



ORDINARY MEETING

AGENDA

3 SEPTEMBER 2019

Your attendance is required at an Ordinary meeting of Council to be held in the Council Chambers, 4 Lagoon Place, Yeppoon on 3 September 2019 commencing at 9.00am for transaction of the enclosed business.

Chris Murdoch
CHIEF EXECUTIVE OFFICER
29 August 2019

Next Meeting Date: 17.09.19

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

Acknowledgement of Country

"I would like to take this opportunity to respectfully acknowledge the Darumbal People. The traditional custodians and elders past, present and emerging of the land on which this meeting is taking place today."

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

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

3.1 LEAVE OF ABSENCE FOR COUNCILLOR TOM WYATT - 3 TO 5 SEPTEMBER 2019 INCLUSIVE

File No: GV14.4.1

Attachments: Nil

Responsible Officer: Chris Murdoch - Chief Executive Officer

SUMMARY

Councillor Tom Wyatt has requested leave of absence from 3 to 5 September 2019 inclusive.

RECOMMENDATION

THAT leave of absence be granted to Councillor Tom Wyatt from 3 to 5 September 2019 inclusive.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the Ordinary Meeting held 20 August 2019

5 DECLARATION OF INTEREST IN MATTERS ON THE AGENDA

6 PUBLIC FORUMS/DEPUTATIONS

6.1 D-29-2019 ROL 535 BUNGUNDARRA ROAD AND LOT 100 BUNGUNDARRA ROAD, BUNGUNDARRA

File No: D-29-2019
Attachments: Nil
Responsible Officer: Chris Murdoch - Chief Executive Officer
Author: Sue Schluter - Executive Assistant to Mayor

SUMMARY

The applicants of development application D-29-2019 have requested to provide a deputation to Council, prior to a decision being made.

OFFICER'S RECOMMENDATION

THAT Council receive the deputation.

BACKGROUND

An application for a development permit has been lodged with Council and the application will be presented to a Council meeting for decision.

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

7.1 LIFTING MATTERS LAYING ON THE TABLE

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

SUMMARY

This report is being presented to Council in order for the stated matters to be formally lifted from the table prior to being dealt with at this meeting.

OFFICER'S RECOMMENDATION

THAT the following matter/s, that Council resolved to 'Lay on the Table' at the Ordinary Council meeting held on 20 August 2019, be lifted from the table to be dealt with later in the meeting:

- Lifting Historic Matters Lying on the Table
- Request from Councillor Belot - Additional Acknowledgment

PREVIOUS DECISIONS

These matters were presented to a previous Council meeting at which Council resolved to have the matters lay on the table for the reasons contained within the minutes.

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

That the matters are to be lifted from the table and dealt with.

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 DEVELOPMENT APPLICATION FOR A DEVELOPMENT PERMIT FOR RECONFIGURING A LOT (TWO LOTS INTO SIX LOTS) AT 535 BUNGUNDARRA ROAD AND LOT 100 BUNGUNDARRA ROAD, BUNGUNDARRA

File No: D-29-2019

Attachments:

1. Attachment 1 - Locality Plan [↓](#)
2. Attachment 2 - Proposal Plan [↓](#)

Responsible Officer: Jenna Davies - Principal Planning Officer
Maddie Ward - Co-ordinator Development Assessment
Craig Newsome - Coordinator Public Environments

Author: Jenna Davies - Principal Planning Officer

SUMMARY

<i>Applicant:</i>	<i>C. & M. Roebuck</i>
<i>Consultant:</i>	<i>Capricorn Survey Group (CQ) Pty Ltd</i>
<i>Real Property Address:</i>	<i>Lot 1 on SP289213 and Lot 100 on SP280113</i>
<i>Common Property Address:</i>	<i>535 Bungundarra Road and Lot 100 Bungundarra Road, Bungundarra</i>
<i>Area of Site:</i>	<i>291 hectares combined (approximately)</i>
<i>Planning Scheme:</i>	<i>Livingstone Shire Planning Scheme 2005 (reprint 7, in force 10 July 2017)</i>
<i>Planning Scheme Zone:</i>	<i>Rural Zone</i>
<i>Planning Scheme Overlays:</i>	<i>Overlay Map O2 Steep Land Overlay Map O2 Drainage Problem Area Overlay Map O3 Wetlands and Wetlands 100 metre buffer Overlay Map O3 Waterways and Waterways 100 metre buffer Overlay Map O5 Bushfire Hazard Overlay Map O9 Special Management Area – Precinct B</i>
<i>Planning Scheme Maps:</i>	<i>PSM2A Agricultural Land Classification – Shire Balance PSM10 Locally Significant Vegetation</i>
<i>Existing Development:</i>	<i>Dwelling house and Kennels (not approved)</i>
<i>Level of Assessment:</i>	<i>Code assessable</i>
<i>Submissions:</i>	<i>Not applicable</i>
<i>Referral matters:</i>	<i>Infrastructure – Clearing native vegetation (10.3.4.2.1)</i>
<i>Infrastructure Charge Area:</i>	<i>Outside the Priority Infrastructure Area</i>

