastructure and Planning through conditions on the Concurrence Agency Response. Access will be via Tabone Street, which is an Urban Minor Collector under the *Livingstone Planning Scheme 2018*.

Strategic airports and aviation facilities – not applicable

There are no airports or aviation facilities surrounding or within proximity to the site.

Strategic ports – not applicable

There are no airports or aviation facilities surrounding or within proximity to the site.

Central Queensland Regional Plan – October 2013

The *Central Queensland Regional Plan* commenced in October 2013 and is not appropriately reflected within the *Livingstone Shire Planning Scheme 2005*. The regional plan aims to provide policy direction for decision making for the co-existence of extractive/mining industry, agriculture and priority living areas. In this regard, an assessment has been completed below:

Regional Policy	Response
Regional outcome Agriculture and resources industries within the Central Queensland region continue to grow with certainty and investor confidence.	
Regional policy 1 Protect Priority Agricultural Land Uses within Priority Agricultural Areas.	Not applicable Livingstone Shire Council local government area does not contain any priority agricultural areas.
Regional policy 2 Maximise opportunities for co-existence of resource and agricultural land uses within Priority Agricultural Areas.	Not applicable Livingstone Shire Council local government area does not contain any priority agricultural areas.
Regional outcome The growth potential of towns within the Central Queensland region is enabled through the establishment of Priority Living Areas. Compatible resource activities within these areas which are in the communities' interest can be supported by local governments.	
Regional policy 3 Safeguard the areas required for the growth of towns through the establishment of Priority Living Areas (Schedule 1).	Not applicable The subject site is not located in proximity to a Priority Living Area.

<p>Regional policy 4</p> <p>Provide for resource activities to locate within a Priority Living Area where it meets the communities' expectations as determined by the relevant local government.</p>	<p>Not applicable</p> <p>The proposal does not involve a resource activity.</p>
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Other Acts

Not applicable.

Planning Scheme Shire Wide Outcomes

The Shire Wide Desired Environmental Outcomes, as identified by section 2.2 of the *Livingstone Planning Scheme 2005* are as follows:

- (a) *Development does not adversely affect the values of the Shire's natural environment including coastal areas, wetlands, beaches, headlands, waterways, protected areas, undeveloped hillslopes, and areas of significant native vegetation, from any adverse effects accruing from clearing, soil degradation and pollution, due to erosion and contamination, acidification, salinity, waste disposal and any modifications to natural processes.*

Complies: The development retains the natural vegetation along the waterway and retains the waterway in its natural state. The development is setback from the edge of the waterway bank to ensure protection of trees and minimise erosion. The Service station refuelling area will be bunded to capture any run off that is contaminated.

- (b) *Development does not adversely affect the quality and quantum of water available for a range of consumptive uses throughout the Shire.*

Justified to comply: A water network analysis report has been prepared for this development. The report recommends non-trunk works to be undertaken. The reticulated water main (150 millimetre diameter) located at Tabone Street is not adequate to serve the proposed development for both general use and firefighting use. Water network augmentation must be carried out as result of the proposed development. In this regard, a connection between the trunk main located on the eastern verge of Tanby Road must be provided with the reticulated water main located on the western verge of Tanby Road. A condition to this effect will be included.

- (c) *Risks to safety, property and the environment are not increased by the interaction of development and natural or other hazards, including flooding, bushfires, disturbance of acid sulfate soils, storm tide, cyclonic weather events and landslide.*

Complies: The site is mapped as having areas of drainage problem and being below twenty (20) metres Australian Height Datum. Excavation is not anticipated to occur below five (5) metres Australian Height Datum therefore minimising the risk of the disturbance of acid sulfate soils on the site. Further, the site will be developed to ensure water run-off is discharged appropriately to the stormwater network.

- (d) *Development protects the economic values of natural resources, including good quality agricultural land, extractive and mineral resources, vegetation, and water.*

Complies: The proposed development footprint was amended throughout the application process to ensure the vegetation along the waterway and to the east was able to be retained in its natural state.

- (e) *Development provides a benefit to and satisfies an economic demand of residents of the area in which it is located.*

Justified to comply: The proposed location of the Service station will not only service the residents of the area but also the wider locality, tourists and travellers. The site is on a main road into and out of Yeppoon, providing a third service station option on the roundabout. The Retail warehouse building will provide an opportunity for larger scaled businesses to locate in the Yeppoon locality and will service a wider catchment than just the area in which it is located.

- (f) *Opportunities for maintaining and improving employment resulting from advancements in information technology and emerging business and industry trends are maximised.*

Not applicable: It is not considered that the development is an advancement in information technology nor emerging business and industry trend.

- (g) *The Shire's tourism industry is strengthened and expanded based on the sustainable use of natural, cultural, and man-made assets, and the orderly provision of services and facilities.*

Not applicable: The development does not strengthen or expand the tourism industry.

- (h) *Yeppoon continues to function as the main business centre and administrative hub for the Shire.*

Complies: The development will not detract from Yeppoon as the main business centre and administrative hub. The development provides industrial land use and large scaled warehouses for bulky goods which are also suited outside the main business centre given the larger building areas proposed.

- (i) *Development promotes the efficient use, and provides for the orderly expansion of the Shire's movement system, including motorised and non-motorised modes.*

Complies: There is no expansion of the Shire's movement systems as a result of the proposed development. The development proposes all traffic movements to and from Tabone Street on the western site boundary. There will be road upgrades to facilitate traffic movements, including a new turning lane and road markings required. Tabone Street is a higher order road and also connects with Yeppoon Road which is a State-controlled road.

Tabone Street is already developed with a footpath along eastern side and the Concurrence agency response requires a footpath along the southern side of the site to be constructed.

- (j) *Development occurs in an area:*

- (i) *which is intended for the development as identified by the outcomes for zoned land; and*
- (ii) *in which services and facilities required in respect of the development are existing, planned or provided by the development.*

Complies: The Service station component of the development is a use which is preferred to establish in the Industry zone, being the zoning for the subject site. The Retail warehouse component of the development, even though requiring impact assessment, can occur in the Industry zone if able to meet the overall outcomes, which it can achieve. The Retail warehouse will operate normal retail trading hours providing additional security benefits within the area.

The development is compatible with the development established to the south of Yeppoon Road, along Hoskyn Drive and Fairfax Court. The development will co-locate with the Service station on the same site which is a preferred land use and the development is not anticipated to adversely affect the amenity of the locality.

Under the *Livingstone Planning Scheme 2018*, which commenced on 1 May 2018, the site is in the Specialised centre zone whereby a Showroom development (being a

similar definition to a Retail warehouse) and Service station development are both preferred uses to establish in the zone.

(k) *Development does not adversely affect:*

- (i) *the community's health and safety; or*
- (ii) *the amenity enjoyed by people in different areas of the Shire.*

Complies: The proposed development is not anticipated to affect the community's health and safety due to the detailed reporting and works proposed to undertake the land uses on the subject site. Traffic, stormwater and environmental reports have been prepared to address site specific issues and support the development on the subject site. The Service station is setback from sensitive land uses to the west, and the development site is buffered by Tabone Street to the west as well.

The site is located along the main road being Yeppoon Road. The development incorporates landscaping into the site layout to soften the development to the streetscape. The landscaping is proposed a minimum two-metre wide buffer along Yeppoon Road and Tabone Street frontages.

The development is consistent in terms of layout, scale and aesthetics as the development to the south of Yeppoon Road.

(l) *Development reflects the community's reasonable expectations and harmonises with the natural environment and does not prejudice the Shire's existing scenic amenity, particularly along the Capricorn Coast.*

Complies: The subject site is zone industrial whereby it is reasonable to expect the community anticipates that the site may be developed with an industrial land use or development consistent with the style of development to the south of Yeppoon Road (along Fairfax Court and Hoskyn Drive). During the assessment of this application, the new planning scheme was publically notified and commenced which changed the zone for the property to the Specialised centre zone, whereby both proposed uses have been identified as preferred uses to occur in the zone.

(m) *The community values of places and landscapes reflecting the community's history and identity are not detrimentally affected by development.*

Complies: The design of the development has allowed for the natural landscape along the waterway to be retained, along with the natural vegetation.

The above assessment of the proposal demonstrates that the development will be consistent with all Shire Wide Desired Environmental Outcomes, other than items (b) and (e). This matter is discussed in later in this report, within the context of whether 'sufficient grounds' exist to support the development despite this conflict, in accordance with Section 326(b) of *Sustainable Planning Act 2009*.

Industry Zone

The proposal is consistent with the Purpose and Overall Outcomes of the Industry Zone which states:

- (a) *The purpose of the Industry Zone Code is the achievement of the overall outcomes sought for the Industry Zone.*
- (b) *The overall outcomes sought for the Industry Zone are:*
 - (i) *Preferred land use:*
 - (A) *in the light industry precinct is all industrial purposes defined in the planning scheme other than environmentally assessable industry, extractive industry, and general industry;*
 - (B) *in the general industry precinct is all industrial purposes defined in the planning scheme.*
 - (ii) *Land use (other than preferred land use) occurs only if:*

- (A) it provides additional security benefits to the locality by operating outside of peak industrial hours; or*
- (B) it is compatible with surrounding industrial purposes by being of similar scale, intensity and character; and*
- (C) it supports preferred land use; and*
- (D) it does not adversely affect the amenity of the locality; and*
- (E) it is one of the following uses located in the following precincts:*
 - a. in the light industry precinct:*
 - i. Adult products shop; or*
 - ii. Arts and crafts centre; or*
 - iii. Caretaker's residence; or*
 - iv. Funeral parlour; or*
 - v. Garden centre; or*
 - vi. Indoor entertainment; or*
 - vii. Indoor sports facility; or*
 - viii. Local utility; or*
 - ix. Produce store; or*
 - x. Retail warehouse; or*
 - xi. Rural service industry; or*
 - xii. Sales or hire premises; or*
 - xiii. Special purpose; or*
 - xiv. Take-away food premises (not exceeding 100m²); or*
 - xv. Telecommunications facility – (medium impact); or*
 - xvi. Veterinary clinic; or*
 - b. in the general industry precinct:*
 - i. Caretaker's residence; or*
 - ii. Local utility; or*
 - iii. Take-away food premises (not exceeding 100m²); or*
 - iv. Telecommunications facility – (medium impact).*
- (iii) Development provides for a range of industrial activities which:*
 - (A) are developed in appropriate locations which are convenient to high order transport networks, and*
 - (B) satisfy demand for industrial use, and*
 - (C) maximise local employment opportunities.*
- (iv) Industrial development is well-designed and characterised by:*
 - (A) subdivision layout which provides for the range of preferred uses to be conducted in the zone; and*
 - (B) the provision of infrastructure services commensurate with the type and scale of development; and*

- (C) premises that are designed to be sympathetic to the surrounding natural and built environment by contributing to the retention or attainment of a desirable streetscape and character.
- (v) Development provides appropriate interfaces between industrial development and adjoining land located in another zone.
 - (vi) Development for services and trades uses and related activities which are characterised by a high level of public contact are preferred in the Light Industry precinct.
 - (vii) Development for manufacturing, storage and distribution activities which potentially have a high impact are appropriate for location in the General Industry precinct.
 - (viii) Development for noxious and hazardous industry where it is demonstrated that the likely impact of the development in terms of air emissions, trade wastes, noise emissions, risk from fire or explosion, level and type of traffic generated and any other relevant matters is commensurate with the particular locality are only appropriate in the General Industry precinct.
 - (ix) Non-industrial purposes are established only where ancillary to and necessarily associated with development for industrial purposes or providing immediate support services for use by industry and workers.

A Service station is a preferred use within the Light Industry Precinct. A Retail warehouse development is a consistent use within the Industry Zone, Light Industry Precinct in accordance with Overall Outcome (b), (ii) as follows:

- a) The proposed Retail warehouse development will provide security benefits to the locality by operating in business hours and providing activation of the area throughout the day;
- b) The Retail warehouse is compatible with the development to the south of Yeppoon Road as it is of similar scale, intensity and character;
- c) The development supports the preferred land use by co-locating with the Service station which is proposed to operate twenty-four hours, seven days per week. It will co-locate trips to the site for the purchase of bulky goods, fuel and ancillary store goods.
- d) The site will be appropriately landscaped to soften the development to the streetscapes. The buildings are setback from each road frontage as to not have a dominating appearance. The large blank walls will be articulated through variations in colours and materials.

The development provides a mix of industrial activities and is located adjacent to a high order transport network being Yeppoon Road. There will also be additional employment opportunities through the construction and operation of both proposed land uses.

Industry Zone Code requirements

The following is an assessment of the proposal against the Industry Zone Code, which includes an assessment of the development against the relevant specific outcomes of the code.

Specific Outcomes		Response
Land use		
O1	Land use is: (a) a preferred use (as identified in the overall outcomes of this code); or (b) a use (as identified in the overall outcomes of this code) which: (i) provides additional security	Complies The proposed Service station is a preferred land use. The proposed Retail warehouse provides additional security benefits to the site through

Specific Outcomes		Response
	<p>benefits to the locality by operating outside of peak industrial hours; or</p> <p>(c) a use (as identified in the overall outcomes of this code) which:</p> <ul style="list-style-type: none"> (i) is compatible with surrounding industrial purposes by being of similar scale, intensity and character; and (ii) supports preferred land use; and (iii) does not adversely affect the amenity of the locality. 	<p>the activation of the site for retail sales. Further, it is compatible with surrounding development and supports the preferred land use. The proposed landscaping will soften the development on the streetscape and large walls have been articulated with window and door openings and variations in materials and colours.</p>
Subdivision Design		
O2	<p>Reconfigured lots are designed and developed with:</p> <ul style="list-style-type: none"> • sufficient area and suitable proportions for preferred or consistent uses; • adequate frontage for safe and convenient vehicular and pedestrian access; • suitable areas within each lot for the location of relevant activities and works, and: • do not expose people and works to unacceptable risks from flooding or other hazards. 	<p>Not applicable</p> <p>Subdivision is not proposed.</p>
Character and Amenity		
O3	<p>Uses and works are located, designed and operated to minimise adverse impacts on:</p> <ul style="list-style-type: none"> • existing environmental conditions relating to air, water and soil, • the amenity of adjacent properties and public spaces, • visual quality of landscapes in terms of: <ul style="list-style-type: none"> ii. reducing ribbon development and sprawl, iii. loss of green break separations, • obstructing significant local and distant views of prominent natural features and landmarks, and • the health and safety of people using the premises and adjacent premises. 	<p>Complies</p> <p>The existing, mature vegetation along the waterway will be retained in its natural state, protecting the waterway and environmental conditions.</p> <p>The disturbed areas to accommodate the buildings and driveways will be managed by an erosion and sediment control plan during construction to minimise environmental impacts. Further the areas will be sealed and stormwater will be managed in accordance with the</p> <p>The area is characterised by industrial and commercial uses whose amenity will not be impacted by the proposal. The development is setback from the property boundaries and incorporates landscaping to the road frontages to soften the development to the street.</p> <p>The natural vegetation will be retained, protecting the green break along the waterway.</p>

Specific Outcomes	Response
	<p>The development will not obstruct local or distant views as it is at a lower elevation and setback from Yeppoon Road.</p> <p>The health and safety of users of the premises is adequately managed through the direction of traffic via on-site markings and pedestrian footpaths. Buildings will be required to be certified and the service station will be required to comply with Australian Standards and workplace health and safety requirements for the fuel aspects, which are requirements outside the assessment of the land use.</p>
<p>O4 Buildings and structures are:</p> <ul style="list-style-type: none"> • of a type and scale which have an attractive, functional appearance; • constructed of materials and finishes compatible with other development in the area; • integrated with the physical attributes of the site, including appropriate provision for access to natural light and ventilation, privacy, noise attenuation, drainage, landscaping, outlook and off-street parking; and • designed to adequately screen materials stored outside buildings when viewed from adjacent premises and public spaces 	<p>Complies</p> <p>The proposed Service station building is single storey and the canopy, which is marginally higher than the building, is 4.6 metres to the underside of the canopy and 5.52 metres to highest point. The Retail warehouse building is 9.5 metres in height. Both buildings are less than the height requirement of twelve (12) metres. The buildings are consistent in height and scale as the development to the south of Yeppoon Road.</p> <p>Both the retail warehouse and service station building are setback in excess of six metres from the road frontages. The Service station canopy is 21.731 metres from Yeppoon Road and the Retail warehouse building is approximately 12.4 metres (not including the landscaping) to the eaves of the building.</p> <p>The site cover, based on the service station and retail warehouse buildings and the canopy, is 13.17 per cent, well below the acceptable outcome of seventy (70) percent.</p> <p>The materials are compatible with the development to the south of Yeppoon Road.</p> <p>All buildings have adequate access to natural light and ventilation through setbacks and window openings. The buildings are setback from the main road to reduce noise impact and landscaping is proposed on the site with a total of 3,566 square metres of landscaping proposed (which does not include the existing vegetation). There is adequate car parking also provided on-site and available for both land uses. All stormwater drainage will be in accordance with the stormwater management report and a future operational works application.</p> <p>The main entrances to the retail warehouses are visible from either Tabone Street and Yeppoon Road and the Service station</p>

Specific Outcomes		Response
		building entrance will be visible from Yeppoon Road. The vehicle unloading and loading for the retail warehouses will be behind the building and for the service station will be next to the service station store which is the most suitable location. The Service station store is screened to the east by vegetation and partially screened by the retail warehouse building to the west.
O5	<p>For a noise sensitive place, activities are laid out and buildings are designed and constructed to mitigate to a level, that does not unreasonably adversely affect the health and safety of people using premises, the effects of noise from:</p> <ul style="list-style-type: none"> • Traffic on major roads (including State-controlled roads); or • Operations within railway corridors. 	<p>Not applicable</p> <p>The proposal does not involve a noise sensitive place.</p>
Cultural Heritage Values		
O6	Cultural heritage values associated with the landscape features of a site and its surroundings or relics of past activities found during development of the site are respected and are not subjected to changes that would significantly reduce the capacity to appreciate those areas, places and sites, their character or the memories or history they represent, in terms of visual detraction, public accessibility or physical change, damage or removal.	<p>Not applicable</p> <p>The subject site and adjoining properties are not identified as a Heritage Place special management area listed in Schedule 3 of the <i>Planning Scheme 2005</i>.</p>
Flood Immunity		
O7	Development is immune to flood events which result in unacceptable risk to health and safety or unacceptable risk of property damage.	<p>Complies</p> <p>The property is partially located in a drainage problem area. The site also contains trunk stormwater infrastructure which follows the natural gully and connects to Fig Tree Creek and the ocean to the south east.</p> <p>A stormwater management report has been prepared in support of the development.</p>
Community Safety		
O8	<p>Personal safety and property security are optimised through the design of buildings and spaces incorporating:</p> <ul style="list-style-type: none"> • Opportunities for surveillance; • Clear definition of boundaries between private and public spaces; and • Robust construction materials. 	<p>Complies</p> <p>The proposed Service station has been designed as so the ancillary store overlooks the refuelling area.</p> <p>The Retail warehouse development is oriented to overlook the public car parking areas and towards Tabone Street.</p> <p>The boundaries will be landscaped but not</p>