Application progress:

<i>Application received:</i>	<i>12 February 2019</i>
<i>Development control unit meeting:</i>	<i>13 February 2019</i>
<i>Application properly made:</i>	<i>19 February 2019</i>
<i>Confirmation notice issued:</i>	<i>26 February 2019</i>
<i>Extension of time agreed to (referral period):</i>	<i>5 March 2019</i>
<i>Application referred to State agency:</i>	<i>8 March 2019</i>
<i>Information request issued:</i>	<i>12 March 2019</i>
<i>State agency response:</i>	<i>8 April 2019</i>
<i>Information request response received:</i>	<i>30 May 2019</i>
<i>Further advice issued:</i>	<i>2 July 2019</i>
<i>Extension of time agreed to:</i>	<i>5 July 2019</i>
<i>Further advice response received:</i>	<i>26 July 2019</i>
<i>Council meeting date:</i>	<i>3 September 2019</i>
<i>Statutory determination date:</i>	<i>6 September 2019</i>

OFFICER'S RECOMMENDATION

THAT in relation to the application for a Development Permit for Reconfiguring a Lot (two lots into six lots), made by C. & M. Roebuck, over Lot 1 on SP289213 and Lot 100 on SP280113, and located at 535 Bungundarra Road and Lot 100 Bungundarra Road, Bungundarra, Council resolves to Refuse the application given the following reasons:

- 1.0 The proposal fails to satisfy the purpose of the Rural Zone Code under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in;
 - (i) the creation of lots that are not designed and developed to achieve the protection of large tracts of bushland having significant local environmental value and do not have suitable sizes and dimensions commensurate with the natural features, hazards and agricultural land classes exhibited by the site.
 - (ii) Potential land use conflicts with nearby productive agricultural uses, resulting from the location of non-rural activities on rural land through the provision of a Dwelling house on each lot (indicated by the Building Location Envelope).
 - (iii) the creation of lots unsuitable for rural purposes to occur, with consideration given to natural hazards and removal of Locally Significant Vegetation. Rural purposes would be subject to the desire of the future landowner and subject to assessment by the Department of Natural Resources, Mines and Energy for a relevant purpose determination prior to clearing as agriculture is not listed as a relevant purpose under section 22A of the *Vegetation Management Act 1999*.
- 2.0 The proposal fails to satisfy the purpose of the Clearing Code under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in:
 - (i) Clearing of large portions of locally significant vegetation for building location envelopes, property boundaries, bushfire mitigation and access tracks, which will significantly and irreversibly impact the visual integrity and ecological features and processes that underpin the biodiversity of site the locality in general.
- 3.0 The proposal fails to satisfy the purpose of the Natural Features Code in relation to Bushfire Hazard Special Management Area under the *Livingstone Shire Planning*

Scheme 2005 as the proposal will result in:

- (i) Locating building location envelopes in very high hazard areas with Bushfire Attack Levels up to Flame Zone resulting in significant impost upon future landholders to implement and maintain vegetation clearing and building design measures to mitigate the risk to a tolerable level and reduce the Bushfire Attack Level to BAL-29 or less.
 - (ii) Significant building protection zones, of thirty-five (35) metres, are proposed outside of the large Building Location Envelopes, which will result in additional clearing to occur to achieve suitable and safe Bushfire Attack Levels for future buildings.
- 4.0 The proposal fails to satisfy the purpose of the Capricorn Coast Landscape Special Management Area Code under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in:
- (i) Diminished landscape values in terms of physical changes to the natural environment and significant visual detracting as a result of the necessary clearing for bushfire mitigation. In addition, the proposal does not provide for the protection of vegetation located outside the building location envelopes or along proposed property boundaries.
- 5.0 On balance, the application should be refused because the development does not comply with the purpose of above aspects of the assessment benchmarks and compliance is unable to be reasonably or relevantly conditioned.

BACKGROUND

A request to accept, assess and decide a Superseded Planning Scheme application under the *Livingstone Shire Planning Scheme 2005* (reprint 7) was received on 27 November 2018. The request was made on the presumption that the refusal grounds for Development Permit D-17-2017 were weighted heavily by the Coty principle and 2018 scheme provisions, despite being made under the *Livingstone Shire Planning Scheme 2005*. Council agreed to the request on 6 February 2019 (reference D-266-2018) and issued the requisite notice on 8 February 2019.

COMMENTARY

The proposed subdivision is for the creation of six (6) allotments of the following sizes, road frontages and Building Location Envelopes;

Lot no.	Size area (hectares)	Road frontage and access length	Building Location Envelope size
1	160.4	Fifty five (55) metres frontage and accessed via an access handle of approximately 524.79 metres	Nil
2	35.83	508 metre long easement from Bungundarra Road	8,000 square metres
3	25.1	218 metres frontage to Madges Road	1 hectare
4	25.1	101 metres frontage to Madges Road	8,000 square metres
5	15.76	671 metres frontage to Bungundarra Road	6,400 square metres
6	30.06	233 metre long easement from Bungundarra Road	6,400 square metres

Proposed Lot 1 is the largest allotment and is over the centre of the development. It will have frontage via an access handle with a width of approximately fifty-five (55) metres to Bungundarra Road. Part of this lot will contain the existing vegetation Covenant B on SP289213 and part of the covenant will be over proposed Lot 6, with no change to the area of the covenant.

Proposed Lots 3 and 4 have frontage to Madges Road. Proposed Lot 2 has access via a proposed access easement (with a width of approximately fifty one (51) metres) to Bungundarra Road. Proposed Lot 6 also has access via an easement (shared with proposed Lot 1) to Bungundarra Road.

Two stages have been proposed as follows:

- Stage One: Lots 1, 2, 3 and 4
- Stage two: Lots 5 and 6

Change to the application

In response to the Information Request, the building location envelope for proposed Lot 2 was relocated to be outside of the Steep land overlay. The building envelope was reduced from a 100 metre by 100 metre envelope to a 100 metre by eighty (80) metre envelope.

SITE AND LOCALITY

The subject site is over two allotments. Lot 100 is currently vacant and 535 Bungundarra Road currently contain a Dwelling house and Animal Keeping (Dog Kennels). The site is significantly constrained by a number of environmental features including locally significant vegetation (Planning Scheme Map 10) and state significant vegetation (as per State Planning Policy Mapping). A 41.64 hectare portion of 535 Bungundarra Road is contained within a vegetation protection covenant, registered on the title. Parts of the subject site are mapped as containing Locally Significant Vegetation under the *Livingstone Shire Planning Scheme 2005*. Specifically, the local environmental values on the site are:

- old growth forest and woodland; and
- potential habitat for *Cycas ophiolitica*, potential koala habitat, glider habitat and climate change refugia.

The Locally Significant Vegetation and natural bushland over the site, provides an ecological function by connectivity for fauna, running from the south east to the north west through the subject site and linking other significant vegetation communities over a large tract of land.

The topography of the site is characterised by several hills and gullies and is traversed by a waterway which aligns to the current shared property boundary and is located at approximately twenty-five (25) metres Australian Height Datum. The highest point on the land is located within proposed lot 2 at approximately 145 metres Australian Height Datum. The site exhibits topography in excess of fifteen (15) per cent in terms of steep land hazards.

The locality is characterised by a range of rural allotment sizes with a mix of agricultural uses including a number of large pineapple plantations approximately three (3) kilometres to the west. Lot sizes vary greatly within the locality as Bungundarra Road forms the boundary between the Capricorn Coast Agricultural Area and the balance of the Shire.

Related permits (approvals or refusals) and approvals on adjoining properties

Lot number	Development approval no.	Lawful use
Lot 1 on SP289213 535 Bungundarra Road (subject site)	D-44-2010	Reconfiguring a Lot (one lot into three lots)
	D-52-2015	Reconfiguring a Lot (one lot into three lots) - completed
	D-17-2017	Reconfiguring a Lot (two lots into four lots) – refused – court appeal process