Specific Outcomes		Response
		<p>fenced to identify the site boundaries.</p> <p>The materials of the retail warehouse building are texture coated concrete with glazing to the frontages which is considered robust materials. The Service station is also anticipated to be constructed of robust materials.</p>
Vehicle Parking and Movement		
O9	<p>Development is provided with an on-site parking and movement system designed and constructed to:</p> <ul style="list-style-type: none"> be integrated with the site layout including: <ul style="list-style-type: none"> iv. direct access to a road providing a level of service required to accommodate traffic generated by the use; and v. appropriately designed footpath crossovers; and vi. provision for safe pedestrian movement between public footpath and facility entry points; and accommodate all modes of transport (including motor vehicles and bicycles) generated by the use; and facilitate non-discriminatory accessibility; and provide for safe and efficient loading and unloading of goods; and allow for vehicle queuing necessary for the use; and provide for passenger set down/pick up necessary for the use; and facilitate public access to the foreshore and riparian open space networks. 	<p>Complies</p> <p>The minimum car parking requirement under Schedule 2 for a Service station is a minimum of five (5) spaces, queuing spaces for one (1) vehicle per bowser and the site must be accessible by (at a minimum) an articulated vehicle. Nine (9) car parking spaces and one (1) universally accessible space are provided adjacent to the ancillary service station store. There is adequate space for queuing of one vehicle per bowser and the site is accessible by a fuel tanker therefore, the Service station is compliant with the requirements of Schedule 2.</p> <p>The minimum car parking requirement under Schedule 2 for a Retail warehouse is one space per thirty square metres of Gross Floor Area. The site must also be accessible by an articulated vehicle. Based on a gross floor area of 1,373 square metres, a total of 46 (rounded up from 45.76) car parking spaces are required to be provided on-site. A total of fifty (50) spaces are provided on-site with two (2) of these spaces being universally accessible and five (5) spaces located behind the service station building for staff parking. Further, a one-way service lane has been provided to the rear of the retail warehouse building to facilitate deliveries and will be able to accommodate an articulated vehicle.</p> <p>The car parking and manoeuvring areas will be sealed.</p> <p>There is adequate area on site for an articulated vehicle (nineteen (19) metres) to enter and exit the site in a forward gear. The articulated vehicle (and subsequently heavy rigid vehicle) will access the service station loading bay, as well as the two loading bays behind the Retail warehouse building.</p> <p>There is an internal traffic conflict with vehicle movements between the two-way traffic flow when entering the re-fuelling area of the Service station and the traffic exiting the re-fuelling area of the Service station. Traffic markings will be required to demonstrate there is no conflict and this can be</p>

Specific Outcomes	Response
	<p>conditioned to be demonstrated in a future Operational Works application.</p> <p>There is no requirement to provide access to the riparian area and there is no requirement for set down and pick up for both land uses.</p>
Infrastructure	
<p>O10 Water supply, sewerage, drainage, roads, power and communications are provided to meet the appropriate standards of service and construction at least whole-of-life cost, which:</p> <ul style="list-style-type: none"> comprise components and materials that are: <ul style="list-style-type: none"> vii.readily accessible and available; and viii.robust and reliable in terms of operational life and purpose; and ix. easily maintained without unnecessarily requiring specialist expertise or equipment; and are integrated with the design, construction and operation of existing systems and facilitate orderly provision of future systems. 	<p>Complies</p> <p>All services are available to the site.</p> <p><u>Water</u></p> <p>A water network analysis report has been prepared for this development. The report recommends non-trunk works to be undertaken. The reticulated water main (150 millimetre diameter) located at Tabone Street is not adequate to serve the proposed development for both general use and firefighting use. Water network augmentation must be carried out as result of the proposed development. In this regard, an interconnection between the trunk main located on the eastern verge of Tanby Road must be provided with the reticulated water main located on the western verge of Tanby Road. A condition to this effect will be included.</p> <p><u>Stormwater</u></p> <p>Future trunk stormwater infrastructure (trunk stormwater infrastructure (D-16), Yeppoon Creek Tributary E drainage system) traverses through Lot 50 on SP207759 in a north-south direction. A stormwater report was lodged as part of the application and will be required to be refined as part of the Operational Works application and the detailed design of the proposal.</p> <p><u>Sewer</u></p> <p>Only a part of the site will be able to be serviced with a Standard Sewer Service connection in accordance with Council's Desired Standard of Service (DSS) obligations under the Water Supply (Safety & Reliability) Act. A new gravity sewer main to be designed and constructed along the northern verge of Yeppoon Road and connected to the existing reticulated sewerage gravity main has been conditioned.</p> <p><u>Transport</u></p> <p>The site has two road frontages, one to Yeppoon Road to the south and one to Tabone Street to the west. Under the <i>Livingstone Planning Scheme 2018</i>, Tabone Street is an Urban Minor Collector. Through the Concurrence agency response from the</p>

Specific Outcomes	Response
	<p>State Assessment and Referral Agency, access to Yeppoon Road was not permitted. All access is proposed to and from the Council-controlled road, Tabone Street. There is an existing access crossover, which will be required to be upgraded through an Operational Works application to facilitate all ingress and egress of both land uses.</p> <p><u>Electricity</u></p> <p>Electricity is available in the locality for the site to be able to be connected via the relevant authority. It is noted that Ergon Energy was an advice agency as the site has an electricity easement in favour of Ergon Energy.</p> <p><u>Telecommunications</u></p> <p>Telecommunication services are available in the locality and the site will be able to connect as required.</p>

As evident from the above assessment, the proposal complies with the various requirements of the Industry Zone Code.

Special Management Areas Code The subject site is affected by three (3) of the elements within the Natural Features Code: (i) Acid Sulphate Soil (Overlay Map O8);

(ii) Drainage Problem (Overlay Map O2);

(iii) Waterways (Overlay Map O3).

Specific Outcomes	Response
Acid Sulphate Soils Special Management Area	
<p>O4 Natural or built environments and human health are not harmed by the production of acidic leachate resulting from development in areas of known and potential acid sulfate soils by:</p> <p>(a) avoiding disturbance to areas of acid sulfate soils that would produce or contribute to acidic leachate,</p> <p>(b) treating and managing the disturbance of acid sulfate soils to minimise the generation of acidic leachate within manageable levels,</p> <p>(c) treating and managing surface and groundwater flows from areas of acid sulfate soils to minimise environmental harm.</p>	<p>Complies</p> <p>There will be excavation required to facilitate the installation of the fuel tanks associated with the Service station. It is not anticipated that the excavation will be below five (5) metres Australian Height Datum as the development of the Service station will be located around nine (9) and ten (10) metres Australian Height Datum. A condition in the Site Works will be included to reference acid sulfate soils.</p>
Waterway Special Management Area	
<p>O16 There are no significant adverse effects on identified waterways in terms of:</p>	<p>Complies</p> <p>Following a site inspection with the applicant, the significant vegetation and trees were</p>

Specific Outcomes		Response
	(a) habitat; (b) riparian vegetation; (c) water quality; (d) water flow; (e) landscape quality and amenity; and (f) recreational value.	identified. The application was changed to ensure the development footprint does not impact or require the waterway to be changed. The waterway will be retained in its natural state and most of the riparian vegetation will be retained in its natural state.
O17	Riparian land is preserved for public use where the land is required for ecological, open space or recreation functions including: (a) public use; (b) access for maintenance; (c) linking core and remnant habitat areas (d) protecting water quality and ecological processes; and (e) other public benefit.	Not applicable The riparian land is not for public use or open space.
Drainage Problem Special Management Area		
O18	Development levels are set above the design flood level to reduce property damage and, where applicable, ensure public safety.	Complies There are small areas mapped as drainage problem area. The drainage problem areas will be resolved and mitigated through the site works of the development.

Capricorn Coast Landscape Code

(1) Purpose

- (a) *The purpose of the Capricorn Coast Landscape Code is the achievement of the overall outcomes sought for the special management area identified on Overlay Map O9.*
- (b) *The overall outcomes sought for the Capricorn Coast Landscape special management areas are:*
- (i) *Development integrates all aspects of engineering and architecture with the natural features and characteristics of the site to minimise any adverse effects on the environment and landscape.*
 - (ii) *Areas identified as having landscape values are protected from development or the effects of development that may reduce those values in terms of physical changes to the natural environment, damage or removal of vegetation, prominence of the development within its landscape setting and the extent of associated visual detractor.*
 - (iii) *Vegetation outside the immediate envelope of a building or structure is preserved*
 - (iv) *Development is not visually detractive when viewed from a Level 1 Viewer Place184 in terms of:*
 - (A) *scarring by exposed earthworks; or*
 - (B) *canopy removal on hilltops, prominent headlands, ridges and hillslopes; or*
 - (C) *modification of the natural environment which dominates the landscape.*

- (v) *Development does not adversely impinge on the integrity of identified 'green break' areas which provide a green-belt of natural landscape defining the limits of each of the coastal towns/localities.*

The site is also identified as being within the Capricorn Coast Landscape Management B Precinct (Overlay Map O9).

Specific Outcomes		Response
O1	The height of buildings and structures, except in the Yeppoon Central zone is not greater than: <ul style="list-style-type: none"> 9 metres if within 20 metres of the frontage to the Scenic Highway, Farnborough Road, Yeppoon Road, Tanby Road and Emu Park Road; or elsewhere, 12 metres. 	Complies Both buildings are setback in excess of twenty (20) metres from Yeppoon Road. The service station canopy is the closest to Yeppoon Road and is 5.52 metres to the top of the roof, compliant with the height requirement.
O2	The slope of natural ground level of any development site is not greater than 15%.	Complies The land where the development is located is generally flat, with a slight fall towards the east. The land does not exceed fifteen (15) per cent slope.
O3	Clearing except in association with other assessable site development is inconsistent development.	Complies Minimal clearing will occur as a result of the proposed development. Council has worked with the developer to ensure the natural, mature vegetation is retained on site to protect the values along the waterway.
O4	Buildings and structures are not sited above 50m AHD.	Complies The site is not located above fifty (50) metres Australian Height Datum. The highest contour, to the west of the site, is thirteen (13) metres Australian Height Datum.
O5	Buildings and structures are constructed primarily of non-reflective materials or if reflective materials form part of a building or structure, the level of light reflectivity of the material is not greater than 10%.	Complies There is no reflective materials identified in the application.
O6	Buildings and structures including infrastructure are constructed in materials that complement the coastal location and blend with the surrounding area in terms of colour and texture.	Justified to comply The proposed colours are not complementary to the coastal location nor do they blend with the surrounding area; however, the frontage of the site will be landscaped to soften the development to Yeppoon Road. The colours proposed for the Service station are consistent with the proposed service station brand and not inconsistent with treatment of buildings in the surrounding location. The building will be hidden behind the line of the retail warehouse when entering Yeppoon and behind vegetation when leaving Yeppoon along Yeppoon Road. The canopy will be most visible however, is only a roof structure

Specific Outcomes		Response
		<p>and has a 920 millimetre edge, therefore the impact of the colour is considered to be minimal. Further, the setback will ensure that it is not a dominating feature on the entry way into Yeppoon.</p> <p>The architectural plans for the retail warehouse show whites, greys and small amounts of red and blue. The retail warehouse is setback from Yeppoon Road in excess of thirty (30) metres and will not be visually dominating when entering Yeppoon as it will not be seen until traffic is at the roundabout given the terrain.</p> <p>The colour schemes are considered suitable.</p>
O7	Retaining walls are restricted to a maximum of 1.5 metres vertical height.	<p>Not applicable</p> <p>No retaining walls have been proposed.</p>
O8	<p>Earthworks do not result in batter slopes that:</p> <ul style="list-style-type: none"> • have a vertical height greater than 3 metres; or • are steeper than 25%. 	<p>Not applicable</p> <p>Earthworks are not anticipated to result in batters having a vertical height greater than three metres or steeper than twenty-five percent. The land is generally flat to accommodate the land uses. The earthworks details will be looked at in the Operational Works application for site works.</p>
O9	<p>Earthworks and buildings are not located:</p> <ul style="list-style-type: none"> • across or result in the redirection of watercourses and natural drainage lines; or • to require the removal of vegetation which defines watercourses and natural drainage lines. 	<p>Complies</p> <p>The development has been located away from the waterway to protect the vegetation. There is no buildings over the waterway.</p>
O10	<p>In Landscape special management area – Precinct A, despite applicable minimum lot size and minimum frontage outcomes nominated in the Residential zone code, new lots are not less than 1 500 m² in area and comprise at least one discrete area of not less than 500 m² which:</p> <ul style="list-style-type: none"> • has a minimum dimension of 20 metres; and • is located at least 15 metres from the road fronting the lot; and • has a natural ground level slope not greater than 15%.to require the removal of vegetation which 	<p>Not applicable</p> <p>No subdivision is proposed and the land is not in the Residential Zone.</p>

As evident from the above assessment, the proposal complies with the various requirements of the Capricorn Coast Landscape Code and the colour scheme has been justified against the specific outcome.

Clearing Code

Whilst the code is not specifically called up by the scheme, it has been considered in this assessment as the site has locally significant vegetation mapped.

Officers have attended the site with the proponents to mark out the areas to be protected from development, which includes significant trees along the waterway. The development footprint was re-designed to ensure the vegetation identified at the site inspection was retained.

The site contains Regional Ecosystems RE11.11.4 which is *Eucalyptus crebra* woodland on old sedimentary rocks with varying degrees of metamorphism and folding and also RE11.11.20 which is *Eucalyptus platyphylla* woodland on old sedimentary rocks with varying degrees of metamorphism and folding. The vegetation follows the waterway.

A site survey was conducted on the 11 June 2017 by a consultant for the application. The results concluded there was no threatened flora species located on the site. There was one habitat tree identified through this inspection and officers were able to liaise with the applicant to ensure the mature habitat tree (to the north-west of the site) is retained through the redesign of the layout.

Specific Outcomes		Response
Vegetation Management		
O1	Development protects the nature conservation values and water quality of watercourses, wetlands, lakes and springs from degradation.	<p>Justified</p> <p>A large area of the site, towards the north and east is mapped as Locally Significant Vegetation. The site is within the Industry Zone and Council has been able to negotiate with the developer to ensure the mature, significant vegetation along the waterway is largely retained and not removed to accommodate the development. This has been achieved through a site inspection and the significant trees were identified. The layout of the development was subsequently changed and the waterway will be retained in its natural state.</p> <p>The development is close to the top of the bank towards the north, within approximately 1.5 metres to two (2) metres, and greater, however the driveway will be in this location and is a minimum of five (5) metre wide. Despite being impervious, it will provide an additional setback for the buildings to the vegetated area. The closest part of the proposed buildings is the Service station building. The natural ground is higher in this location and the waterway is further towards the east in this area.</p> <p>The layout suitably allows the site to be developed for uses preferred to occur in the zone, and also affords the protection of the vegetation along the waterway.</p>
O2	Areas identified (refer to PSM 10A & 10B – Locally Significant Vegetation) as containing locally significant vegetation	<p>Complies</p> <p>Limited clearing of remnant vegetation</p>

Specific Outcomes	Response
<p>are protected from development and its effects that may significantly reduce the values of the area in terms of:</p> <p>(a) damage or removal of vegetation;</p> <p>(b) loss of biodiversity;</p> <p>(c) loss of canopy cover and habitat;</p> <p>(d) visual detracting.</p>	<p>currently mapped under the Livingstone Planning Scheme as Locally Significant Vegetation is required for the proposed construction of the development. As stated above, Council has negotiated with the developer to retain a large area of existing vegetation, along the waterway. The majority of the canopy and habitat will be retained and the visual amenity on the entry into Yeppoon will be upheld through the retention of the established vegetation.</p>
<p>O3</p> <p>Viable networks of habitat are protected from damage or destruction which may lessen their value to sustain wildlife.</p>	<p>Complies</p> <p>An area of 5,934 square metres of existing vegetation will be retained to the north and east of the development footprint, to retain the existing vegetation. It will also allow for the connectivity of the habitat from the west and south-east to remain intact.</p>
<p>O5</p> <p>Watercourses and adjacent habitat are protected in terms of:</p> <p>(a) minimising erosion and slumping;</p> <p>(b) retaining vegetation to provide for the natural filtering of sediments, nutrients and other pollutants prior to discharge; and</p> <p>(c) adverse impacts on the aquatic habitat.</p>	<p>Complies</p> <p>The native vegetation along the waterway is proposed to be retained.</p> <p>Stormwater will be managed a lawful point of discharge to Yeppoon Road. The stormwater report identifies how the water will be managed for quantity and quality and also erosion and sediment control. Further, a SPEL system will be installed to manage the stormwater quality before water is discharged. An operational works application will also be required for the stormwater management.</p>
<p>O6</p> <p>Vegetation removal does not result in land degradation as a result of:</p> <p>_ erosion, particularly top soils;</p> <p>_ reduction in the fertility of the soil; or</p> <p>_ changes in the water table which increase surface wetness or salinity.</p>	<p>Complies</p> <p>Limited clearing of remnant vegetation currently mapped under the Livingstone Planning Scheme as Locally Significant Vegetation is required for the proposed construction and has been considered as part of this assessment as acceptable. A large area will be retained around the waterway to keep the waterway in as close to natural state as possible, and to allow for the development to be accommodated on the site.</p> <p>All land will be required to be appropriately stabilised and landscaped to reduce land degradation.</p> <p>There is no change to the water table anticipated as a result of the proposed development.</p>

Specific Outcomes		Response
O7	Land cleared to facilitate agriculture including forestry business or other intensive forms of agriculture is capable of sustainable use for such activities.	Not applicable The land is not being cleared to facilitate agriculture.

As evident from the above assessment, the proposal generally complies with the relevant requirements of the Clearing Code in regards to the retention of a significant amount vegetation.

Other Relevant Council Policies

PSP 3	– Development on Land Affected by Rockhampton Airport	Not applicable
PSP 4	– Streetscaping in Central Yeppoon	Not applicable
PSP 5	– Development Contributions for Water Supply	Not applicable
PSP 5	– Development Contributions for Sewerage	Not applicable
PSP 6	– Application of Council's Discretion for On-site Car Parking Requirements:	Not applicable
PSP 8	– Retention of Vegetation in Subdivision of Land	Not applicable
PSP 9	– Reconfiguring for Rear Allotments	Not applicable
PSP 10	– Rural Road Access Standards:	Not applicable
PSP 11	– Parks Contributions	Not applicable
PSP 13	– Developers Contributions for Road Network Upgrading	Not applicable
PSP 14	– Pathways	Not applicable
PSP 16	– Stormwater Infrastructure	Not applicable
PSP 18/1	– Strategic Roads Network	Not applicable

Livingstone Planning Scheme 2018

The *Livingstone Planning Scheme 2018* progressed through the statutory process (known as MALPI) and commenced on 1 May 2018, with version 2 in effect on 25 June 2018.

Under the *Livingstone Planning Scheme 2018* the subject site is identified as being within the Specialised centre zone. Under the Specialised centre zone, the development of a Retail warehouse (defined as Showroom) is Accepted subject to requirements and a Service station is Code assessable. A Showroom and Service station are business activities and both land uses are preferred to establish within the Specialised centre zone.

The site is mapped with the following overlays:

- OM01 - Acid Sulfate Soils (land at or below twenty (20) metres Australian Height Datum contour);
- OM02 – Agricultural land classification – Class A and Class B;
- OM07 – Biodiversity – Habitat and Vegetation – Matters of Local Environmental Significance (Remnant Vegetation – Not of concern);
- OM10 – Biodiversity – Wetlands and Waterways - Matters of State Environmental Significance – Watercourse;
- OM11 – Biodiversity – Stream order – Watercourse stream order 1 and 2 and Waterway potential assessment area;
- OM12 - Bushfire Hazard - Potential Impact Buffer;

- OM14 – Coastal hazard area – Storm tide hazard area – LSC Storm tide study area;
- OM15 - Drainage Problem Area;
- OM17 – Flood hazard area;
- OM19 – Regional Infrastructure – Major electrical infrastructure;
- OM20 - Road Hierarchy (Yeppoon Road – State controlled road, Tabone Street – Urban Minor Collector);
- OM21 – Scenic amenity – Coastal Scenic Transport Route Potential Assessment Area (Yeppoon Road);
- OM22 – Transport Infrastructure (Yeppoon Road – State controlled road); and
- OM23 – Transport noise corridor – Category 3 and Category 2 (mandatory).

The proposed development will be within the biodiversity mapped overlay, however as discussed earlier in this report, officers have met with the consultants to identify the vegetation to be retained and a revised layout was submitted to retain the vegetation along the waterway. The waterway will also be retained in its natural state. Further, the development is setback from Yeppoon Road, which is a coastal scenic transport route. Landscaping will also be planted along the frontage and there is no access to Yeppoon Road as per the conditions from the Department of State Development, Manufacturing, Infrastructure and Planning. Further, the development avoids the flood hazard area mapped along the waterway.

The proposal does not adversely compromise the acceptable outcomes in Table 6.5.7.4.1 of the Specialised centre zone code. It does not meet AO3.1 for a pedestrian entry point and does not provide a five (5) metre wide vegetated buffer to the Yeppoon Road frontage as per Acceptable Outcome AO3.5. Despite the non-compliance with the Acceptable Outcomes, the site has a footpath in the road reserve along Tabone Street which could allow pedestrians to access the site from the street and landscaping along Yeppoon Road is proposed. The road reserve in this location is also relatively wide, to keep the development further back from the road.