	D-266-2018	Superseded Planning Scheme request for Reconfiguring a Lot (two lots into six lots and access easement)
Lot 100 on SP280815 Lot 100 Bungundarra Road, Bungundarra (subject site)	D-396-2011	This lot was created as a balance lot by way of the Reconfiguring a Lot (Two lots into seven lots) approved 1 May 2012
	D-219-2017	Boundary Realignment (two lots into two lots) approved 29 March 2018
	D-17-2017	Reconfiguring a Lot (two lots into four lots) – refused – court appeal process
	D-266-2018	Superseded Planning Scheme request for Reconfiguring a Lot (two lots into six lots and access easement)
Lot 2 on SP280812 775 Bungundarra Road, Bungundarra (to the north)	D-Y/2007-519	Reconfiguring a Lot (one lot into six lots) approved 16 December 2008
	D-156-2011	Reconfiguring a Lot (three lots into four lots) approved 30 June 2011
	D-107-2015	Boundary Realignment (Two lots into two lots) approved 30 June 2015
Lot 7 on SP256817 Lot 7 Bungundarra Road Lot 8 on SP256817 709 Bungundarra Road (to the north) Lot 9 on SP256817 Lot 9 Bungundarra Road (to the north) Lot 10 on SP280815 665 Bungundarra Road (to the north)	D-396-2011	Reconfiguring a Lot (Two lots into seven lots) approved 1 May 2012 creating the allotment
	D-302-2012	Operational works for Access works
Lot 1 on LIV40730 (to the north east)	No records	
Lot 1 on SP289213 535 Bungundarra Road (to the east)	D-52-2015	Reconfiguring a Lot (One lot into three lots)
Lot 2028 on LIV40730 249 Madges Road, Bungundarra (to the south)	No records	

ASSESSMENT INCLUDING BENCHMARKS AND RELEVANT MATTERS

This application has been assessed by relevant Council planning, engineering, environmental health, natural resource management and growth management officers as required. The assessment has been undertaken in accordance with Chapter 3 of the

Planning Act 2016, Part 4 of the *Planning Regulation 2017* and the Development Assessment Rules under the *Planning Act 2016*.

The assessment has been carried out against the assessment benchmarks in the relevant categorising instrument/s for the development and having regard to the *Central Queensland Regional Plan*, the State Planning Policy, any development approval for and any lawful use of the premises or adjoining premises, and the common material.

Benchmarks applying for the development	Benchmark reference
Rural Zone Code Natural Features Code Capricorn Coast Landscape Code Clearing Code	<i>Livingstone Planning Scheme 2005</i> , reprint 7 as in force 10 July 2017
Chapter 4 – Regional outcomes and policies	<i>Central Queensland Regional Plan</i> , October 2013
Part E: State interest policies and assessment benchmarks	<i>State Planning Policy</i> , July 2017
Relevant matters considered	
Any development approval for, and any lawful use of, the premises or adjacent premises	The relevance of existing approvals on the subject site and adjoining properties in respect of the land use pattern and commensurate development
The common material submitted with the application	In respect of the reports provided in the material including proposal plans and supporting information
The Local Government Infrastructure Plan	In respect of trunk infrastructure provisions and charging for development.

Internal advice and assessment

Infrastructure Operations Unit – 20 June 2019

Support, subject to conditions.

Natural Resource Management – 28 June 2019 (email)

Recommend refusal based on reasons related to ecology, clearing of Locally Significant Vegetation and Bushfire Hazard.

Growth Management – 28 June 2019 (email)

Recommend refusal based on reasons related to non-compliance with the *Livingstone Shire Planning Scheme 2005* (reprint 7) as the lot sizes of proposed Lots 2 to 6 are not able to meet the Purpose and Overall Outcomes of the Rural Zone in relation to natural features. **Information request**

An information request was issued by Council on 12 March 2019 which included (but was not limited to) the following;

- Grounds to support the proposal in accordance with section 60(2)(b) of the *Planning Act 2016*.
- An assessment against the Desired Environmental Outcomes of the *Livingstone Shire Planning Scheme 2005*.

- An Agricultural land study prepared by a suitably qualified professional which demonstrates compliance with Specific Outcome O4 of the Rural Zone Code which states; *“Reconfigured lots are designed and developed:*
 - *with sufficient area and suitable proportions for preferred or consistent uses;*
 - *with adequate frontage for safe and convenient vehicular and pedestrian access;*
 - *with suitable areas within each lot for the location of relevant activities and works;*
 - *in a manner that does not expose people and works to unacceptable risks from flooding or other hazards; and*
 - *with lots having sizes and dimensions commensurate with the characteristics of the site having regard to surrounding land use, natural features, hazards, infrastructure availability and agricultural land class, in accordance with Table S1.*
- Further details as to how the proposal will not result in land use conflicts in accordance with Overall Outcome (iv) of the Rural Zone Code which states; *“Agriculture, including both extensive and intensive activities is protected from land use conflicts resulting from the location of non-rural activities on rural land”.*
- A site specific Ecological Assessment Report, prepared by a suitably qualified professional which clearly demonstrates that the proposal will not adversely impact upon the environmental values of the site, in accordance with Overall Outcome (v) of the Rural Zone Code which states; *“Large tracts of bushland identified as having significant environmental value are protected from development”.*
- A geotechnical report to support the proposed Lot layout which clearly demonstrates the site is suitable for construction given the slope and soil classification.
- Justification of the proposal against the Purpose of the Capricorn Coast Landscape Special Management Area Code.
- A Bushfire Hazard Assessment and Bushfire Management Plan prepared by a suitably qualified professional in accordance with the *Australian Standard AS3959 – Construction of buildings in bushfire-prone areas*. The assessment must have regard to all proposed lots and Building Location Envelopes and determine an appropriate Bushfire Attack Level (BAL) as well as specific bushfire hazard mitigation measures including firebreaks, building setbacks, and alternative access/egress points.