In regards to the overlays, the development is not within an area of the site mapped as flood hazard or bushfire hazard. The impact on the major electricity infrastructure was considered by Ergon Energy as an advice agency and there is no access permitted to Yeppoon Road through the Concurrence Agency response conditions. In regards to the Coastal Scenic Transport Route, there is no access to Yeppoon Road and access is via Tabone Street as the lower order road. There is landscaping proposed to Yeppoon Road, which will also be conditioned and the walls of the building are punctuated with window openings and variations in materials.

Therefore, based on the above, the proposed development will not impact on the outcomes sought by the Specialised Centre Zone or the Overlay requirements. The development is situated in a preferred location by the planning scheme.

Infrastructure Charges

Infrastructure charges are levied pursuant to the *Adopted Infrastructure Charges Resolution (No.2) 2015*. The details and breakdown of the charges are outlined below:

Charge amount:	\$162,760.00 This charge will be indexed in line with Consumer Price Index on an annual basis.
Charge area:	The subject site is located within charge area 1.

Calculation:	<p>The charge is calculated in accordance with Table 7 - Adopted charge for non-residential development within the priority infrastructure area, as follows:</p> <ol style="list-style-type: none"> gross floor area of 1,373 square metres at \$70.00 per square metre for Commercial (Bulk Goods); and gross floor area of 199 square metres at \$70.00 per square metre for Commercial (Retail); and <p><i>GFA total: \$110,040.00</i></p> <ol style="list-style-type: none"> impervious area of 7,372 square metres at \$10.00 per square metre. <ul style="list-style-type: none"> The impervious area of 7,372 square metres comprises: <ul style="list-style-type: none"> 1, 373 square metres for the Retail warehouse building; and 218 square metres for the Service station building; 444 square metres for the Service station canopy; and 5,337 square metres for the pavement (including parking and manoeuvring areas and hardstand area). <p><i>Impervious area total: \$73,720.00</i></p> <p><i>Total GFA + Impervious area = \$183,760.00</i></p> <ol style="list-style-type: none"> less a credit of \$21,000.00.
Credit:	<p>The above calculation takes into account a credit of \$21,000.00 for the existing allotment pursuant to section 4.0 of Council's <i>Adopted Infrastructure Charges Resolution (No. 2) 2015</i>. The credit is calculated as follows:</p> <ol style="list-style-type: none"> one existing lot at \$21,000.00 per lot.
Offset:	<p>An offset for the provision of an easement over part of future D-16 Yeppoon Creek tributary E drainage system, applies to the development and will be calculated in accordance with section 6.2 of Council's <i>Adopted Infrastructure Charges Resolution (No. 2) 2015</i>. Please contact Council to discuss the offset provisions.</p>

A total charge of \$162,760.00 is payable and will be reflected in an Infrastructure Charges Notice for the development.

Consultation

The proposal was the subject of public notification between 28 September 2017 and 20 October 2017, as per the requirements of the *Sustainable Planning Act 2009*, and no submissions were received.

It is noted that Ergon Energy as an Advice agency requested their advice agency response to be treated as a properly made submission in accordance with section 292 (3) of the *Sustainable Planning Act 2009*.

The following is a summary of the Ergon Energy response lodged, with Council officer comments:

Issue	Officer Comment
The proposed plans of development show a vehicle entry and exit to and from Tabone Street and the subject site that correlates precisely with Easement F. The	Ergon Energy requires Council to impose conditions that either the access be relocated outside of Easement F on Tabone Street, or before works commence, an

66kV pole and stay wire are located directly opposite that entry point into the subject site. The location of the access is inconsistent with Ergon Energy's rights under Easement F. Ergon Energy is concerned that the location of this access is likely to restrict any future works associated with the existing line, pole and stay, including limiting options associated with relocation of the pole within the easement. If the stay and pole required moving, the access driveway removes practically all viable locations for a new pole or poles within the easement area. Ergon Energy has previously had interest from other land owners in relocation of lines from their property, which would necessitate the relocation of the pole and lines within the easement. Ergon Energy considers there is a reasonable prospect of relocation at some stage in the foreseeable future.

The proposed development seriously restricts Ergon Energy's ability to undertake repair and maintenance on the existing infrastructure.

agreement be entered into with Ergon Energy to relocate the infrastructure.

Further, the in response to the information request it was identified that the option to enter into an agreement was noted as an advisory note and therefore, the developer is likely to undertake this option.

Referrals

The application was referred to the Department of State Development, Manufacturing, Infrastructure and Planning as a concurrence agency given the site adjoins a State-controlled road being Yeppoon Road. The Department of Transport and Main Roads assessed the application and provided conditions on 21 May 2018. The response approved both the Reconfiguring a Lot and Material Change of Use aspects of the development, however conditioned that direct access to Yeppoon Road was not permitted at all times. Conditions also require a 2.5-metre-wide footpath to be constructed along the full frontage of Rockhampton-Yeppoon Road and to ensure there is no worsening of stormwater runoff onto the state-controlled road.

The applicant lodged representations to the State on 28 August 2018 to seek a negotiated concurrence agency response. The representations sought to amend the conditions relating to access not being permitted to Rockhampton-Yeppoon Road. The Department of State Development, Manufacturing, Infrastructure and Planning provided an amended concurrence agency response on 6 December 2018, removing the Reconfiguring a Lot aspect of the development from the conditions; however, the condition stating no access is permitted to Rockhampton-Yeppoon Road was not removed.

Further, as stated above, Ergon Energy was an advice agency as the site contains an easement in favour of Ergon Energy. Ergon Energy provided a response on 29 June 2017. Ergon Energy stated to treat their response as a properly made submission, which will secure the advice agency appeal rights.

PREVIOUS DECISIONS

It is noted that Council has previously refused a development application for Material Change of Use for a Service station at 2-4 Hoskyn Drive, Yeppoon on 26 April 2016. The development was later approved through the Planning and Environment Court via an applicant appeal on 16 December 2016.

It should be noted that each decision is made on its merits at the time of assessment and with the best planning information available.

BUDGET IMPLICATIONS

Management of this application has been within the existing budget allocations.

LEGISLATIVE CONTEXT

The application is being assessed pursuant to the *Sustainable Planning Act 2009* and all subordinate legislation and policies.

LEGAL IMPLICATIONS

The legal implications of refusing this development application is the risk of appeal from the developer. These potential legal implications also bring unknown budget implications.

STAFFING IMPLICATIONS

No staffing implications have been identified in the assessment.

RISK ASSESSMENT

The risks associated with this assessment have been appropriately addressed in the body of this report. Specifically, the risk of appeal to any decision made by Council and any financial/budget implications such action may have. It should be noted that these risks are difficult to quantify at the assessment stage.

CORPORATE/OPERATIONAL PLAN

Strategy GO4: Provide transparent and accountable decision making reflecting positive leadership to the community.

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) Transparent and effective processes, and decision-making in the public interest; and
- (b) Sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) Democratic representation, social inclusion and meaningful community engagement; and
- (d) Good governance of, and by, local government; and
- (e) Ethical and legal behaviour of councillors and local government employees.

CONCLUSION

Council should note that pursuant to Section 326 (1) (b) of the *Sustainable Planning Act 2009*, the assessment manager's decision may conflict with the Planning Scheme if there are sufficient grounds to justify the decision despite the conflict. The assessment of the desired environmental outcomes and the overall outcomes of the Industry Zone code concludes that the proposed development, is not likely to conflict with the purpose of the zone, and in this instance there are sufficient grounds available to support a favourable consideration of the development.

The proposed development of a Service station is a consistent use in the Industry Zone, Light Industry Precinct. The proposed Retail warehouse development is a consistent use in the Industry Zone as it is able to address Specific Outcome O2. The development affords the protection of the waterway in its natural state and retains the established locally significant vegetation along the waterway. The development will not compromise the traffic, water supply or sewerage networks, and will be conditioned to ensure a non-worsening in regards to stormwater discharge.

**12.6 - DEVELOPMENT APPLICATION
FOR A DEVELOPMENT PERMIT FOR A
MATERIAL CHANGE OF USE FOR A
SERVICE STATION AND RETAIL
WAREHOUSE - LOT 50 FRED LAWN
DRIVE, YEPPOON**

Locality plan

Meeting Date: 1 April 2019

Attachment No: 1



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The State Government of Queensland (Dept of Natural Resources and Mines) 2019.

Other data: © Livingstone Shire Council 2019.

0 0.05 0.1 0.15 0.2 0.25 0.3 0.35 0.4 0.45 0.5 0.55 0.6 0.65 0.7 0.75 0.8 0.85 0.9 0.95 1.0

Locality Plan

Map Created by: Web AppBuilder for ArcGIS

**12.6 - DEVELOPMENT APPLICATION
FOR A DEVELOPMENT PERMIT FOR A
MATERIAL CHANGE OF USE FOR A
SERVICE STATION AND RETAIL
WAREHOUSE - LOT 50 FRED LAWN
DRIVE, YEPPOON**

Proposal plans

Meeting Date: 1 April 2019

Attachment No: 2



GFA:	
BULKY GOODS 1/2/3	1373m ²
B.O.H	88m ²
TOTAL	1461m ²

CARPARKING:	
1/30m ² GFA:	49 CARS
SERVICE STATION:	5 CARS
TOTAL REQUIRED:	54 CARS
TOTAL PROPOSED:	59 CARS

SITE COVERAGE:	
TOTAL SITE AREA:	11026m ²
(DEVELOPMENT AREA ONLY)	
LANDSCAPING:	3566m ² 32%
BULKY GOODS:	1461m ² 13%
FUEL CANOPY:	444m ² 4%
SERVICE STATION:	218m ² 2%
PAVEMENT:	5337m ² 49%
TOTAL AREA:	11026m ² 100%

FUEL NOTES

TANK	SIZE	PRODUCT	CLASS	PG
2x110kL UNDERGROUND FUEL TANKS				
T1	40kL	95	3	PG11
T2	40kL	98	3	PG11
T3	30kL	E10	3	PG11
T4	50kL	DSL	C1	-
T5	50kL	ULP	3	PG11

VR1 TO BE INSTALLED

FUEL TYPES ARE INDICATIVE ONLY & MAY BE SUBJECT TO CHANGE DURING DETAIL DESIGN STAGE. TOTAL FUEL STORAGE WILL NOT EXCEED 500,000L

THIS SITE WILL BE PROVISIONED WITH ALL NECESSARY UNDERGROUND PIPE WORK FOR VR2

FUEL SYSTEM TO BE INSTALLED IN ACCORDANCE WITH AS4897-2008, AS1940-2004 & AS4977-2008

GENERAL

COLOURS & SELECTED BUILDING MATERIALS SHOWN ARE INDICATIVE & MAY BE SUBJECT TO VARIATIONS DURING THE FINAL DETAIL DOCUMENTATION

ALL SIGNAGE SHOWN FOR INDICATIVE PURPOSES ONLY AND SUBJECT TO THE APPROVAL OF A SEPERATE OPERATIONAL WORKS PERMIT (WHERE REQUIRED)

1 SITE PLAN
1:1000

DA ISSUE - 2

AMENDMENTS

AMD	DATE	AMENDMENT DETAILS	BY
5	21.12.16	DA ISSUE	DP
6	03.03.17	REVISED CANOPY	CM
7	17.03.17	REVISED TRUCK PATH, RECONFIGURED BULKY GOOD SIZES	CM
8	28.03.17	REVISED TENANCY SIZES	CM
9	03.04.17	REVISED TRUCK PATH	CM
10	26.06.17	CROSSOVER LOCATION	DP
11	19.09.17	REVISED AREAS	DP
12	09.11.17	REVISED SITE LAYOUT	CM
13	12.12.18	REVISED SITE LAYOUT AND BULKY GOODS	FK
14	13.12.18	DA ISSUE	FK
15	20.03.19	EASEMENT SHOWN	FK



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PROPOSED MIXED USE DEVELOPMENT

LOT 50 YEPPOON ROAD, YEPPOON, QLD

RETAIL FUEL DEVELOPMENTS



SCALE : As indicated @A3
DATE : 20/03/2019
DRAWN : FK
SHEET TITLE : SITE PLAN

PROJECT NUMBER : 416226

SHEET NUMBER : DA A-02A

REVISION

15



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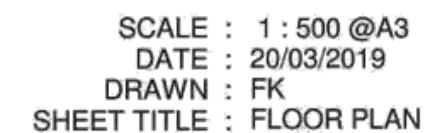
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LOT 50 YEPPOON ROAD, YEPPOON,
QLD

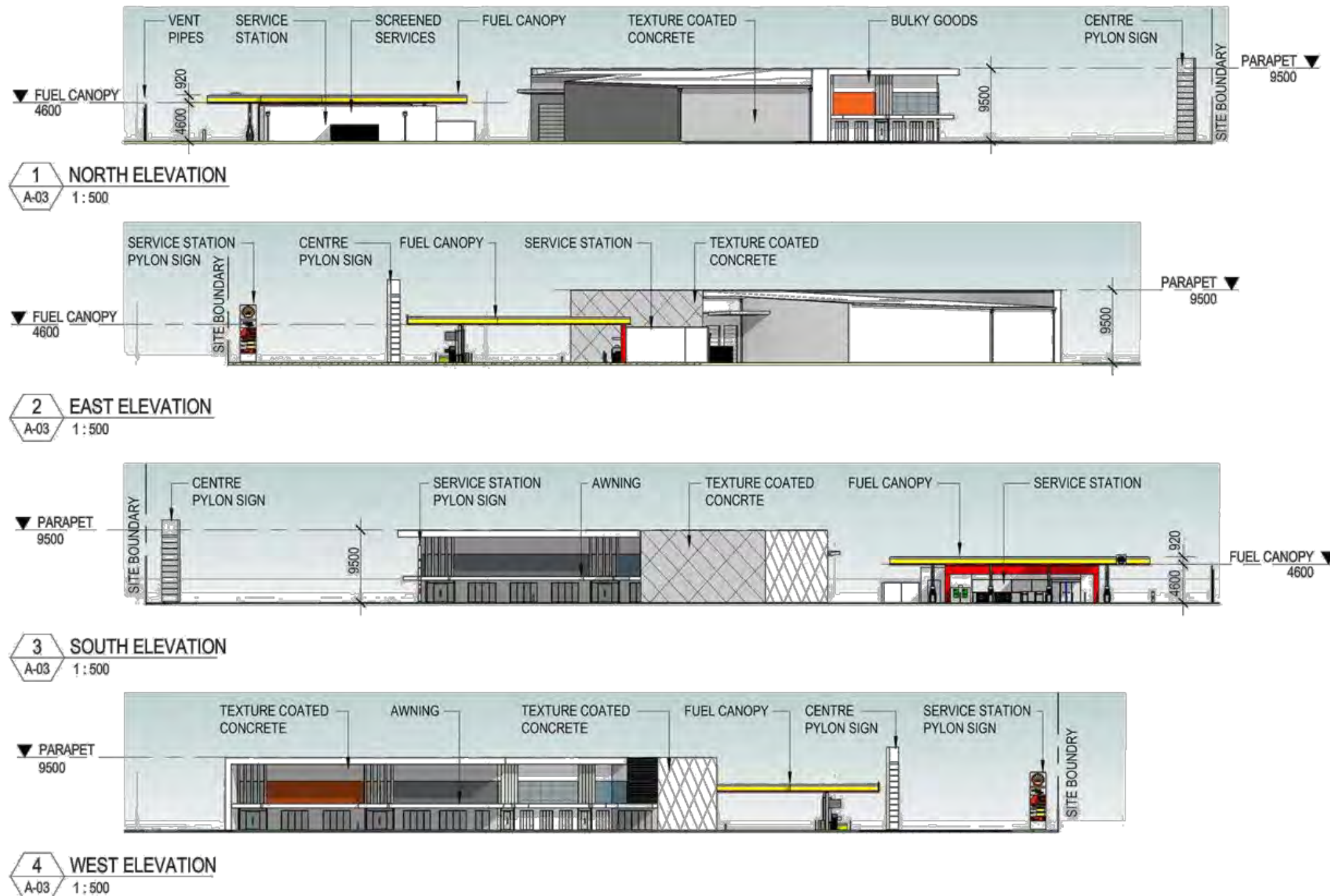
RETAIL FUEL DEVELOPMENTS



PROJECT NUMBER : 416226

SHEET NUMBER : **DA A-03A**

REVISION
9



DA ISSUE - 2

AMENDMENTS			
AMD	DATE	AMENDMENT DETAILS	BY
1	20.12.16	PRELIMINARY SET FOR COMMENT	DP
2	21.12.16	DA ISSUE	DP
3	19.09.17	REVISED AREAS	DP
4	12.12.18	REVISED SITE LAYOUT AND BULKY GOODS	FK
5	13.12.18	DA ISSUE	



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PROPOSED MIXED USE
DEVELOPMENT

LOT 50 YEPPOON ROAD, YEPPOON,
QLD

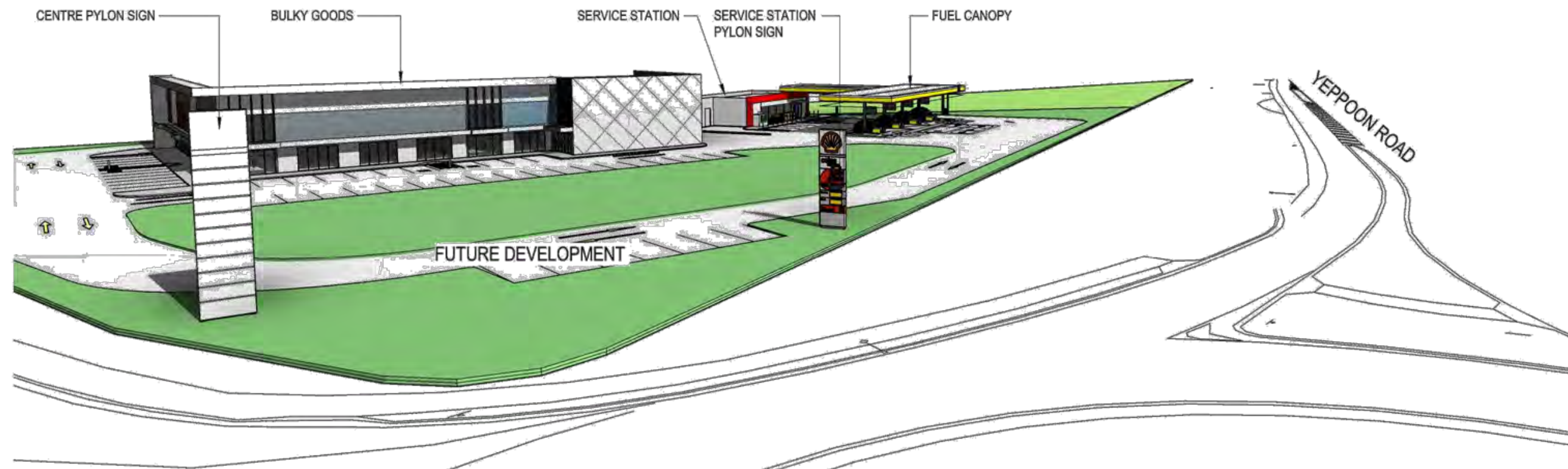
RETAIL FUEL DEVELOPMENTS

SCALE : 1 : 500 @A3
 DATE : 12/12/2016
 DRAWN : DP
 SHEET TITLE : OVERALL
 ELEVATIONS
 PROJECT NUMBER : 416226

SHEET NUMBER : **DA A-04**

REVISION

5



DA ISSUE - 2

AMENDMENTS			
AMD	DATE	AMENDMENT DETAILS	BY
1	20.12.16	PRELIMINARY SET FOR COMMENT	DP
2	21.12.16	DA ISSUE	DP
3	29.06.17	CROSSOVER LOCATION	DP
4	19.08.17	REVISED AREAS	DP
5	12.12.18	REVISED SITE LAYOUT AND BULKY GOODS	FK
6	13.12.18	DA ISSUE	



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PROPOSED MIXED USE DEVELOPMENT

LOT 50 YEPPOON ROAD, YEPPOON, QLD

RETAIL FUEL DEVELOPMENTS

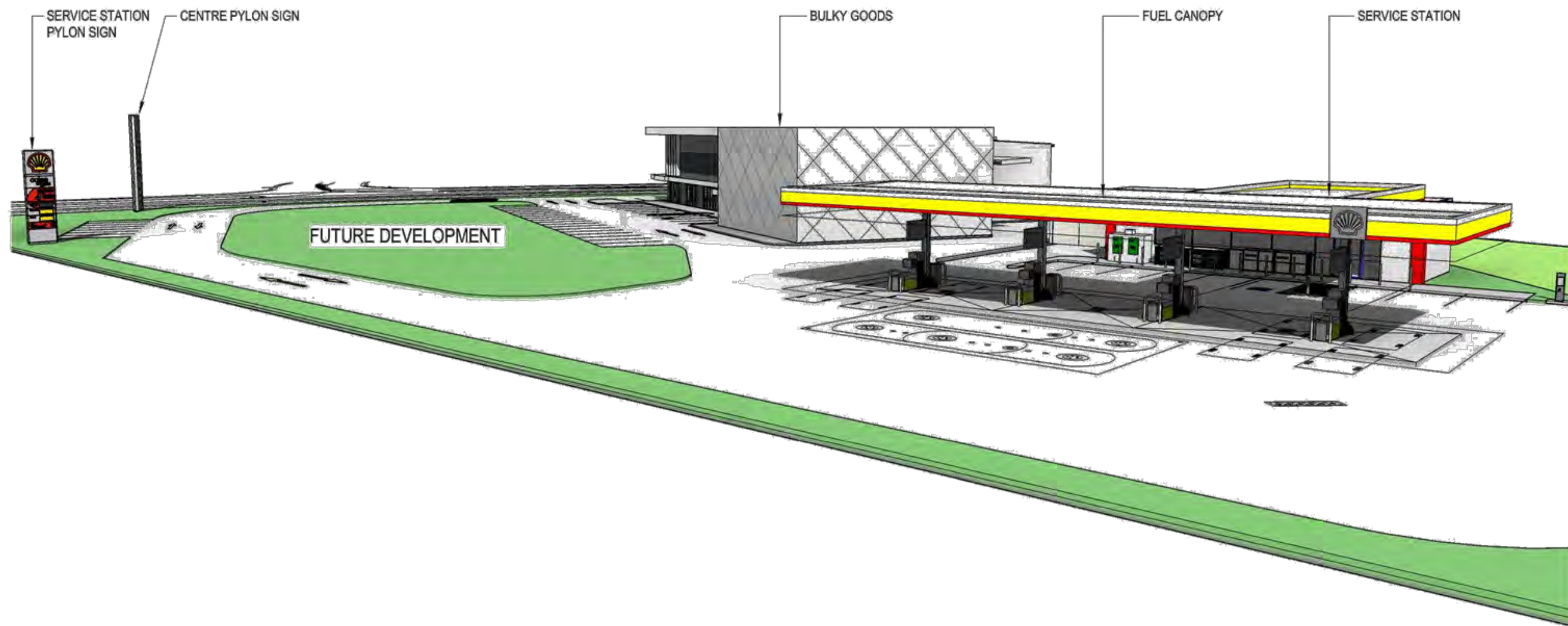
SCALE : @A3
 DATE : 12/12/2016
 DRAWN : DP
 SHEET TITLE : PERSPECTIVE 1

PROJECT NUMBER : 416226

SHEET NUMBER : **DA A-05**

REVISION

6



DA ISSUE - 2

AMENDMENTS			
AMD	DATE	AMENDMENT DETAILS	BY
1	20.12.16	PRELIMINARY SET FOR COMMENT	DP
2	21.12.16	DA ISSUE	DP
3	29.06.17	CROSSOVER LOCATION	DP
4	19.08.17	REVISED AREAS	DP
5	12.12.18	REVISED SITE LAYOUT AND BULKY GOODS	FK
6	13.12.18	DA ISSUE	



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PROPOSED MIXED USE DEVELOPMENT

LOT 50 YEPPOON ROAD, YEPPOON, QLD

RETAIL FUEL DEVELOPMENTS

SCALE : @A3
 DATE : 12/12/2016
 DRAWN : DP
 SHEET TITLE : PERSPECTIVE 2

PROJECT NUMBER : 416226

SHEET NUMBER : **DA A-06**

REVISION

6



BRISBANE + MELBOURNE

PROPOSED MIXED USE DEVELOPMENT
LOT 50 YEPPOON ROAD, YEPPOON,
QLD

REVISION
2

**12.6 - DEVELOPMENT APPLICATION
FOR A DEVELOPMENT PERMIT FOR A
MATERIAL CHANGE OF USE FOR A
SERVICE STATION AND RETAIL
WAREHOUSE - LOT 50 FRED LAWN
DRIVE, YEPPOON**

Referral agency responses

Meeting Date: 1 April 2019

Attachment No: 3



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

Our reference: SDA-0317-038130
Your reference: D/4-2017

6 December 2018

The Chief Executive Officer
Livingstone Shire Council
PO Box 2292
Yeppoon QLD 4703

Email: enquiries@livingstone.qld.gov.au

Attention: Ms Jenna Brosseuk

Dear Jenna

Amended concurrence agency response — Fred Lawn Drive - Yeppoon

(Given under section 290(1)(b) of the *Sustainable Planning Act 2009*)

The Department of State Development, Manufacturing, Infrastructure and Planning (the department) issued a concurrence agency response under section 285 of the *Sustainable Planning Act 2009* on 21 May 2018.

On 26 August 2018 the department received representations from the applicant under section 320(1) of the *Sustainable Planning Act 2009* requesting that the department amend its concurrence agency response under section 290(1)(b)(i) of the *Sustainable Planning Act 2009*.

The department has considered the written representations and agrees to issue an amended concurrence agency response.

Referral triggers

The development application was referred to the department under the following provisions of the *Sustainable Planning Regulation 2009*:

SDA-0317-038130

Referral trigger

- Schedule 7, Table 2, Item 2 – State-controlled road
- Schedule 7, Table 3, Item 1 – State-controlled road

Response

Date of response: 20 November 2018

Response details: Concurrence agency response with conditions

Development details: Development Permit for Material Change of Use for a service station and retail warehouse

Conditions: The conditions set out in Attachment 1 must be attached to any development approval.

Location details

Street address: Fred Lawn Drive, Yeppoon QLD 4703

Lot on plan: Lot 50 on SP207759

Local government area: Livingstone Shire Council

Applicant details

Applicant name: Retail Fuel Developments
C/- Innovative Planning Solutions

Applicant contact details: PO Box 1043
Maroochydore Qld 4558

A copy of this response has been sent to the applicant for their information.

For further information, please contact Tim O'Leary, Manager, on 3452 7683, or via email DAAT@dsgmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh
Manager – Planning and Development Services

cc: Retail Fuel Developments C/- Innovative Planning Solutions, info@ipsptyld.com.au

enc: Attachment 1—Amended concurrence agency conditions
Attachment 2—Amended reasons for imposing conditions
Attachment 3—Advice to the applicant
Attachment 4—Amended approved plan and specifications

Department of State Development, Manufacturing, Infrastructure and Planning

Attachment 1—Amended concurrence agency conditions

No.	Conditions	Condition timing
State-controlled road—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The road access must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> Yeppoon Fuel & Bulky Goods, prepared by TRG Queensland Pty Ltd dated 19.09.18, reference SK5000 and revision D, as amended in red to remove direct access to and from Rockhampton – Yeppoon Road. 	Prior to the commencement of use and to be maintained at all times.
2.	Direct access is not permitted between the Rockhampton - Yeppoon Road and the subject site.	At all times
3.	<p>(a) The development must be carried out in generally in accordance with the Site Based Stormwater Management Plan prepared by Arcadis dated 7 July 2017, reference F0002-10006580-AAR and revision 1, in particular:</p> <ul style="list-style-type: none"> a minimum of 714m³ of on-site detention is to be provided; and provision of a SPEL Puraceptor, 17 SPEL Stormsacks and 21 SPEL filters. <p>(b) RPEQ certification with supporting documentation that the development ensures no worsening of stormwater runoff onto the state-controlled road in all events up to and including an AEP 1% must be provided to the Manager (Project Planning & Corridor Management) at FitzroyDistrict@tmr.qld.gov.au within the Department of Transport and Main Roads Fitzroy District, confirming that the development has been designed and constructed in accordance with part (a) of this condition.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use</p>
4.	An off-road concrete shared pedestrian / cycle path with a minimum width of 2.5metres must be provided for the full Yeppoon Road frontage of the subject site and connect to the existing pathway at the intersection of the Rockhampton – Yeppoon Road / Tabone Street. The footpath must be designed and constructed in accordance with the requirements of the Department of Transport and Main Roads' <i>Road planning and design manual - 2nd edition</i> .	Prior to the commencement of use

Attachment 2—Amended reasons for imposing conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plan of development submitted with the application.
- To ensure access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road direct access to the state-controlled road is prohibited where not required.
- To ensure impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor.
- To ensure pathways are planned and designed to ensure that pedestrian traffic seeking to access to the proposed development can do so safely.

Department of State Development, Manufacturing, Infrastructure and Planning

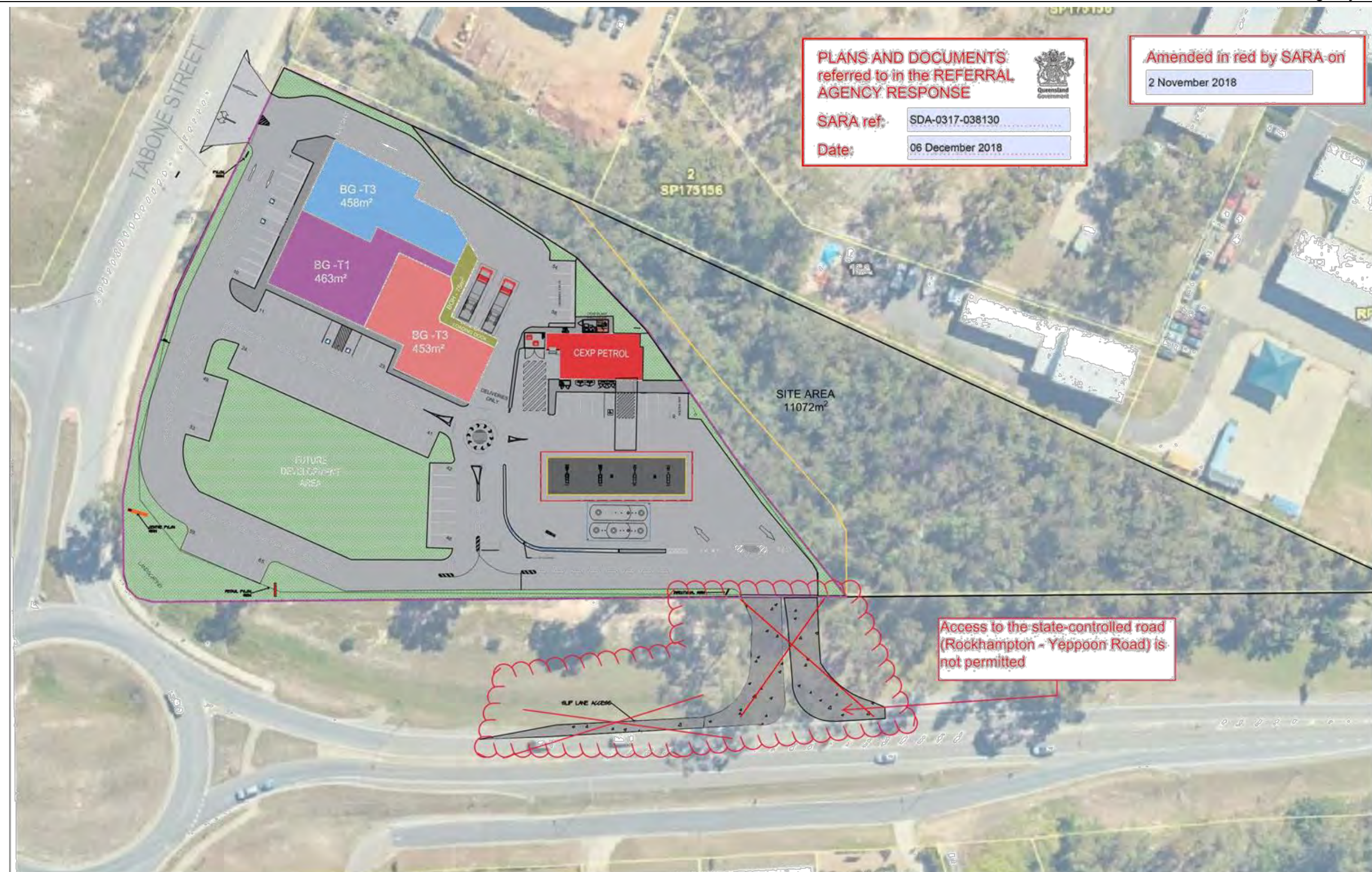
Attachment 3—Advice to the applicant

General advice	
1.	Under section 33 of the <i>Transport Infrastructure Act 1994</i> , written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Fitzroy District / Central Queensland Region office of the Department of Transport and Main Roads' at FitzroyDistrict@tmr.qld.gov.au or (07) 4931 1500 on to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.
2.	Signage that is located within the site but visible from the state-controlled road should comply with the requirements of the Department of Transport and Main Roads' <i>Roadside Advertising Manual</i> , edition 2, October 2017. Where signage is installed that does create a hazard or undue distraction for motorists on the State-controlled Road, the Department of Transport and Main Roads may take action under the <i>Transport Infrastructure Act 1994</i> to remove or modify the signage.

SDA-0317-038130

Attachment 4—Amended approved plan and specifications

Department of State Development, Manufacturing, Infrastructure and Planning



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: SDA-0317-038130

Date: 06 December 2018

Amended in red by SARA on

2 November 2018

SITE AREA
11072m²

Access to the state-controlled road
(Rockhampton - Yeppoon Road) is
not permitted



TRG Queensland Pty Ltd: 08451 119 999 995 01-004908017 2015
15 Bulky Street, PO BOX 2000
Rockhampton, QLD 4700 08451 119 999 995
01-004908017 2015
CONCEPTS • BUILDING • DETAIL • COMMERCIAL DESIGN
MASTER PLANNING • INTERIORS • PROJECT SUPERVISION
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any loss or damage arising from the use of the information.

YEPPOON FUEL & BULKY GOODS DEVELOPMENT



CLIENT:



DATE: 19 SEPT 18 BY: RO'B PROJECT NUMBER 4162

DRAWING TITLE: YEPPOON FUEL & BULKY GOODS

DRAWING NUMBER: SK5000

SCALE: 1:750@ A3

REV
0



825 Ann Street Fortitude Valley 4006
PO Box 264 Fortitude Valley 4006
ergon.com.au

29 June 2017

The Chief Executive Officer
Livingstone Shire Council
PO Box 2292
Yeppoon, Qld, 4703
Email: enquiries@livingstone.qld.gov.au

cc Retail Fuel Developments
C/- Pamela Davidson
Innovative Planning Solutions
pam@ipsptyltd.com.au

Via Email

Attention: Jenna Brosseuk,

ADVICE AGENCY RESPONSE

**RECONFIGURATION OF A LOT (1 LOT INTO 3 LOTS AND ACCESS EASEMENT) AND MATERIAL
CHANGE OF USE (SERVICE STATION AND RETAIL WAREHOUSE)**

ON LAND AT FRED LAWSON DRIVE YEPPOON, QLD, 4703 (LOT 50 ON SP207759)

COUNCIL REFERENCE: D/4-2017

ERGON ENERGY REFERENCE EE17/JC002

This submission is made on behalf of Ergon Energy Corporation Limited ACN 087 646 062
(Ergon Energy) pursuant to section 292 (advice agency response) of the *Sustainable Planning
Act 2009* (Qld).

In accordance with section 292(3) we request that the assessment manager treats this
response as a properly made submission.

Site details

Easement F on RP 615170 (**Easement F**) covers the north-west corner of the subject land. A
copy of Easement F is **attached** to this document as **Annexure A**. That easement document

Ergon Energy Corporation Limited ABN 50 087 646 062
Ergon Energy Queensland Pty Ltd ABN 11 121 177 802

sets out various rights Ergon Energy has to carry out works, inspect, maintain and replace the electricity infrastructure within Easement F.

In the early to mid-1980s, Ergon Energy's predecessor organisation constructed high voltage 66kV electricity lines in the easement area. 66kV lines are significant electricity distribution infrastructure and this is one of two primary lines feeding power into Yeppoon. Accordingly, protection of the line and Easement F is of considerable importance to ensure continued and reliable supply to Yeppoon.

Easement F covers the bend point of the 66kV line, being a pole and a stay wire.

Current material change of use and reconfiguration of a lot development application

The proposed plans of development show a vehicle entry and exit to and from Tabone Street and the subject site that correlates precisely with Easement F. The 66kV pole and stay wire are located directly opposite that entry point into the subject site.

However, little reference is made to the 66kV line (pole and stay wire), with no discussion provided on how the proposed development plans to mitigate impacts on or impacts from the electricity infrastructure. It is also unclear how the proposed development plans to deal with the rights afforded to Ergon Energy under Easement F.

Ergon Energy does not object to the proposed development in principle. However, the location of the access is inconsistent with Ergon Energy's rights under Easement F. Ergon Energy is concerned that the location of this access is likely to restrict any future works associated with the existing line, pole and stay, including limiting options associated with relocation of the pole within the easement. If the stay and pole required moving, the access driveway removes practically all viable locations for a new pole or poles within the easement area. Ergon Energy has previously had interest from other land owners in relocation of lines from their property, which would necessitate the relocation of the pole and lines within the easement. Ergon Energy considers there is a reasonable prospect of relocation at some stage in the foreseeable future.

In addition, the proposed development seriously restricts Ergon Energy's ability to undertake repair and maintenance on the existing infrastructure. For example, should the pole require replacement due to age or deterioration, Ergon Energy would not replace it with a pole in exactly the same location. Rather, the replacement process ordinarily involves drilling a new pole hole near the existing pole, constructing the new pole and associated stay wire or wires, which will also be in new locations, moving the existing overhead power lines to the new pole and removing the aged or deteriorated pole. The proposed development very seriously hampers, if not completely removes, the area available to do this.

Where it is necessary or desirable to relocate electricity infrastructure, Ergon Energy regularly enters into agreements with landowners for the relocation of that infrastructure in accordance with section 112(3) of the *Electricity Act 1994*.

A copy of a pro-forma agreement under section 112(3) of the Electricity Act 1994 is attached to this response and submission as **Annexure B**.

It is apparent from Ergon Energy's comments above and the current design of the proposed development that the applicant will need to reconsider the design of the proposed access driveway into the subject land from Tabone Street within Easement F, to take into account Ergon Energy's infrastructure.

Recommendation – imposition of conditions

Should Council decide to approve the proposed development, Ergon Energy requires that Council impose the following conditions as part of any approval:

- 1 Either:
 - (a) the access driveway from Tabone Street into the subject land must be relocated outside of Easement F; or
 - (b) prior to any works commencing on the subject land, the applicant enter into an agreement with Ergon Energy under section 112(3) of the *Electricity Act 1994* (Qld) **(the agreement)** on the following terms:
 - (i) relocation of the 66kV line (a pole and a stay wire) to a position to be agreed; and
 - (ii) Ergon Energy and the applicant bear their own cost with respect to the preparation, negotiation and execution of that agreement.
- 2 Ergon Energy is to be notified at least 10 business days prior to any request for a permissible change in relation to the proposed development.

Council's planning scheme

Section 314(2)(d) of the *Sustainable Planning Act 2009* (Qld) requires Council to assess the development application against state planning policies. 'State Planning Policy - State Interest – energy and water' supply recognises and promotes the importance of:

"...protecting existing and approved future major electricity infrastructure locations and corridors (including easements)...from development that would compromise the corridor integrity, and the efficient delivery and functioning of the identified infrastructure..."

Recommendation – information request

We also recommend that in its information request to the applicant, Council seek information from the applicant with respect to how it proposes to safeguard Ergon Energy's electricity infrastructure in light of the proposed access driveway from Tabone Street within Easement F.

Safety during construction

The following legislation and code should be consulted for working in the vicinity of electricity infrastructure:

- *Electrical Safety Act 2002*;
- *Electrical Safety Regulation 2013*; and
- *Electrical Safety Code of Practice 2010 - Working Near Overhead and Underground Electric Lines*

Exclusion zones stipulated in the *Code of Practice - Working Near Overhead and Underground Electric Lines* are to be maintained when working near exposed overhead electrical wires. It is recommended the applicant contact Ergon Energy prior to construction to obtain safety advice (by applying in writing to Ergon Energy, or by contacting Ergon Energy on 13 10 46) where construction activities may encroach exclusion zones or to arrange the fitting of visual safety indicators such as tiger tails or aerial markers to the exposed overhead wires (if required). Obtaining Ergon Safety advice will ensure a safe distance is maintained between infrastructure and the high voltage power lines and associated poles.