Further advice

Council issued further advice to the applicant on 2 July 2019 pertaining to:

- Fragmentation of Rural Land;
- Bushfire Hazard;
- Ecology;
- Capricorn Coast Landscape Area; and
- Building Location Envelopes.

The applicant responded to the further advice on 26 July 2019 by providing an amended bushfire hazard assessment and bushfire management plan to address individual building location envelopes, an amended ecology report to address local values, a supporting agricultural report statement and an amended plan illustrating the setbacks from boundaries of the proposed building location envelopes. The response to the further advice did not reduce the number of lots proposed and did not address the non-compliance with the minimum lot size for Class C2 land or further justify the proposal against the Purpose and Overall Outcomes for the Rural Zone.

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.

Housing supply and diversity: The development is proposed in a Rural Zone. It is not for the provision of residential land.

Liveable Communities: Not applicable as the proposal does not involve buildings either attached or detached.

Agriculture: Part of the subject site (Lot 100 on SP280113) is identified as Agricultural Land Classification (ALC) Class A and Class B land. This is over an area already cleared of native vegetation and will be contained to the west of proposed Lots 3 and 4. The area is less than 2,000 square metres and will be fragmented by the proposed dividing boundary. The balance of the land is not mapped as Class A and Class B, and does not present itself, due to the topography and native bushland, for agricultural pursuits.

The proposal will create more lots in the locality, potentially impacting on existing intensive agriculture land uses on properties surrounding the site. The proposal will increase traffic movements, provide the ability to develop a Dwelling house on each lot and may affect the operation of existing agricultural activities.

The provision of additional sensitive land uses, or land uses which present biosecurity risks for agriculture, is likely to cause potential for conflict between existing properties and the proposed new properties. Adequate separation area has not been demonstrated in the application as to suitable areas for rural activities, surrounding uses and proposed building location envelopes.

Development and construction: Not applicable as the development is rural in nature.

Economic Growth – Mining and extractive resource: Not applicable as the sites are not a Key Resource Area; nor are the roads Key Transport Routes.

Tourism: There is no state endorsed tourism studies or plans for the area; nor is tourism proposed as part of the development.

Biodiversity: Under the State Planning Policy Mapping, the sites contain Matters of State Environmental Significance including regulated vegetation – category R, wetland and intersecting a watercourse.

Proposed Lot 1 will wholly contain the regulated vegetation – intersecting a watercourse which follows Daly Creek. Daly Creek will be predominately contained within proposed Lot 1. There is a tributary that runs through proposed Lot 5 and will be traversed in a new area

The Category R vegetation is towards the south-west along Daly Creek and predominately on the adjoining property (Lot 202 on LIV40730). The existing boundaries will not change as part of this application where they currently traverse the Category R vegetation.

The wetland is towards the south-west of the Lot 1 on SP289213 and will remain within proposed Lot 1. No new boundaries are proposed through the wetland area.

Coastal Environment: The site is not a coastal location (identified as Precinct A) despite the proposal will involving the fragmentation of scenic amenity and aesthetic values of important natural landscapes, views and vistas, as identified under the planning scheme as the Capricorn Coast Landscape Area (Precinct B).

Cultural heritage: The site does not contain known cultural heritage values as mapped under the planning scheme. Advisory notes are included on all decision notices advising about matters of Aboriginal cultural heritage and Torres Strait Islander cultural heritage.

Water quality: not applicable as the development is not for an urban purpose.

Natural hazards, risk and resilience: Applicable as the site is mapped as a Bushfire prone area and Flood hazard area (Local Government flood mapping area).