We respectfully request that a copy of the decision be provided in accordance with section 334 (1) (b) of the *Sustainable Planning Act 2009*. Please contact me on 4931 2102 or via email townplanning@ergon.com.au for any further information.

Yours sincerely,



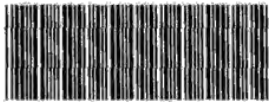
James Collins
Ergon Energy

Annexure A: Easement F

948 V0 REGISTERED Recorded Date 24/02/1982 00:00 Page 1 of 3

No. **6431857**

APPLICATION TO REGISTER EASEMENTS

**601098948****C431857****EAS IN GROSS**THE CAPRICORNIA ELECTRICITY BOARDApplicant

Particulars entered in the Register

Book Volume 329 Folio 108 this

day of

1981, at *8.12p*

1 JUN 1982

Rock

DEPUTY REGISTRAR OF

CENTRAL DISTRICTRECEIVED
TITLES R'PTON
FEB 24 11 40 AM '82**91745**
VIDE*Aduse Raga*CONNOLLY, SCHIRMER & BATTS,
Solicitors,
6 William Street,
ROCKHAMPTON27 3988

FEB-17-82 06402 • • • 000*700.00

FEB-17-82 06406 • • • 000*17.00

A PROCLAMATION
By His Excellency Commodore Sir JAMES MAXWELL RAMSAY,
Knight, Commander of the Most Distinguished Order of
Saint Michael and Saint George, Commander of
the Most Excellent Order of the British Empire,
upon whom has been conferred the Decoration of the
Distinguished Service Cross, and Commodore in the
Royal Australian Navy (Retired), Governor in and
over the State of Queensland and its Dependencies in the
Commonwealth of Australia.

[L.S.]
J. M. RAMSAY,
Governor.

IN pursuance of the powers and authorities in me vested under the provisions of the *Acquisition of Land Act 1967-1977*, I, Sir JAMES MAXWELL RAMSAY, the Governor aforesaid, acting by and with the advice of the Executive Council, do, by this my Proclamation, notify and declare that an Easement over the land described in the Schedule hereto is taken by and shall vest in The Capricornia Electricity Board on and from the thirty-first day of October, 1981, for Electric Line purposes and that the rights and obligations conferred and imposed by the said Easement shall include full and free liberty and right to convey electricity over and across the subject land in accordance with the *Electricity Act 1976-1980* (or any Act or Acts amending or in substitution for the same) by means of an electric line or lines with full power to the Board its agents servants workmen linesmen and others authorised by it to:—

1. Construct on, in or through the subject land and forever to maintain thereon an electricity transmission line or lines comprising one or more conductors with all necessary or convenient towers, poles, stays, supports and appurtenant works (hereinafter referred to as "The Electric Transmission Line or Lines") with full right of support thereof and to inspect maintain repair and replace such electric transmission line or lines, at any time to remove and carry away the whole or any part of the said electric transmission line or lines as the Board may consider necessary.
2. Clear, fell and remove or burn off any timber trees, undergrowth, vegetable growths on the subject land and to clear all regrowth within the subject land by hand or by mechanical means or by chemical application.
3. Construct and maintain such access tracks, gates and other works as the Board shall consider necessary on the subject land.
4. Enter upon and remain pass and re-pass on and over the subject land for all or any of the purposes aforesaid and with or without vehicles plant and equipment of any description.
5. Prevent—
 - (a) Any act or thing which may in the opinion of the Board interfere with, injure damage or destroy the said transmission line or lines or obstruct prevent or interfere with the free flow of electricity through and along the transmission line or lines.
 - (b) The erection or placement in or on the subject land of any building structure plant or apparatus without the permission in writing of the Board.
6. Permit any activity by the owner of the subject land which, in the opinion of the Board will not endanger, interfere with, or prevent the Board from exercising the rights previously mentioned.

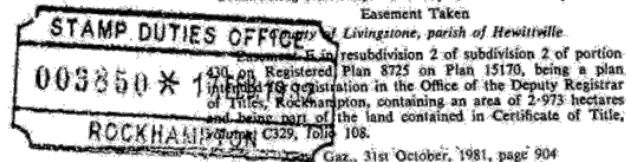
L.A.B. 3082.

Given under my Hand and Seal at Government House, Brisbane, this twenty-ninth day of October, in the year of our Lord one thousand nine hundred and eighty-one, and in the thirtieth year of Her Majesty's reign.

By Command, W. H. GLASSON.
GOD SAVE THE QUEEN!

THE SCHEDULE

THE ROCKHAMPTON LAND AGENT'S DISTRICT
Constructing Authority.—The Capricornia Electricity Board
Easement Taken



FEB-17-82 06403 * * * A 5/4.5 050***1.00

TO

SIR: JONES & CO. 1/21/82

THE DEPUTY REGISTRAR OF TITLES
ROCKHAMPTON

Sir,

In accordance with Section 12 of the "Acquisition of Land Act of 1967 - 1977" THE CAPRICORNIA ELECTRICITY BOARD of Rockhampton HEREBY APPLIES for the registration of the Easement described in the Schedule hereto and produces herewith a Gazette copy of the Proclamation whereby the said Easement was resumed.

THE SCHEDULE

County Livingstone Parish Hewittville containing 2.973 hectares being Easement F in Resubdivision 2 of Subdivision 2 of Portion 430 on R.P. 8725 on R.P. 15170 being part of the land contained in Certificate of Title No. Volume C329 Folio 108.

DATED this twenty-third day of November, 1981. /

THE CAPRICORNIA ELECTRICITY BOARD

By its Solicitors



CONNOLLY, SCHIRMER & BATTS,
 6 William Street,
ROCKHAMPTON

Annexure B: Pro-forma agreement under section 112(3) of the *Electricity Act 1994*



Ref: WR<insert work request number>

<date>

<company name>

<address>

<town> <state> <code>

Attention: <customer name>

Dear <first name>

**OFFER FOR RELOCATION SERVICES
RELOCATION OF <job description>
<job location> - JOB REFERENCE: <WORK REQUEST NUMBER>**

Thank you for your enquiry to relocate the existing <job description> within the <job location> (**Relocation Works**).

1. Offer to perform the Relocation Works

Ergon Energy is pleased to offer to perform the Relocation Works on the terms set out in the enclosed Relocation of Works Agreement (**RWS Agreement**)

Ergon Energy has undertaken preliminary site investigations. There are no current proposals to relocate the existing <job description> for Ergon Energy's purposes. As a result, Ergon Energy will not be able to fund the cost of the Relocation Works and you will be required to fully fund the cost of these works. Further details of the Relocation Works together with the cost are contained in the schedule attached to the RWS Agreement.

2. How to accept the Offer

To accept Ergon Energy's offer to perform the Relocation Works, it will be necessary by «**ExpiryDateOfOffer**» for you to:

- (a) sign both copies of the RWS Agreement and return both to Ergon Energy at the address specified in Item 10 of the Schedule; and
- (b) provide by cheque, money order or evidence of payment (credit card or EFT) the Amount Payable on Acceptance detailed in Item 9 of the Reference Schedule and the accompanying tax invoice.

Please quote your Ergon Energy Work Request Number found at the top of this letter in all your dealings with Ergon Energy.

3. What happens if I do not accept the Offer by «ExpiryDateOfOffer»

The Offer will lapse if you do not accept it by «ExpiryDateOfOffer».

If the Offer lapses, it will be necessary for you to submit a new request for Ergon Energy to relocate the existing <job description> within the <job location> and for Ergon Energy to issue a new offer. Ergon Energy periodically updates its costs to reflect the current costs. As a result, any subsequent offer made after this Offer lapses may result in an increase in the cost for Ergon Energy to perform the Relocation Works.

4. When does the RWS Agreement commence?

The RWS Agreement will commence upon:

- (a) Ergon Energy signing a copy of the agreement which has been signed by you; and
- (b) Receipt of your payment of the Relocation Works Price.

Upon the RWS Agreement commencing, Ergon Energy will place the Relocation Works in its works schedule.

5. Any questions?

If you have any further questions in respect of this Offer for Relocation Services or any aspect of the RWS Agreement, please contact «OfficerMakingOffer» on telephone «OfficersPhoneNumber» quoting the Customer's Ergon Energy Work Request Number found at the top of this letter.

Yours faithfully

«Name»
Customer Connection Manager
Encl

Relocation Works Services Agreement

REFERENCE SCHEDULE



THIS AGREEMENT is made on the date specified in Item 1 of the Reference Schedule

(b) The Customer acknowledges and agrees that:

PARTIES

Ergon Energy Corporation Limited ABN 50 087 646 062, of 22 Walker Street, Townsville QLD 4810 (Ergon Energy)
The entity specified in Item 2 of the Reference Schedule (the Customer)

(i) Ergon Energy is required by law to report any failure by the Customer to obtain all necessary licences, permits and approvals required for vegetation clearing works related to the Relocation Works which may result in the Customer being prosecuted; and

BACKGROUND

- A. Ergon Energy and the Customer have agreed that Ergon Energy will carry out the Relocation Works requested by the Customer.
- B. This Agreement sets out the arrangements, between Ergon Energy and the Customer in relation to the design, installation and construction of those works.

(ii) if the vegetation clearing works are not completed by the Customer and signed off by Ergon Energy's Liaison Person within the agreed timeframe, the Customer's Relocation Works will be rescheduled in Ergon Energy's works schedule to the next available time frame, which may result in significant delays in the completion of the project.

OPERATIVE PROVISIONS

1. Vegetation Clearance Works

1.1 If this Clause 1.1 is expressed to apply in Item 12 of the Reference Schedule, Ergon Energy will be responsible for arranging and supervising all vegetation clearing work. The Relocation Works Price includes costs for clearing of vegetation on public property, roadways and all affected private land (including the Premises).

(c) Ergon Energy will be responsible for arranging and supervising vegetation clearing work on public property, roadways and all affected private land other than the Premises. The Relocation Works Price includes costs for clearing of vegetation on public property, roadways and all affected private land (excluding the Premises).

1.2 If this Clause 1.2 is expressed to apply in Item 12 of the Reference Schedule, the following provisions will apply:

(d) Upon request from the Customer, Ergon Energy will provide to the Customer a copy of the guidance 'Landholder's guide to vegetation clearing applications' issued by the Queensland Government. Alternatively the Customer may access an on-line version at:

(a) The Customer will be responsible for arranging and supervising all vegetation clearing work on the Premises including:

http://www.nrv.qld.gov.au/vegetation/clearing/pdf/veg_clearing_guide.pdf

(i) obtaining all necessary licences, permits and approvals and providing a copy to Ergon Energy prior to starting the vegetation clearing works;

2. Civil works

2.1 If this Clause 2.1 is expressed to apply in Item 13 of the Reference Schedule, the Relocation Works Price includes all costs for civil works to be undertaken by Ergon Energy for the project.

2.2 If this Clause 2.2 is expressed to apply in Item 13 of the Reference Schedule, the following provisions will apply:

(ii) engaging a contractor approved by Ergon Energy who employs suitably qualified and trained staff and who will submit to an audit process conducted by Ergon Energy to ensure compliance with health and safety legislation;

(iii) complying with Ergon Energy's specification for vegetation clearing works which will confirm the line route and the extent of the required vegetation clearing;

(a) The Relocation Works Price does not include any costs for civil works necessary for the Customer's Relocation Works.

(iv) meeting all costs associated with vegetation clearing works on the Premises; and

(b) Ergon Energy will determine, and notify the Customer of, the required civil works and, following receipt of that notification, the Customer must (at the Customer's cost):

(v) indemnifying Ergon Energy in respect of all liability incurred by Ergon Energy as a result of the Customer's failure to comply with any laws or authorisations applicable to the vegetation clearing works.

(i) procure the completion of the civil works; and

(ii) provide the necessary easement(s) on private property over the civil works in accordance with the easement conditions specified in Item 14;

- (c) The Customer will be responsible for the installation of ducts/conduits and/or the padmount transformer foundation required for the project and must comply with the Technical Specifications in carrying out such works.
- (d) Ergon Energy will provide details of the number, locations and extent of the required civil works in the completed design of the project.
- (e) Prior to installation of the civil works, the Customer must attend a pre-start meeting with an Ergon Energy Liaison Person to confirm Ergon Energy's requirements for, and the timing for completion of, the civil works.
- (f) The Customer acknowledges that, if the civil works are not completed and approved in writing by Ergon Energy's Liaison Person within the agreed timeframe, the Customer's project will be rescheduled in Ergon Energy's works schedule to the next available time frame, which may result in significant delays in the completion of the project.
- 3. Relocation Works**
- 3.1 Ergon Energy must design, install, commission and perform all the works, functions and activities described in this Agreement and the Reference Schedule applicable to Ergon Energy.
- 3.2 In each instance, at the Customer's cost, Ergon Energy is responsible for:
- (a) obtaining all Authorisations;
- (b) acquiring all land; and
- (c) obtaining all easements and landowner consents,
- necessary to carry out the Relocation Works.
- 4. Easements and wayleaves**
- 4.1 Ergon Energy must arrange for any easements or wayleaves necessary for the Relocation Works. Details of any necessary easements or wayleaves are set out in Item 14 of the Reference Schedule.
- 4.2 The Customer and Ergon Energy must do everything required (including executing any documents), and must ensure that the Customer's or Ergon Energy's employees and agents do everything required (including executing any documents), in order that Ergon Energy obtains the easements or wayleaves referred to in this clause.
- 4.3 If this Clause 4.3 is expressed to apply in Item 14 of the Reference Schedule the following provisions will apply:
- (a) Ergon Energy will require an easement(s) to be registered on the title of the property where the electricity assets (such as underground services and transformers) will be installed. While other parties may facilitate obtaining the easement(s), the registered owner of the land must consent to and grant the easement(s) in perpetuity to Ergon Energy at no cost to Ergon Energy.
- (b) The easement conditions are set out in Ergon Energy's Standard Easement Conditions, registered with Queensland's Department of Natural Resources and Water (Dealing numbers 710384570 for (Freehold) and 711950329 for (Leasehold)).
- (c) The completed full design of the project (by Ergon Energy) will provide details on the location and size of the required easements(s). The Customer is required to organise and provide, at the Customer's cost, a survey plan (suitable for registering with the Department) indicating the extent of the easement on the property and required documentation to be sent to Ergon Energy for review before lodgement.
- (d) For any enquires regarding easements, please contact Ergon Energy's Senior Property Administration Officer on (07) 4727 6245.
- (e) Construction of the Customer's Relocation Works may be delayed until the required easement documentation is finalised.
- 4.4 If this Clause 4.4 is expressed to apply in Item 14 of the Reference Schedule the following provisions will apply:
- (a) Ergon Energy intends to install a section of overhead line/ substation on the Customer's property as part of the Relocation Works. To facilitate this, the registered owner and occupier is required to consent to the provision of the relocation works services to the Premises by signing an Ergon Energy wayleave agreement. This agreement is a simple legal instrument that gives Ergon Energy the permission to build and maintain infrastructure on private property. It is not an 'easement' over the property.
- (b) Upon entry into the Agreement, an Ergon Energy representative will be in contact with the Customer to arrange the details for the wayleave agreement.
- (c) Construction of the Customer's Relocation Works may be delayed until the required wayleave documentation is received by Ergon Energy.
- 4.5 If this Clause 4.5 is expressed to apply in Item 14 of the Reference Schedule the following provisions will apply:
- (a) Ergon Energy intends to install a section of overhead line on adjacent private property as part of the Relocation Works. To facilitate this, Ergon Energy requires the registered owner of the adjacent property to sign a wayleave agreement. This agreement is a simple legal instrument that gives Ergon Energy the adjacent property owner's permission to build and maintain infrastructure on their property. It is not an 'easement' over the property. The Customer is encouraged to make contact

	with the adjacent property owner to advise them of the intent to seek permission to construct the overhead line on their property.		of the Premises from a detailed site inspection; and
	(b) Upon entry into the Agreement, an Ergon Energy representative will make contact with the adjacent property owner to arrange a time to negotiate a suitable location for the overhead line and arrange the details for the wayleave agreement.	(v)	the Customer's Relocation Works being commenced within 10 months from the Effective Date and completed within 12 months from the Effective Date; and
	(c) Construction of the Customer's Relocation Works may be delayed until the required wayleave documentation is received by Ergon Energy.	(b)	completion of the Relocation Works is subject to a number of events or circumstances beyond Ergon Energy's control, including:
5. Timing and Works Schedule		(i)	Ergon Energy acquiring all necessary land and obtaining all necessary easements, landowner consents and access rights;
5.1 The Customer's Relocation Works will not be allocated a provisional start date in Ergon Energy's works schedule until receipt of the total Relocation Works Price.		(ii)	Ergon Energy obtaining all other necessary Authorisations, and the terms and conditions of those Authorisations;
5.2 Ergon Energy must use reasonable endeavours to complete construction of the Relocation Works by the Relocation Works Completion Date.		(iii)	the availability of plant and equipment; and
5.3 If the Customer fails to complete any works for which the Customer is responsible, and as a consequence, Ergon Energy is unable to undertake the Relocation Works so as to complete the Relocation Works by the Relocation Works Completion Date, then Ergon Energy may undertake the Relocation Works at a time suitable to Ergon Energy.		(iv)	intervening or adverse weather conditions.
5.4 The Customer indemnifies Ergon Energy in respect of all additional costs incurred by Ergon Energy as a consequence of the Customer's failure to complete any works which cause a delay in completion of the Relocation Works.		(c)	Subject to Clause 9, Ergon Energy is not liable to the Customer for any cost, expense, loss or damage suffered or incurred by the Customer as a result of any delay in the completion of the Relocation Works.
5.5 Ownership of Relocation Works		6.2 Change Notice	
The Customer acknowledges that the Customer does not have, at any time, any rights in or title to the Relocation Works or any other equipment, plant, materials or components in connection with the Relocation Works.		Ergon Energy may issue to the Customer a notice (a Change Notice) if:	
		(a)	an event or circumstance will cause a delay in completion of the Relocation Works; or
		(b)	an event or circumstance will necessitate a change in the Relocation Works which will either:
		(i)	result in an increase in the cost of the Relocation Works; or
		(ii)	have a material adverse effect on the provision of any relocation works services or the Premises.
6. Changes or Delays in Relocation Works		6.3 Terms of Change Notice	
6.1 Acknowledgments		A Change Notice must set out the following information in reasonable detail:	
The Customer acknowledges that:		(a)	the event or circumstance giving rise to the requirement to change;
(a) this Agreement is based on a concept of the project which was developed relying on:		(b)	any proposed change to the Relocation Works;
(i) the information the Customer supplied in the Relocation Services Application;		(c)	the expected delay in the completion of the Relocation Works;
(ii) information available in the public domain in relation to the requirements of local, state and federal governments;			
(iii) environmental, cultural heritage and world heritage issues;			
(iv) Ergon Energy's knowledge of the Distribution Network in the vicinity			

- (d) any alternative suggestions which may reduce the potential delay in the completion of the Relocation Works or the cost of the Relocation Works; and
- (e) any revision to the Relocation Works Price.
- 6.4 **The Customer's obligation to notify Ergon Energy**
- (a) Within ten Business Days of receiving a Change Notice, the Customer must notify Ergon Energy whether or not the Customer agrees with the matters set out in the Change Notice. Each party may offer alternative suggestions which are consistent with Good Electricity Industry Practice and commercially acceptable to it. Each party will consider any such suggestions, and if viable, use reasonable endeavours to implement the suggested alternatives.
- (b) Neither party may unreasonably withhold its agreement under Clause 6.4(a).
- (c) If the Customer does not give a notice to Ergon Energy in accordance with Clause 6.4(a), Ergon Energy may terminate this Agreement by notifying the Customer.
- 6.5 **Right to Terminate**
- (a) If Ergon Energy has not (due to the Customer's failure to comply with the conditions of this Agreement or all necessary easements, landowner consents and access rights not being granted) either:
- (i) commenced the Customer's Relocation Works within 10 months of the Effective Date; or
- (ii) completed the Customer's Relocation Works within 12 months of the Effective Date,
- then Ergon Energy may terminate this Agreement by notifying the Customer.
- (b) If:
- (i) Ergon Energy is unable, by the Consent Obtaining Date, to acquire all land and obtain all Authorisations, easements, landowner consents and access rights necessary to carry out the Relocation Works (despite all reasonable efforts to obtain them); and
- (ii) an alternative solution cannot be agreed upon in a Change Notice issued in accordance with Clause 6.4,
- then Ergon Energy may terminate this Agreement by notifying the Customer.
7. **Access to Premises**
- The Customer must provide the Approved Parties with access to the Premises for the purposes set out in Clause 3. The right of access under this Clause 7
- entitles the Approved Parties to install equipment, plant, materials or components on the Premises for the purpose of performing the Relocation Works.
8. **Payment**
- 8.1 **Relocation Works Price**
- (a) The Customer must pay Ergon Energy the Relocation Works Price set out in Item 9 of the Reference Schedule for the Relocation Works.
- (b) The Customer acknowledges that the Relocation Works Price is an estimate of the cost to Ergon Energy of providing the Relocation Works which is, in part, based on information supplied by the Customer.
- (c) Ergon Energy reserves the right to revise the Relocation Works Price by issuing a Change Notice if:
- (i) any information supplied by the Customer is found to be incorrect, inaccurate or misleading; or
- (ii) any of the circumstances in Clause 6.2 apply.
- 8.2 **Relocation Works Price Reconciliation**
- (a) Upon completion of the Relocation Works, Ergon Energy will perform a reconciliation of the actual cost to Ergon Energy of carrying out the Relocation Works against the estimate of the Relocation Works Price specified in Item 9 of the Reference Schedule.
- (b) If the actual cost to Ergon Energy is less than the estimate of the Relocation Works Price Ergon Energy shall refund the difference to the Customer.
- (c) If the actual cost to Ergon Energy is greater than the estimate of the Relocation Works Price Ergon Energy may, upon completion of the Relocation Works, send the Customer an invoice for the additional costs.
- 8.3 **Invoicing**
- (a) Ergon Energy will issue an invoice to the Customer for the Relocation Works Price.
- (b) The Customer must pay any invoice on or before the date specified in the invoice.
- 8.4 **Payment method**
- The Customer may pay any amount due under this Agreement by cheque, money order, credit card or electronic funds transfer.
- 8.5 **Late payments**
- The Customer must pay to Ergon Energy any reasonable costs Ergon Energy incurs in recovering any amounts the Customer owes to Ergon Energy under this Agreement.