Erosion prone areas within a coastal management district:	
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 The site is not in an erosion prone area.
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:	
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.	Does not comply The site is sporadically mapped as drainage problem area, which identifies lower lying land. The proposed building location envelopes are outside of the mapped drainage problem areas. The proposal involves Bushfire prone land. The proposed building location envelopes are mapped in areas of mapped, very high, high and medium potential bushfire intensity, and the potential impact buffer. A Bushfire Hazard Assessment and Bushfire Management Plan have been submitted with the application but Council is not satisfied that the reports demonstrate the bushfire risk can be mitigated to an acceptable or tolerable level without extensive clearing of significant vegetation. There is not considered sufficient justification demonstrating the proposed lots are suitable for future rural uses and an ancillary dwelling house, without requiring significant clearing and works to suitably locate uses.
All natural hazard areas:	
Development supports and does not hinder disaster management response or recovery capacity and capabilities.	Does not comply The development will not support disaster management capacity or capabilities as it is creating additional allotments, with the potential for a Dwelling house to be constructed on each lot, in very high, high and medium potential bushfire intensity areas. Further, not all allotments have direct frontage to a road and are accessible via easements in excess of 200 metres in length. The alternative access route for

	proposed Lot 2 is via an adjoining properties (proposed Lots 1 and 3) and Madges Road is a lower order rural access road.
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.	Does not comply The development does not avoid the bushfire hazard areas and places building envelopes (for the future development of Dwelling houses) in areas of hazard.
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.	Complies in part There is no known storage of hazardous materials associated with this application however there may be the potential for the storage of materials associated with rural activities.
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.	Does not comply Clearing of vegetation is proposed to mitigate bushfire risk in accordance with the bushfire hazard assessment and management plan. Further, the bushfire hazard assessment identifies that if possible, development should rely on 'cut-in benches' rather than fill that will likely cause a development site to extrude towards a down-slope hazard source.

Energy and water supply – There is no major electricity infrastructure through the property.

Infrastructure Integration – There is no significant infrastructure planned for this subject site such as trunk infrastructure, new roads, water, sewer or stormwater.

Transport infrastructure – There is no transport infrastructure or corridors proposed.

Strategic airports and aviation facilities – There is no airports or aviation facilities in the development area.

Strategic ports – There are no strategic ports in the development area.

Central Queensland Regional Plan

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, the four regional policies are not applicable to this application as it is not for an extractive/mining or agricultural land use and is not within proximity to an identified Priority Living Area (the closest being the locality of Yeppoon and surrounds). The regional plan does not provide any assessment benchmarks for reconfiguring a lot.

Other State or Commonwealth Legislation

Vegetation Management Act 1999

On 9 May 2018, the *Vegetation Management Act 1999* was amended to remove clearing of native vegetation for cropping (high value agriculture) and irrigation (high value irrigated agriculture) as a relevant purpose under section 22A. This now makes both activities prohibited under the *Planning Act 2016* and *Planning Regulation 2017*. Specifically, under Schedule 10, Part 3, Division 1, section 4 of the *Planning Regulation 2017*, clearing of vegetation that is not for a relevant purpose under section 22A is now listed as prohibited development without a relevant purpose determination being assessed and issued by the Department of Natural Resources, Mines and Energy prior to a Material Change of Use or Operational Works application being lodged.

Nature Conservation Act 1992

The site is within a mapped high-risk area for protected plants under the *Nature Conservation Act 1992*. The flora survey (as part of the Ecological Assessment Report part 2.1) did not identify endangered, vulnerable or near threatened protected plants.

Environmental Protection and Biodiversity Conservation Act 1999

The site inspection conducted as part of the flora survey (as part of the Ecological Assessment Report part 2.1) did not identify threatened species listed under the *Environmental Protection and Biodiversity Conservation Act 1999*.

Livingstone Shire Planning Scheme 2005

Planning Scheme Shire Wide Outcomes The Shire Wide Desired Environmental Outcomes, as identified by section 2.2 of the *Livingstone Planning Scheme 2005*, are not called up as an assessment benchmark for this assessment given the proposal is Code Assessable.