8.6 *Payment – a condition of works scheduling*

The Customer must pay the Relocation Works Price before Ergon Energy will schedule a start date for the Customer's Relocation Works.

9. **Liability**9.1 *Limitation of Liability*

- (a) Ergon Energy will not be liable to the Customer for any cost, expense, loss or damage, or for any breach under or in respect of this Agreement, howsoever arising, or at law.

9.2 *Exclusion of Liability*

- (a) Except as specified in this Agreement, neither party is liable to the other under or in connection with this Agreement or under contract tort (including negligence) breach of statute or other cause of action at law or in equity for any of the following:

- (i) any cost, expense, loss or damage of an indirect or consequential nature;
- (ii) loss of profits, loss of contract, loss of opportunity, loss of goodwill, loss of business reputation, loss of revenue, loss of use of property or loss of production;
- (iii) increased costs of working or labour costs;
- (iv) costs of capital;
- (v) costs of business interruption; or
- (vi) costs, expenses, loss or damage that are not a direct and immediate consequence of the breach,

suffered by the other party however arising due to any causes including but not limited to the default or sole or concurrent negligence of a party or its *representatives* and whether or not foreseeable at the date of this Agreement.

9.3 *Contribution to Loss Suffered*

If:

- (a) a party makes a claim against the other party under this Agreement; and
- (b) the party making the claim has contributed to the loss that it has suffered,

the entitlement to damages of the party making the claim must be proportionately reduced, taking into account the extent to which it has contributed to its own loss.

9.4 *Electricity Laws*

Subject to Clause 9.2, the parties do not intend to vary or exclude the operation of sections 40E and 97 of the Act or section 120 of the National Electricity Law.

10. **Early termination**10.1 *Right to Terminate*

The Customer may terminate this Agreement at any time prior to commencement of construction by Ergon Energy of the Relocation Works.

10.2 *Cost Reimbursement*

- (a) If, prior to the completion of the Relocation Works, this Agreement is terminated:

- (i) by the Customer under Clause 10.1; or
- (ii) by Ergon Energy under Clause 6.5 or 11,

the Customer must reimburse Ergon Energy all costs incurred by Ergon Energy in relation to the Relocation Works up to the Termination Date plus the total of the following estimated or actual costs incurred by Ergon Energy as a result of the Customer's failure to proceed with the Relocation Works:

- (iii) the reasonable costs to recover installed and reusable components of the Relocation Works that are dedicated to the Customer;
- (iv) the reasonable costs to re-install those reusable components to the Distribution Network which costs are attributable to the Relocation Works not proceeding; and
- (v) the reasonable costs to recover and dispose of unusable components of the Relocation Works that are dedicated to the Customer; and
- (vi) the reasonable costs incurred by Ergon Energy to reconfigure the Distribution Network which costs are attributable to the Relocation Works not proceeding.

- (b) For the purpose of Clause 10.2(a), the costs to be reimbursed include those that are payable by Ergon Energy to third parties, (being those costs payable to third parties arising directly out of the Relocation Works) after the Termination Date, the liability for which was incurred before the Termination Date.

- (c) Ergon Energy must provide the Customer with an invoice stating the amount payable by the Customer under Clause 10.2(a) together with all relevant supporting

	material evidence of the costs incurred by Ergon Energy.	11.3	Remedies
(d)	If the Customer has already paid all or part of the Relocation Works Price to Ergon Energy prior to the Termination Date then either:	(a)	If a Default is not cured within the relevant cure period set out in Clause 11.2(a) Ergon Energy may:
(i)	if the amount already paid by the Customer exceeds the amount stated in the invoice issued under Clause 10.2(c), Ergon Energy will reimburse to the Customer the difference between the amount paid by the Customer and the amount stated in the invoice issued under Clause 10.2(c); or	(i)	terminate this Agreement;
(ii)	if the amount already paid by the Customer is less than the amount stated in the invoice issued under Clause 10.2(c), the Customer must pay to Ergon Energy the difference between the amount paid by the Customer and the amount stated in the invoice issued under Clause 10.2(c).	(ii)	sue the Customer for any outstanding amount owing under this Agreement; and
(e)	Ergon Energy will not be liable to the Customer for any loss or damage suffered by the Customer.	(iii)	exercise all other remedies available to Ergon Energy.
11. Default and Termination		11.4	Right to Remove
11.1 Default		(a)	If this Agreement is terminated, Ergon Energy will be entitled to de-commission and remove any of its assets associated with the Relocation Works and to reinstate the Distribution Network to its state prior to commencement of the Relocation Works.
If a Default by the Customer occurs, Ergon Energy may give the Customer a written notice (Default Notice) specifying the Default that has occurred.		(b)	The rights given under this Clause 11 are without prejudice to any other rights that Ergon Energy may have at law.
11.2 Cure Periods		12. Goods and Services Tax Provisions	
(a) After receiving a Default Notice, the Customer has:		12.1 Definitions	
(i) in the case of a Financial Default, 10 Business Days from the date of receipt of the Default Notice; or		Words in this Clause 12 have the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Commonwealth), unless the context makes it clear that a different meaning is intended.	
(ii) in the case of a Non-Financial Default which is capable of remedy, the period stated in the Default Notice,		12.2 Interpretation	
to remedy the Default.		If a party is a member of a GST group, references to GST which the party must pay and to input tax credits to which the party is entitled include GST which the representative member of the GST group must pay and input tax credits to which the representative member is entitled.	
(b) The period of time stated in a Default Notice under Clause 11.2(a)(ii) must be a reasonable period of time, taking into account the nature of the Default.		12.3 GST Exclusive Amounts	
(c) In the case of a Non-Financial Default which is capable of remedy, the Customer must diligently pursue a reasonable course of action to remedy the Default, and must use Good Electricity Industry Practice.		All amounts stated in this Agreement are GST exclusive unless otherwise indicated.	
(d) If the Customer stops diligently pursuing a reasonable course of action to remedy the Non-Financial Default, the period of time under Clause 11.2(a)(ii) will end once Ergon Energy sends a notice to the Customer ending the relevant cure period.		12.4 Payment of GST	
		If an amount in this Agreement is not stated as GST inclusive then the following provisions apply:	
		(a) a recipient of a taxable supply under or in connection with this Agreement must pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply; and	
		(b) the recipient must make that payment to the supplier as and when the consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a tax invoice for that taxable supply.	

12.5	Non-Monetary Consideration	the NE Rules to the extent this process is capable of applying.
	For the avoidance of doubt, if an amount of non-monetary consideration is provided for a taxable supply made under this Agreement, Clause 12.4 applies in respect of the GST payable relating to the non-monetary consideration. The parties agree that the GST inclusive market value of any amount of non-monetary consideration will be determined by Ergon Energy in accordance with the principles accepted by the Australian Taxation Office. The Customer agrees to provide any information or assistance as is reasonably necessary for the purpose of determining the GST inclusive value of any non-monetary consideration.	
12.6	Reimbursements	
	Where a supplier incurs a cost or expense for which it may be reimbursed by, indemnified against, claim against or set-off against another party under this Agreement, the amount to be paid or credited is the cost or expense (reduced by the input tax credit that the supplier is entitled to claim in respect of that cost or expense) plus the amount in respect of GST payable by the recipient under Clause 12.4 where relevant.	
12.7	Adjustment Events	
	If, at any time, an adjustment event arises in respect of any supply made by a party under the Agreement, a corresponding adjustment must be made between the parties in respect of any amount paid in respect of GST including an amount paid pursuant to Clause 12.4. Payments to give effect to the adjustment must be made between the parties except that the recipient need not pay any amount unless the recipient has received a valid adjustment note in respect of that amount. Consistent with this requirement, the Supplier must issue a valid adjustment note in relation to the adjustment event.	
12.8	Recovery of GST Credits	
	If, subsequent to the recipient either paying any GST on or claiming an input tax credit for acquisitions made under this Agreement, the supply to which either GST paid attached or the entitlement to the input tax credit arose is determined by the Australian Taxation Office not to be a taxable supply, the recipient can recover from the supplier an amount equal to the amount either paid in respect of the GST or claimed as an input tax credit.	
12.9	Survival	
	This clause survives the expiration or termination of this Agreement and will continue to apply after the expiration or termination of this Agreement.	
13.	Dispute Resolution	
13.1	Rules dispute	
	If a dispute arises between the parties to which Clause 10.2 of the NE Rules applies, the parties must follow the dispute resolution process set out in	
13.2	Non Rules dispute	
	(a) If a dispute other than a dispute under Clause 13.1 arises between the parties, the dispute must in the first instance be referred to the senior representatives of the parties for resolution.	
	(b) If the dispute is not resolved within 10 Business Days of referral to the senior representatives, the parties may agree to either:	
	(i) where the Energy Ombudsman Queensland has power to resolve the dispute, refer the dispute to the Energy Ombudsman Queensland; or	
	(ii) in all other cases, refer the dispute to an Expert in accordance with Clause 13.3.	
	(c) Any determination by an Expert will be conducted in the place notified by Ergon Energy to the Customer.	
13.3	Expert	
	(a) Where a dispute under this Agreement is referred to any Expert for resolution, the resolution will be appointed by the parties.	
	(b) If the parties cannot agree on the Expert to determine the dispute, the Expert will be an Expert nominated by:	
	(i) in the case of financial matters, the President for the time being of the Institute of Chartered Accountants in Australia;	
	(ii) in the case of technical engineering matters, the President for the time being of the Institution of Engineers Australia; and	
	(iii) in the case of legal matters, the President for the time being of the Law Society of Queensland.	
	(c) The parties must:	
	(i) direct the Expert to make his or her determination quickly; and	
	(ii) take all reasonable steps to bring about a quick determination.	
13.4	Qualifications of Expert	
	The Expert must	
	(a) have reasonable qualifications and commercial and practical experience in the area of the dispute;	

(b)	have no interest or duty which conflicts or may conflict with his or her function as Expert; and	15.2	<i>Assignment by Ergon Energy</i>
(c)	not be an employee or former employee of any of the parties, or any related body corporate of the parties.		Ergon Energy may only assign its rights under this Agreement to any successor entity who owns and operates the Distribution Network.
13.5	<i>Decision binding</i>	15.3	<i>Change of Control</i>
	In the absence of manifest error, the decision of the Expert will be valid and binding on the parties where the amount of the determination for a single event, act or omission does not exceed 75 percent of the amount in dispute		A Change of Control of a party is deemed to be an assignment of the party's rights under this Agreement to which this Clause 15 applies.
13.6	<i>Costs of Expert</i>	16.	Notices
	The costs of the Expert and any advisers to the Expert will be borne equally by the parties unless the Expert makes a determination to the contrary.	16.1	<i>How to give a notice</i>
14.	Compliance with Laws		A notice, consent or other communication under this Agreement is only effective if it is:
14.1	<i>Parties to Comply</i>	(a)	in writing, signed by or on behalf of the person giving it;
(a)	Ergon Energy must comply with its relevant obligations under the Electricity Laws and all other relevant Laws and Authorisations (including obtaining all licences, permits and approvals required under PEC Laws, which relate to the construction of any works to be carried out by Ergon Energy).	(b)	addressed to the person to whom it is to be given; and
(b)	The Customer must comply with the Customer's relevant obligations under the Electricity Laws and all other relevant Laws and Authorisations (including obtaining all licences, permits and approvals required under PEC Laws, which relate to the construction of any works to be carried out by the Customer).	(c)	either:
14.2	<i>Indemnity</i>	(i)	delivered by hand or sent by pre-paid mail to that person's address; or
	The Customer must indemnify Ergon Energy in respect of all costs, claims, damage and expenses incurred by Ergon Energy as result of the Customer's failure to comply with the Customer's relevant obligations under the Electricity Laws and all other relevant Laws and Authorisations.	(ii)	sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.
15.	Assignment	16.2	<i>When a notice is given</i>
15.1	<i>Assignment by the Customer</i>		A notice, consent or other communication that complies with this clause is regarded as given and received:
(a)	The Customer may only assign the Customer's rights under this Agreement with the prior written consent of Ergon Energy.	(a)	if it is sent by fax:
(b)	If Ergon Energy consents to an assignment under Clause 15.1(a), the Customer must cause the assignee to enter into a deed in favour of Ergon Energy under which the assignee covenants to comply with the Customer's obligations (as the assignor) under this Agreement.	(i)	by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
		(ii)	after 5.00 pm (local time in the place of receipt) on a Business Day, or at any time on a day that is not a Business Day – on the next Business Day;
		(b)	if it is sent by mail – three Business Days after posting; and
		(c)	if it is delivered by hand, on delivery.
		16.3	<i>Address for notices</i>
			A person's address and fax number are those set out in Item 10 of the Reference Schedule or as the person subsequently notifies the sender from time to time in accordance with this Clause 16.

17. General	17.6 Operation of indemnities
17.1 Governing law and jurisdiction	(a) Each indemnity in this Agreement survives the termination of this Agreement.
This Agreement is governed by the law in force in Queensland. Each party submits to the exclusive jurisdiction of the courts having jurisdiction in Queensland.	(b) A party may recover a payment under an indemnity in this Agreement before it makes the payment in respect of which the indemnity is given.
17.2 Liability for expenses	17.7 Authority to enter into the Agreement
The Customer must pay the Customer's own expenses incurred in connection with:	Where a party to this Agreement is a corporation, that party warrants that it has the power to enter into and give effect to this Agreement.
(a) the negotiation, preparation and execution of this Agreement; and	18. Interpretation
(b) the transactions that this Agreement contemplates.	18.1 Definitions
17.3 Giving effect to this Agreement	The following definitions apply in this Agreement and the Reference Schedule.
Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this Agreement.	Act means the <i>Electricity Act 1994</i> (Qld).
17.4 Waiver of rights	Agreement means this Relocation Services Agreement.
A right may only be waived in writing, signed by the party giving the waiver, and:	Approved Parties means Ergon Energy, its agents, contractors, sub-contractors, designers, employees, officers and other representatives.
(a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;	Authorisation means any licence, authority, permit, registration, consent, declaration, exemption, notarisation or waiver, and any renewal or variation of any of them issued, granted or approved by a Government Agency.
(b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and	Business Day means a day other than a Saturday, a Sunday or a day which is a public holiday in those locations in Queensland specified in Item 6 of the Reference Schedule.
(c) the exercise of a right does not prevent any further exercise of that right or of any other right.	Business Hours means any time between 7:30 am and 5:00 pm on a Business Day.
17.5 Operation of this Agreement	Change Notice means a notice given by Ergon Energy under Clause 6.2.
(a) This Agreement contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Agreement and has no further effect.	Change of Control means:
(b) Any right that a person may have under this Agreement is in addition to, and does not replace or limit, any other right that the person may have.	(a) For a corporation which is not a Government Owned Corporation or a subsidiary of a Government Owned Corporation:
(c) Any provision of this Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable, unless this would materially change the intended effect of this Agreement.	(i) Control of the composition of the board of directors of the corporation;
	(ii) Control of more than half the voting rights attaching to shares in the corporation; or
	(iii) Control of more than half the issued shares of the corporation (excluding any part which carries no right to participate beyond a specified amount in the distribution of either profit or capital;

- (b) For a corporation which is a Government Owned Corporation or a subsidiary of a Government Owned Corporation, that the entity is no longer majority owned, directly or indirectly, by the Queensland Government or one or more Ministers of the Queensland Government.

Consent Obtaining Date means the date set out in Item 7 of the Reference Schedule.

Control means a power or control that is direct or indirect or is, or can be, exercised as a result of, by means of, in breach of, or by revocation of, trusts, relevant agreements and practices, or any of them, whether or not they are enforceable.

Corporations Act means the *Corporations Act 2001* (Cth).

Default means a Financial Default or a Non-Financial Default.

Default Notice means a notice given under Clause 11.1.

Distribution Network means the *distribution network* owned and operated by Ergon Energy.

Effective Date means the date specified in Item **Error! Reference source not found.** of the Reference Schedule.

Electricity Laws means the Act, the Regulation, the NE rules, the National Electricity Law and any other Law which is relevant to the subject matter of this Agreement.

Financial Default means a failure by the Customer to pay an amount of money owing to Ergon Energy under this Agreement.

Good Electricity Industry Practice means, in the case of Ergon Energy, the exercise of that degree of skill, diligence, prudence and foresight that could reasonably be expected from a significant proportion of operators of facilities similar to the Distribution Network taking into account the size, duty, age and technological status of the Distribution Network and any other relevant factors.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a Law.

Government Owned Corporation has the meaning given to the term 'Government Owned Corporation' in the *Government Owned Corporation Act 1993* (Qld).

Law means any legally binding law, legislation, statute, act, rule, order, regulation or code of

practice which is enacted, issued or promulgated by the State of Queensland, the Commonwealth of Australia or any relevant local authority.

Letter means the letter from Ergon Energy to the Customer entitled 'Offer for Relocation Services'.

Liaison Person means the Ergon Energy officer who will from time to time carry out audits of materials procured, vegetation clearing works and/or civil construction works.

National Electricity Law means the National Electricity (Queensland) Law as defined in the *Electricity – National Scheme (Queensland) Act 1997* (Qld).

NE Rules means the National Electricity Rules under the National Electricity Law.

Non-Financial Default means a failure to comply with a provision of this Agreement, but does not include a Financial Default.

Non-Financial Obligation means an obligation under this Agreement other than one involving the payment of money.

Offer has the meaning given in the Letter.

PEC Laws means all planning, environmental and cultural heritage laws, including the Integrated Planning Act 1997 (Qld), Environmental Protection Act 1994 (Qld), Environmental Protection and Biodiversity Conservation Act 1999 (Cth), Aboriginal Cultural Heritage Act 2003 (Qld) and Torres Strait Islander Cultural Heritage Act 2003 (Qld).

Premises means the premises identified in the application for relocation submitted by the Customer, at which the Relocation Works are to be carried out, unless otherwise specified by Ergon Energy.

Reference Schedule means the schedule entitled 'Reference Schedule' appended to this Agreement.

Regulation means the *Electricity Regulation 2006* (Qld).

Relocation Works means those works involving the physical relocation by Ergon Energy (at the request of the Customer) of existing Ergon Energy assets from their present location to a new location, as more particularly described in Item 4 of the Reference Schedule.

Relocation Works Completion Date means the date set out in Item 8 of the Reference Schedule.

Relocation Works Price means the amount payable by the Customer and set out in Item 9 of the Reference Schedule.

Technical Specifications means the Technical Specifications for the civil works as set out in Ergon Energy's Standard Specifications RSC06, RSC07 and Civil Drawings which are available from Ergon Energy's website.

Termination Date means the day this Agreement is terminated.

18.2 *NE Rules Definition*

With the exception of italicised references to legislation, words written like *this* have the meaning given to them in the NE Rules.

18.3 *Rules for interpreting this Agreement*

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply:

18.4 *A reference to:*

legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

- (a) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated; and
- (b) a reference to '\$' or 'dollar' is to Australian currency;
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes the other genders.
- (e) If a word is defined, another part of speech has a corresponding meaning.

18.5 *Business Days*

If the day on or by which a person must do something under this Agreement is not a Business Day, the person must do it on or by the next Business Day.

Relocation Works Services Agreement

REFERENCE SCHEDULE



1. DATE OF AGREEMENT AND EFFECTIVE DATE

The Agreement is dated [insert date].

2. CUSTOMER

[Insert name and address of Customer]

3. PREMISES

[Name and location to be inserted]

4. SCOPE OF RELOCATION WORKS

[Insert details and relevant Specifications]

5. WORK REQUEST NUMBER

[Insert Work Request Number]

6. BUSINESS DAY LOCATION

[Insert Location of CCO and Customer]

7. CONSENT OBTAINING DATE

[Insert date by which Authorisations must be obtained]

8. RELOCATION WORKS COMPLETION DATE

[Insert date for Relocation Works to be completed]

9. RELOCATION WORKS PRICE

The estimated cost for works by Ergon Energy is listed below inclusive of GST.
(Note: actual costs will be charged for the Relocation Works. Clause 8.2 will apply.)

Project Cost of Network Relocations	\$ <>.00
CUSTOMER CONTRIBUTION	\$ <>.00
PLUS 10% GST	\$ <>.00
RELOCATION WORKS PRICE	\$ <>.00

Payment Methods: details of the methods for payment of the Relocation Works Price are set out in the tax invoice issued by Ergon Energy.

The Relocation Works Price includes all costs for civil works to be undertaken by Ergon Energy for the project.

10. ADDRESS DETAILS FOR PROVIDING NOTICES**Ergon Energy**

Address: [insert details of postal address of CCO]

Fax number: [insert details]

Attention: [insert details of CCO]

Customer [insert details]

Address: [insert details]

Fax number: [insert details]

Attention: [insert details]

11. LIAISON PERSONNEL and BUSINESS HOUR CONTACT DETAILS

	Name	Telephone	Email
Ergon Energy			
Customer Connection Officer	[Insert Name]	[Insert phone number]	[Insert email address]
Customer			
Customer			

12. VEGETATION CLEARING WORKS

Clause 1.1 will apply

Clause 1.2 will apply

Not applicable

13. CIVIL WORKS

Clause 2.1 will apply

Clause 2.2 will apply

Not applicable

14. EASEMENTS/WAYLEAVES

Clause 4.3 will apply

Clause 4.4 will apply

Clause 4.5 will apply

Not applicable

15. PROJECT DEVELOPMENT

Activity	Responsible Party
Vegetation Clearing Works	<input type="checkbox"/>
Civil Works	<input type="checkbox"/>
Relocation Works	Ergon Energy

16. SPECIAL CONDITIONS

Unless the context otherwise requires, a reference in these special conditions to a Clause is a reference to a Clause of the Agreement.

To the extent that there is any inconsistency between a special condition and a provision of the Agreement, the special condition prevails to the extent of the inconsistency.

[Insert any Special Conditions – NB. Special Conditions must be approved by Ergon Legal before providing them to the Customer.]

16.1 Clause 8.3 of the Agreement shall be deleted and replaced by the following new Clause 8.3:

8.3 Invoicing

Ergon Energy will issue an invoice to the Customer for the Relocation Works Price.

Subject to Clause 8.3(c), the Customer must pay any invoice on or before the date specified in the invoice.

Upon receipt of an invoice issued by Ergon Energy for the Relocation Works Price, the Customer may elect to issue a purchase order to Ergon Energy and postpone payment of the Relocation Works Price until after Ergon Energy has:

- (i) performed a reconciliation under Clause 8.2; and
- (ii) issued a further invoice for a revised Relocation Works Price which reflects the actual costs of the Relocation Works.

If:

- (i) Clause 8.3(c) applies; and
- (ii) as a result of the issue by Ergon Energy of a Change Notice, the Relocation Works Price is increased,

the Customer shall issue to Ergon Energy a further purchase order in respect of the increase in the Relocation Works Price.

EXECUTED as an agreement.

SIGNED for and on behalf of **Ergon Energy Corporation Limited (ABN 50 087 646 062)** by its authorised representative:

Signature of *[insert title of authorised representative]*

Signature of Witness

Name of *[insert name of authorised representative]*

Name of Witness

EXECUTED by [name of Customer] (ABN number):

Name of customer
Signature of director

Name of customer
Signature of director/secretary

Name

Name

12.7 REGULATED CAR PARKING TIMES IN PROXIMITY TO THE YEPPOON LAGOON**File No:** ED8.5.12**Attachments:**

1. Regulated Parking Area Zones [↓](#)
2. Paid Parking Areas Yeppoon Lagoon [↓](#)
3. Proposed Two Hour Regulated Parking Areas [↓](#)

Responsible Officer: Brett Bacon - Executive Director Liveability and Wellbeing**Author:** Sonia Barber - Principal Economic Development and Innovation Officer

SUMMARY

Parking areas around Appleton Park, the skate park, Keppel Bay Sailing Club northern foreshore and the southern lagoon on-street parking areas (out the front and side of Council Chambers) are not included in the timed regulated parking areas, nor the paid parking areas near the Yeppoon Lagoon and Yeppoon foreshore areas.

Once regulated and paid parking areas around the Yeppoon Lagoon are implemented, parking areas that are close to the Yeppoon Lagoon and not regulated, nor paid parking will be targeted by visitors and will be filled for extended periods of time.

It is recommended that the areas above are designated two (2) hour regulated parking areas to increase turnover and availability of parking for visitors to Appleton Park, the Yeppoon Lagoon and foreshore area.

RECOMMENDATION

THAT Council resolve to designate the following car parking areas, as depicted in Attachment Three, two (2) hour regulated parking areas:

- 1) Appleton Park playground parking area;
- 2) skate park parking area;
- 3) Keppel Bay Sailing Club northern foreshore parking area; and
- 4) southern lagoon parking on-street parking areas (out the front and side of Council Chambers).

BACKGROUND

In December 2017 Council agreed to introduce regulated timed parking within certain areas of the Yeppoon Town Centre and Foreshore areas (refer Attachment One Regulated Parking Area Zones).

In September 2018 Council agreed to introduce paid parking within certain areas on Lagoon Place and south of the Keppel Bay Sailing Club (refer Attachment Two Paid Parking Areas Yeppoon Lagoon).

COMMENTARY

Regulated parking is set to be implemented in the Yeppoon Town Centre and Anzac Parade foreshore areas prior to June 2019. Paid parking around the Yeppoon Lagoon and Keppel Bay Sailing Club will also be implemented prior to June 2019.

Signage for all areas has been budgeted for in the 2018/19 Quarter Two review and final signage design needs to be completed so the signs can be ordered in a timely manner to match the project schedules.

Concerns have been raised around the fact that the parking areas listed below have not been resolved to be included in the regulated timed parking area, or paid parking areas.

- 1) Appleton Park play parking area
- 2) skate park parking area
- 3) Keppel Bay Sailing Club northern foreshore parking area
- 4) southern lagoon parking on-street parking areas (out the front and side of Council Chambers)

Once regulated and paid parking areas are implemented and enforced it is assumed that visitors to the Yeppoon Lagoon and surrounds will park in the above areas first for extended periods of time.

For consistency with two (2) hour regulated parking along the foreshore it is recommended that the above areas are designated two (2) hour regulated parking areas (refer Attachment Four).

These areas are declared traffic areas and timed regulated parking can be introduced at any time. The necessary changes to the subordinate local law have already been made in regards to the above areas (refer Attachment Three Proposed Two Hour Regulated Parking Areas).

PREVIOUS DECISIONS

At its Ordinary Meeting of 5 December 2017, Council resolved to:

- (1) *Declare a Traffic Area having a default parking limit of one hour, with the inclusion of two and three hour designations being established in specific precincts as supported by Attachment Four Community Engagement WrAPup Car Parking Strategy Yeppoon CBD and as shown in Attachment One (Schedule One - Declaration of Traffic Area);*
- (2) *Endorse and enact the regulated parking strategy once the changes to the Subordinate Local Law No. 5 (Parking) 2011 Schedule One and Schedule Two take effect and regulated parking signage is in place;*
- (3) *Once enacted adequately inform the community of the regulated parking areas (via engagement, media and signage). An initial warning period of one month will be afforded to motorists found overstaying the timed period. After one month the monetary value of an infringement will resume;*
- (4) *Consider a budget allocation at the 17/18 Quarter Two Budget review for updated parking signage in the amount of \$30,000;*
- (5) *Endorse the installation of smart parking beacons and technology to the designated one hour regulated traffic area to be funded from the Yeppoon Town Centre Smart Lighting Project;*
- (6) *Amend Subordinate Local Law No. 5 (Parking) 2011 Schedule One Declaration of traffic area to define a Traffic Area for Yeppoon as shown in Attachment One (Schedule One - Declaration of Traffic Area);*
- (7) *Amend Subordinate Local Law No. 5 (Parking) 2011 Schedule Two Declaration of off-street regulated parking areas to include off-street regulated parking for Queen Street (Lot 10 on Y17136), the Yeppoon Town Centre Car Park (Lot 10 on SP289416) and the Yeppoon Foreshore (part of Lot 65 on SP234671); and*

- (8) *Amend Subordinate Local Law No. 5 (Parking) 2011 Schedule Two Declaration of off-street regulated parking areas to rescind all reference and plans associated with the region of Rockhampton Regional Council.*

At its Ordinary Meeting of 18 December 2018 Council resolved to:

- (1) *acknowledge no submissions received regarding proposed amendments to Subordinate Local Law No.5 (Parking) 2018 pursuant to section 29A (3) of the Local Government Act 2009; and*
- (2) *make Parking (Amendment No.2) Subordinate Local Law No.5 2018 as amended; and*
- (3) *pursuant to section 32 of the Local Government Act 2009, adopt a consolidated version of Parking (Amendment No.2) Subordinate Local Law No.5 2018 to be known as Subordinate Local Law No.5 (Parking) 2018.*

BUDGET IMPLICATIONS

The budgeted amount (\$80,000) for the supply of signage to all regulated and paid parking areas is thought to be sufficient to cover the extra signage required to the proposed regulated timed parking areas.

LEGISLATIVE CONTEXT

The consideration of this matter is not impacted by any specific legislation.

LEGAL IMPLICATIONS

There are no legal implications associated with the consideration of the matter.

STAFFING IMPLICATIONS

Infrastructure Civil Design engineers are completing the final design of the regulated and paid parking car parking signage requirements.

RISK ASSESSMENT

If the identified parking areas in this report are not regulated with timed parking they will be filled for extended periods of time with users of the Yeppoon Lagoon and this will not allow for regular turnover of visitors.

CORPORATE/OPERATIONAL PLAN

Strategy AM3 of Council's Corporate Plan states: '*Design and implement practical infrastructure solutions.*'

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) *Transparent and effective processes, and decision-making in the public interest; and*
- (b) *Sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- (c) *Democratic representation, social inclusion and meaningful community engagement; and*
- (d) *Good governance of, and by, local government; and*
- (e) *Ethical and legal behaviour of councillors and local government employees.*

CONCLUSION

The Yeppoon Lagoon has very high usage rates in summer, weekends and public holidays with a glut of cars parking illegally around the area during peak times.

Once regulated and paid parking areas around the Yeppoon Lagoon are implemented, those areas that are close to the Yeppoon Lagoon and not regulated will be targeted by visitors and will be filled for extended periods of time by users of the lagoon and surrounding area.

It is recommended that the areas below are designated two (2) hour regulated parking areas:

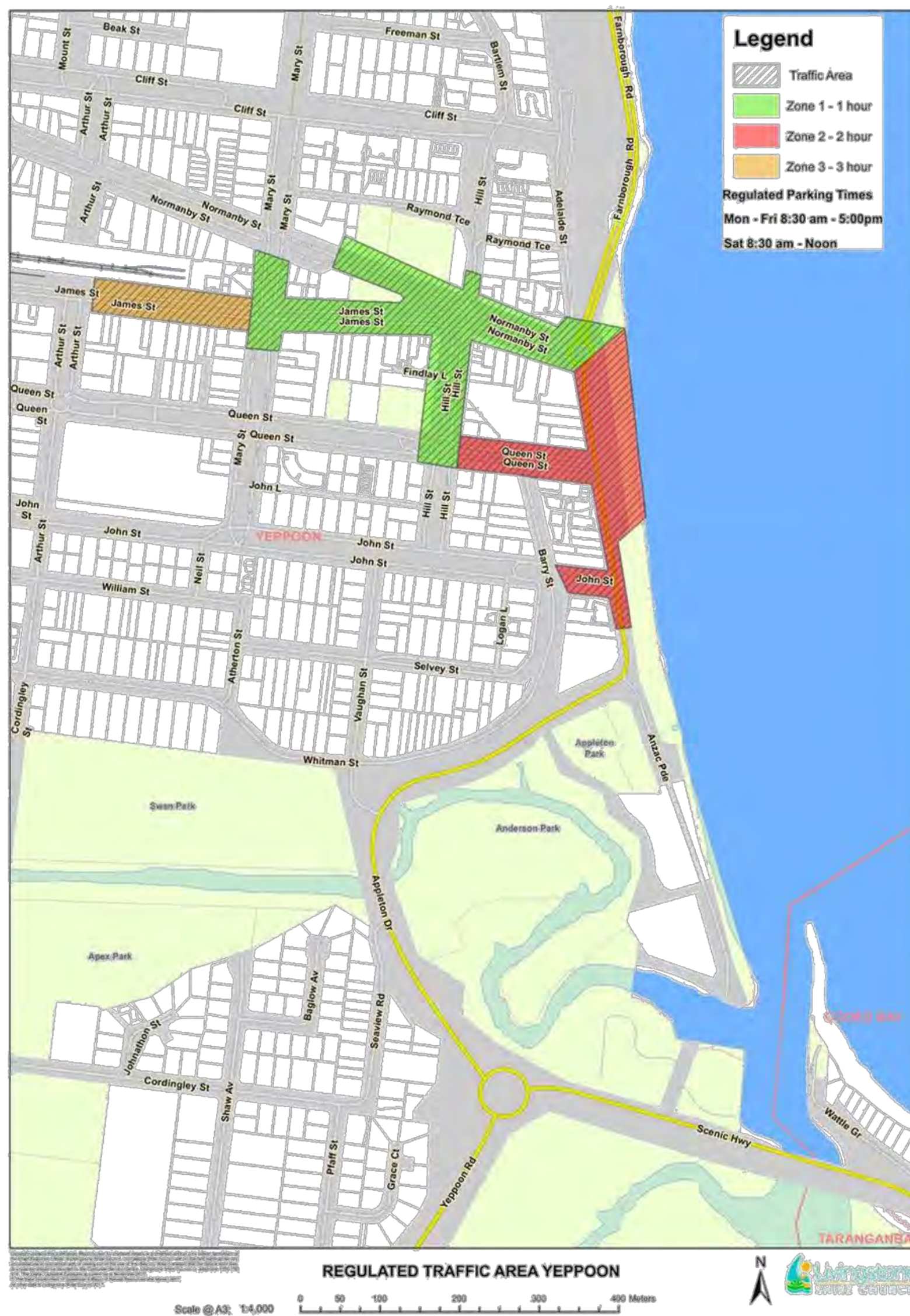
- 5) Appleton Park play parking area
- 6) skate park parking area
- 7) Keppel Bay Sailing Club northern foreshore parking area
- 8) southern lagoon parking on-street parking areas (out the front and side of Chambers)