Rural Zone Outcomes

The Overall Outcomes applicable to the Rural Zone are set out at section 3.5 of the scheme as follows:

- (a) *The purpose of the Rural Zone Code is the achievement of the overall outcomes sought for the Rural zone.*
- (b) *The overall outcomes sought for the Rural Zone are:*
 - (i) *Preferred land use:*
 - (A) *is any rural purpose (as defined in the planning scheme).*
 - (ii) *Land use (other than preferred land use) occurs only if:*
 - (A) *it is a recreational or community facility that is more appropriately located in the rural area; and*
 - (B) *is one of the following:*
 - a. *a local utility; or*
 - b. *a major utility; or*
 - c. *outdoor recreation; or*
 - d. *telecommunications facility (medium impact); or*
 - (C) *it is a land use which:*
 - a. *is compatible with surrounding rural purposes by being of similar scale, intensity and character; and*
 - b. *supports a rural purpose; and*
 - c. *does not adversely affect the amenity of the locality; and*
 - is one of the following:*
 - i. *a residential purpose being a dwelling house, home based business, or host farm; or*
 - ii. *an arts and craft centre; or*
 - iii. *an extractive industry; or*
 - iv. *a garden centre; or*
 - v. *landscape supplies.*
- (iii) *Land used for rural activities such as grazing, agriculture and horticulture is protected from development, which would significantly infringe on the landscape setting and rural amenity of the Shire.*
- (iv) *Land with productive capacity is preserved for a range of existing and emerging agricultural activities significant to the economy of the Shire.*

- (v) *Large tracts of bushland identified as having significant environmental value are protected from development.*
- (vi) *Agriculture, including both extensive and intensive activities is protected from land use conflicts resulting from the location of non-rural activities on rural land.*
- (vii) *Uses and works are located and designed to maximise the efficient use and extension and safe operation of infrastructure.*
- (viii) *Residential purposes are ancillary to the primary rural purposes in the rural area.*
- (ix) *Mineral and extractive resources and transport routes associated with resources are protected from incompatible development.*
- (x) *Buildings and structures that are not associated with rural purposes have heights that are low-rise and not exceeding 12 metres.*
- (xi) *Development is provided with adequate infrastructure and essential services.*

The proposal is for the subdivision of two allotments to create six (6) allotments with provision for a Building Location Envelope to contain a Dwelling house on each lot. Although the future potential use being a Dwelling house on a rural lot may be considered to be a preferred use within the zone, the proposal itself is considered to impede the achievement of the purpose of the zone in terms of the environmental values and potential land use conflict with future users and hence the purpose of the Rural Zone, in particular, the proposal will result in;

- Fragmentation of rural land as a result of exempt clearing (under the *Vegetation Management Act 1997*) of large tracts of bushland through the creation of additional allotments and requisite bushfire breaks for access, building location envelopes and property boundaries identified as having significant local environmental and scenic value; and
- Potential for land use conflicts with nearby productive agricultural uses, resulting from the location of non-rural activities on rural land through the provision of a Dwelling house on each lot (indicated by the Building Location Envelopes). This can only be mitigated through the provision of rural activities on the allotment, which is not proposed at this time however may not be achievable on each allotment due to the land being mapped as regulated vegetation (Category A and B that is a least concern regional ecosystem) under the *Vegetation Management Act 1999* and clearing for cropping (high value agriculture) or irrigation (high value irrigated agriculture) being listed as prohibited as these purposes have been removed from section 22A of the *Vegetation Management Act 1999*. Further, it is at the discretion of future landholders if they wish to undertake a rural activity on the proposed lots. The site constraints in terms of topography would also need to be considered if such a pursuit would be viable.
- An increase in persons and property (through the creation of four (4) additional allotments) at significant risk of bushfire. Although mitigation measures are potentially able to be conditioned, provision of bushfire mitigation through on-site services including firebreaks, water and access will largely be the responsibility of future property owners. This mitigation is not achievable without significant environmental and scenic amenity degradation by way of vegetation clearing.

Rural Zone Code Requirements

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

Specific Outcomes		Response
Land Use		
O1	<p>Land use is:</p> <ul style="list-style-type: none"> (a) a rural purpose (as defined in the planning scheme); or (b) a use which provides recreational or essential community facilities that are more appropriately located in the rural area (as identified in the overall outcomes of this code); or (c) a use (as identified in the overall outcomes of this code) which: <ul style="list-style-type: none"> (i) is compatible with and supports a use within the rural purpose group; and (ii) is compatible with and does not limit or compromise surrounding rural purposes; and (iii) does not adversely affect the amenity of the locality. 	<p>Complies in part</p> <p>The proposal is for the subdivision of land. While not specifically for a land use as it does not involve a Material Change of Use, justification of the lot size for five (5) of the lots has been demonstrated to be suitable to accommodate a rural purpose and ancillary Dwelling house.</p> <p>The application is supported by a report assessing the agricultural suitability of each lot. The report identifies that a minimum of five (5) hectares is available on each proposed lot for intensive agricultural pursuits, however, has not considered the impact of rural purposes on ancillary Dwelling houses, surrounding properties, the clearing required to undertake the rural purpose and other hazards and constraints applicable to each proposed lot. As such, it is not considered that the agricultural options report provides a succinct recommendation and justification that all proposed lots could be utilised for preferred rural activities.</p> <p>Specifically, the applicant purports that the proposal to fragment the two existing properties provides smaller land holdings, allowing more people to enter into the agriculture and horticultural field. There is no nexus drawn between the current lots not being viable and that creating more allotments will improve pastures.</p> <p>Further, there is no certainty that a future landholder will undertake a rural purpose or establish a Dwelling house ancillary to the rural purpose to meet the overall outcomes.</p> <p>Significant clearing of the land would be required, in areas also affected by other constraints of the planning scheme, would be required to facilitate an area suitable to undertake a rural purpose and this is in conflict with Overall Outcome (v).</p>
Subdivision Design		
	Reconfigured lots are designed and developed:	<p>Complies in part</p> <p>The proposal is for the creation of six (6) lots</p>