12.7 - REGULATED CAR PARKING TIMES IN PROXIMITY TO THE YEPPON LAGOON

Regulated Parking Area Zones

Meeting Date: 1 April 2019

Attachment No: 1

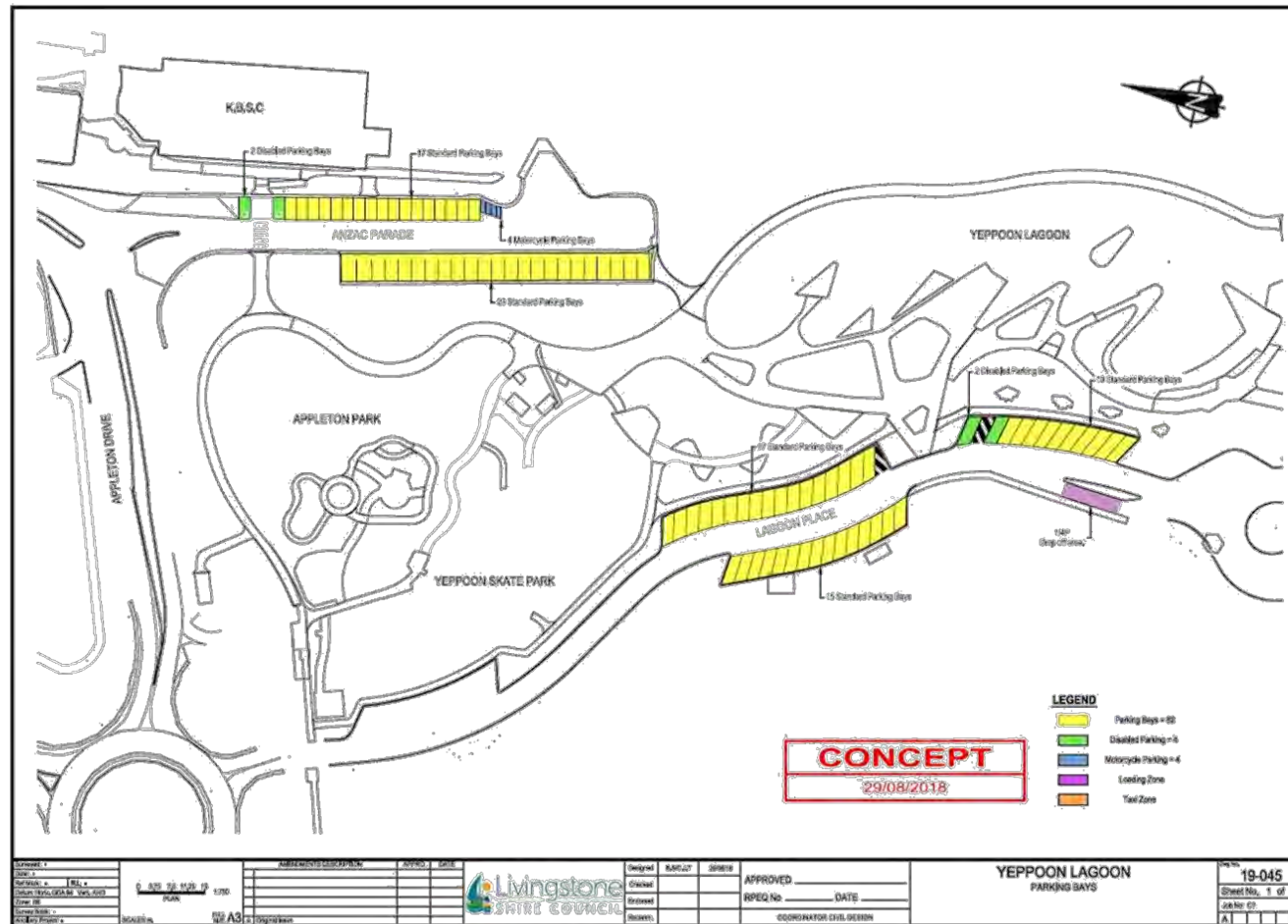


12.7 - REGULATED CAR PARKING TIMES IN PROXIMITY TO THE YEPPOON LAGOON

Paid Parking Areas Yeppoon Lagoon

Meeting Date: 1 April 2019

Attachment No: 2

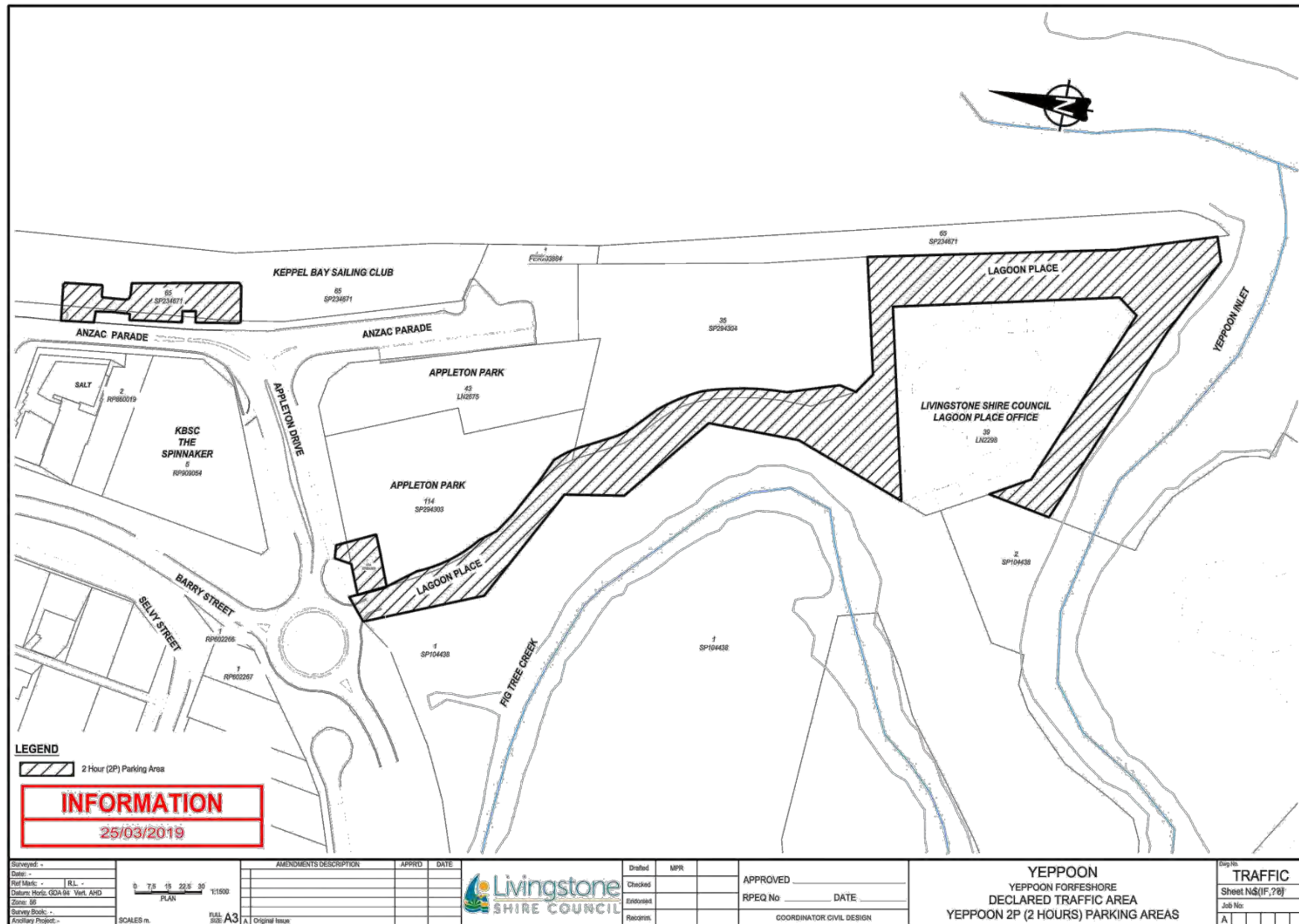


12.7 - REGULATED CAR PARKING TIMES IN PROXIMITY TO THE YEPPOON LAGOON

Proposed Two Hour Regulated Parking Areas

Meeting Date: 1 April 2019

Attachment No: 3



12.8 WATER SUPPLY CHARGES FOR SURF LAKES HOLDINGS LIMITED**File No:** WS32.3.1**Attachments:**

1. Letter from CEO Surf Lakes Holdings Ltd dated 18 February 2019 [↓](#)
2. Temporary Water Supply Agreement and Private Works Connection [↓](#)

Responsible Officer: Chris Murdoch - Chief Executive Officer**Author:** Dan Toon - Executive Director Infrastructure

SUMMARY

This report provides information pertaining to a request from the CEO of Surf Lakes Holdings Limited for a reduction of water charges for the re-filling of the prototype surf wave generator dam located at 1662 Yeppoon Road, Mulara.

RECOMMENDATION

That Council resolve to respond to the request from Surf Lakes Holdings Ltd ('Surf Lakes') seeking a reduced water consumption charge to refill the dam by congratulating them on the successful testing of the prototype and advising that the request for a reduced charge is declined in this instance.

BACKGROUND

Surf Lakes Holdings Ltd ('Surf Lakes') is a privately funded company which is developing a recreational wave pool for surfing and have constructed a prototype to prove the technology on property located at 1662 Yeppoon Road, Mulara.

In 2017, Surf Lakes made application to Council for a connection to the Rockhampton Yeppoon Pipeline for the supply of water to the facility to fill the dam. The application for connection was followed by a request to provide financial relief from the cost of water consumption associated with the initial filling of the wave pool estimated to be approximately 65 megalitres and having a value of approximately \$125,000.

The following resolution was adopted by Council at the Ordinary Meeting held on 21 November 2017:

"THAT, in accordance with Section 122, subsections (1) (a) and (3) of the Local Government Regulation 2012, given this project could bring substantial future economic activity and benefit to the region, in keeping with the additional information provided by officers at the meeting, Council support the request for a concession by providing water for the initial fill up of the wave pool on a cost plus basis at a charge of \$1.30 per kilolitre (i.e. \$1.27 plus 3 cents per kilolitre)."

Surf Lakes subsequently entered into a Temporary Water Supply Agreement - Private Works Connection on 14 April 2018, a copy of which is attached. As the venture is a prototype only, infrastructure charges were not applicable, nor was planning approval required. If the venture were to be converted at a future date to a commercial operating tourist facility, planning approval and infrastructure charges would be applicable. However, the company has stated that they do not intend for this site to be a commercial venture and this was recently confirmed by a news article in the Morning Bulletin which confirmed a commitment to construction of a public access facility at the Gold Coast. A company spokesman is quoted as stating *"The Yeppoon site was always just a research and development facility..."*.

Water consumption charges for the initial fill up amounted to 78,522 kl at \$1.30/kl, equating to a charge \$102,078.60 which gave a concession of \$54,180.18 when discounted from the normal charge of \$1.99 per kl.

COMMENTARY

Following construction and initial demonstration, the prototype suffered a malfunction and the wave pool had to be drained to effect repairs. These repairs are anticipated to be completed by the end of April 2019 at which time the wave pool will need to be refilled.

On 18 February 2019, Council received another request from the CEO of Surf Lakes for further consideration from Council for financial assistance towards water consumption charges for re-filling the dam (see attached letter).

The new request seeks the same consideration as granted by Council for the initial fill up, hence, it can be estimated the value of the relief would amount to approximately \$55,000. Council was supportive of the first request to assist the company at a time when it was unknown if the large scale prototype would operate as anticipated. The design has proven to be viable and the company has committed to construction of a commercial facility at the Gold Coast in addition to stating that there is widespread interest in several countries to purchase licenses to utilise the technology. It would appear the reasons relied upon by Council to support the initial request are no longer relevant, or at least significantly diminished.

PREVIOUS DECISIONS

Council resolved on 21 November 2017 to provide Surf Lakes with a concession for water consumption for the initial fill up of the wave pool on a cost plus basis at a charge of \$1.30 per kilolitre (i.e. \$1.27 plus 3 cents per kilolitre).

BUDGET IMPLICATIONS

A reduction in the consumption charge would have a lost revenue impact on the budget.

LEGISLATIVE CONTEXT

Nil

LEGAL IMPLICATIONS

Nil

STAFFING IMPLICATIONS

Nil

RISK ASSESSMENT

There is a risk that agreeing to a second request for a reduction of adopted consumption charges could be challenged as the reasons relied upon are significantly diminished.

CORPORATE/OPERATIONAL PLAN

Corporate Plan Reference: Strategy AM4: Operate, maintain and use Council assets to deliver efficient and cost effective services to the community.

LOCAL GOVERNMENT PRINCIPLES

The local government principles are –

- (a) Transparent and effective processes, and decision-making in the public interest; and
- (b) Sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) Democratic representation, social inclusion and meaningful community engagement; and
- (d) Good governance of, and by, local government; and
- (e) Ethical and legal behaviour of councillors and local government employees.

CONCLUSION

This report provides information on a request from the CEO of Surf Lakes Holdings Limited for a reduction of water consumption charges for the re-filling of the prototype surf wave generator dam located at 1662 Yeppoon Road, Mulara. The proof of technology testing was successful but the mechanism failed resulting in the dam having to be drained of approximately 78 mL of treated water drawn from the pipeline from Rockhampton to effect repairs. The reasons Council relied upon to approve the original request for a reduced charge for purchasing the water appear to have diminished and the recommendation of this report is to decline the request.

12.8 - WATER SUPPLY CHARGES FOR SURF LAKES HOLDINGS LIMITED

**Letter from CEO Surf Lakes Holdings
Ltd dated 18 February 2019**

Meeting Date: 1 April 2019

Attachment No: 1



SURF LAKES

18 February 2019

Chris Murdoch

Chief Executive Officer

Livingstone Shire Council

RE: Water supply request for 1662 Yeppoon Road, Mulara

Dear Chris:

Following discussions between Aaron Trevis and Mayor Bill Ludwig recently, I am writing to request your consideration of a discount on the water consumed in the refilling of the lake at the Surf Lakes prototype facility.

I thank you for all the Council has done to date to assist us in ensuring our prototype was built on the site at Mulara, including the generous discount on our first fill. As you know, we suffered a malfunction in one of the parts and unfortunately had to drain the lake to complete repairs.

Repairs are now underway, and the budget is extremely tight as we needed to raise additional funds to complete the repair. We hope repairs will be completed towards the end of April. Once commissioning has been completed we will again be looking to bring a considerable number of people to site to surf the waves and inspect the facility. This will be a regular occurrence. We will again, also look to have some of surfing's former world champions come to the site, along with media, to capture what will be on this occasion, full sized waves.

If there is any way that you would consider providing a discount on the water used on the refilling of the lake we would be most appreciative. Thank you for considering the request.

Kind Regards

MALCOLM BORGEAUD

Chief Executive Officer

Surf Lakes Holdings Ltd

ABN 55 612 372 955

Unit 8/249 Scottsdale Drive ROBINA QLD 4226 AUSTRALIA

12.8 - WATER SUPPLY CHARGES FOR SURF LAKES HOLDINGS LIMITED

Temporary Water Supply Agreement and Private Works Connection

Meeting Date: 1 April 2019

Attachment No: 2

In accordance with Council's Revenue Statement, upon connection to the Capricorn Coast Water Supply Scheme, the current financial year standard water consumption rates and access charges listed below will apply. The annual access charged will be charged pro rata via a supplementary rates notice issued to the property owner.

150mm access charge per annum	\$35,275.40*
Commercial consumption charges per kilolitre	\$1.92*

**Please note that the above charges are in accordance with the current 2017/18 Revenue Statement and are subject to change per financial year.*

In regards to the water consumption cost for the initial fill of the wave pool, reference is made to the Council resolution dated 21 November 2017 which states the following:

THAT, in accordance with Section 122, subsections (1) (a) and (3) of the Local Government Regulation 2012, given this project could bring substantial future economic activity and benefit to the region, in keeping with the additional information provided by officers at the meeting, Council support the request for a concession by providing water for the initial fill up of the wave pool on a cost plus basis at a charge of \$1.30 per kilolitre (i.e. \$1.27 plus 3 cents per kilolitre).

Therefore, upon connection to the Capricorn Coast Water Supply Scheme, the water usage for the initial fill of the wave pool will be charged at \$1.30 per kilolitre. Following the initial fill of the wave pool the abovementioned standard water consumption rates and access charges will apply.

Should you wish to proceed, you will need to arrange:

- Payment in full of the connection costs; and
- Acceptance of the Temporary Water Supply Agreement (as attached) by the property owners by way of signature and submission of the agreement.

If you have any enquiries in relation to this matter please do not hesitate to contact Council on 1300 790 919 and quote application number PQUOTE/24-2017.

Yours sincerely



Sean Fallis
Manager Water and Waste Operations
Infrastructure Services

enc

ABN 95 399 253 048

Enquiries: 4913 5000 or 1300 790919
 Address: PO Box 2292, YEPPOON QLD 4703
 Email: enquiries@livingstone.qld.gov.au
 Web: www.livingstone.qld.gov.au



PRIVACY NOTICE: Livingstone Shire Council is collecting the personal information you supply on this form for the purpose of updating our records. Your personal details will not be disclosed to any other person or agency external to Council without your consent unless required or authorised by law.

PQUOTE/24-2017**TEMPORARY WATER SUPPLY AGREEMENT PRIVATE WORKS CONNECTION****1662 YEPPOON ROAD, MULARA - L 1 LN 2240**

We, Comserv (No 1218) Pty Ltd Tte, as owner of 1662 Yeppoon Road, Mulara (the 'property'), hereby request Livingstone Shire Council (the 'Council') to provide a Temporary Water Supply Agreement and private works connection to the Capricorn Coast Water Supply Scheme.

Quotation Details		
Works description:	Supply 150mm metered connection with PRV	
Address of property requiring work:	1662 Yeppoon Road, Mulara – L 1 LN 2240	
Quotation:	Infrastructure charge	n/a
	Provide 150mm water connection with PRV to Rockhampton Yeppoon Pipeline for prototype usage, not for domestic use	\$21,913.95
	TOTAL:	\$21,913.95
Date of updated quotation:	Tuesday, 23 October 2018	
Property Owner Details		
Full Name:	Comserv (No 1218) Pty Ltd Tte	
Postal Address:	40 Poinciana Avenue, TARANGANBA QLD 4703	
Telephone:	(07) 49362363	
Mobile phone:		
Email:	champrock@bigpond.com	

We understand that the following constitutes the terms and conditions of the agreement:

TEMPORARY WATER SUPPLY AGREEMENT CONDITIONS

1. The type of supply is variable flow with no provision for firefighting or guaranteed maximum or minimum supply pressure.
2. There will be no Infrastructure Charge as the water supply is temporary.
3. Council is responsible for ensuring an acceptable standard of water quality is provided up to the meter.
4. This water is for prototype use only and is not to be used domestically.
5. The property is outside of the Capricorn Coast Service Area and water will be supplied by a Temporary Water Supply Agreement.
6. This agreement does not include the proximity and provision of standard reticulated fire-fighting flows and pressures to the property.
7. Council owns the water supply infrastructure from the Yeppoon Pipeline's Service Take-off Point (Pipeline Chainage 9804.33) to the water meter.
8. The property will not receive the Desired Service Standards established in the *Adopted Infrastructure Charges Resolution No 2 2015*.
9. The size of the water service is 150mm.
10. The water meter will be located as close as practicable to the Yeppoon Pipeline's Service Take-off Point (Pipeline Chainage 9804.33).
11. The plumbing works from the water meter is private reticulation works and we are responsible for all the costs associated with design, plumbing applications, installation, operation and maintenance.
12. Private plumbing works are to be minimum Class 12 (1200kPa) pressure rating of the pipeline material and must comply with the *Plumbing and Drainage Act 2002* for plumbing application approvals, licensed plumber installation and inspections, etc. Please note that old pipework may be damaged by high pressure in the trunk main. A pressure check should be undertaken by your licenced plumber.
13. If the property is subdivided, the Temporary Water Supply Agreement will be reassessed by Council and may be terminated or redrawn for the resulting allotments.
14. If the private reticulation works are not maintained in good order or are defective resulting in wasted water and a Show Cause Notice is issued under Section 115 of the *Plumbing and Drainage Act 2002* and not complied with within the required timeframe, Council will disconnect the water supply until the Show Cause Notice is complied with.
15. If the declared water service area is extended under Section 161 of the *Water Supply (Safety and Reliability) Act 2008* in the vicinity of the property or the property becomes part of the declared water service area, the Temporary Water Supply Agreement will be reviewed.
16. Before drawing more than 1ML in one (1) day the Council must be advised with seven (7) days' notice.
17. The property must not draw more than 10ML in any one (1) day.
18. Council will be notified when the initial fill of the wave pool is completed.
19. The initial fill of the wave pool will be charged at \$1.30 per/kL with the charges then reverting to the standard charges in accordance with Council's revenue statement.
20. This Temporary Water Supply Agreement will expire twenty-four (24) months from the date of connection.

PRIVATE WORKS WATER CONNECTION CONDITIONS

1. All water meter connections, unless otherwise stated, terminate at the property boundary or the meter. Council does not connect to the property's internal plumbing work.
2. Under Subdivision 38-I of *A New Tax System (Goods and Services Tax) Act 1999*, the supply of water and sewerage services are exempt from GST. Any work performed by Council relating to the connection and disconnection of water and sewerage services will not attract GST.
3. The quotation is inclusive of all plant, material and labour necessary to complete the work.
4. The quotation does not include the replacement or reinstatement of plants, trees, shrubs, turf or garden beds.
5. The quotation does not make any allowance for rock which may be encountered during excavation. In the event of rock, additional costs of \$90.00 per cubic meter will apply. This is subject to a general consensus based on the standard definitions of rock excavation for a small excavator.
6. Work required outside the parameters specified within the quotation will be treated as a variation of the private works contract and will incur additional charges.
7. Council reserves the right to alter the quotation should site conditions change from when the original quotation was prepared.
8. No allowance has been made for any traffic control as work will be at a safe distance from any roadways.
9. Payment is required in full upon acceptance of this quotation.
10. The costs approved by Council are fixed for a ninety (90) day period from the date of this quotation. After this time the costs are subject to CPI changes.
11. The property owner is responsible, upon connection to the Capricorn Coast Water Supply Scheme, for ongoing water access and consumption charges which will be charged via the property Rates Notice and in accordance with the applicable financial year Revenue Statement.

Signature of Property Owner:

Name: _____
on behalf of Comserv (No 1218) Pty Ltd Tte

Signature: _____

Date: _____

Please return this form with payment in full

Attention: Water and Waste Operations
Livingstone Shire Council
PO Box 2292
YEPPOON QLD 4703

Email: enquires@livingstone.qld.gov.au

Payment Options

IN PERSON – You can pay at Council's Customer Service Centre 25 Normanby Street, Yeppoon (Yeppoon Town Hall).

MAIL – Make your cheques payable to 'Livingstone Shire Council' and send to PO Box 2292, Yeppoon, Queensland, 4703.

CREDIT CARD – Council complies with the Payment Card Industry Data Security Standard. Compliance helps to alleviate sensitive data being compromised and protects cardholder data. **Credit Card Numbers are NOT to be recorded on this form.** Please email this form to enquiries@livingstone.qld.gov.au requesting to make payment and Customer Service staff will contact you regarding payment once this form is received.

OFFICE USE ONLY	Date Rec'd	CSO	Rec No	Amount
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13 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.

RECOMMENDATION

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.

14.1 Recyclables Processing Service Contract

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.

14 CONFIDENTIAL REPORTS

14.1 RECYCLABLES PROCESSING SERVICE CONTRACT

File No: FM12.7.1-2013-8145

Attachments: Nil

Responsible Officer: Dan Toon - Executive Director Infrastructure

Author: Sean Fallis - Manager Water and Waste Operations

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 purpose of this report is to allow Council to consider a contractual arrangement pursuant to Section 235 Other exceptions of the Local Government Regulation 2012 for Recyclable Processing Services.

This matter relates to the four Councils currently under the joint contract for recycling services with Orora. These being RRC, LSC, GRC and CHRC. For optimum efficiency and future certainty, it is necessary for all four councils to enter into an arrangement. At this point it is not clear whether it will be a joint contract or four individual contracts.

15 URGENT BUSINESS/QUESTIONS

Urgent Business is a provision in the Agenda for members to raise questions or matters of a genuinely urgent or emergent nature, that are not a change to Council Policy and can not be delayed until the next scheduled Council or Committee Meeting

16 CLOSURE OF MEETING