Specific Outcomes	Response
<ul style="list-style-type: none"> • with sufficient area and suitable proportions for preferred or consistent uses; • with adequate frontage for safe and convenient vehicular and pedestrian access; • with suitable areas within each lot for the location of relevant activities and works; • in a manner that does not expose people and works to unacceptable risks from flooding or other hazards; and • with lots having sizes and dimensions commensurate with the characteristics of the site having regard to surrounding land use, natural features, hazards, infrastructure availability and agricultural land class, in accordance with Table S1 below. 	<p>with five (5) of the lots less than the 150-hectare lot size sought by Table S1.</p> <p>The proposed lots may be able to cater for a single dwelling and the supporting subdivision report (prepared by Grazing Best Practice) indicates small scale cropping production may occur on the future lots; despite not illustrating where on the proposed lots rural pursuits could occur.</p> <p>The limited rural potential for the lots, combined with the clearing of large tracts of bushland, compromises the outcomes sought for the zone and the underlying rationale, being to avoid potential land use conflicts between non-rural uses and large agricultural operations to the west of the property. Further it conflicts with protecting large tracts of bushland being protected from development.</p> <p>In terms of the creation of lots in a bushfire hazard area, the risk is able to be mitigated through the provision of bushfire breaks. This includes Building Location Envelopes, extensive clearing of these envelopes, and clearing surrounding these envelopes, access tracks and building construction to be in accordance with the relevant Australian Standards however these measures will remain largely the responsibility of the future owners and have not been demonstrated to be achievable through the application material. Proposed Lots 1, 2 and 6 also do not have direct frontage to a road and are accessed via access easements. The easements vary in length from 230 metres and greater, which also poses a risk to people in a bushfire event for access through alternative routes.</p>
Built Form	
<p>O3 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: • reducing ribbon development and sprawl, • loss of green break separations, 	<p>Does not comply</p> <p>The subject site will result in the clearing of significant local vegetation in order to provide Building Location Envelopes, fire breaks along property boundaries and internal access tracks. This clearing will be visible to surrounding properties given the topography of the land is considered to impact upon the visual quality of the landscape and the amenity of surrounding properties.</p> <p>Further, the fragmentation of the land will impact the existing green break separation between the Bungundarra community and the nearby productive agricultural land.</p>

Specific Outcomes		Response
	<ul style="list-style-type: none"> 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. 	The health and safety of people using the adjacent properties may be impacted upon as the creation of additional lots, with the potential to be developed with Dwelling houses, will place additional pressure on existing rural pursuits. It will also put additional traffic along Madges Road and Bungundarra Road.
O4	<p>Buildings and structures are:</p> <ul style="list-style-type: none"> a height that is low-rise and not exceeding 12 metres if they are not associated with rural purposes; 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, and outlook; and designed to screen materials stored outside buildings when viewed from adjacent premises and public spaces. 	<p>Not applicable</p> <p>The proposal does not provide details of any buildings and structures at this stage. The proposed building location envelopes are considered to have adequate size and dimension to cater for a future Dwelling house and ancillary structures normally associated with a rural property. It should be noted that all future Dwelling houses are required to obtain a Development Permit for a Material Change of Use for a Dwelling house given the Overlays listed on the site.</p> <p>In this regard, it would be the responsibility of future owners to ensure compliance.</p>
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 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 subject site is not identified as being a noise sensitive place as it is not within fifty (50) metres of a State controlled road or 100 metres of a State controlled railway corridor.</p>
Cultural Heritage Values		
O6	<p>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 detracting, public accessibility or physical change, damage or removal.</p>	<p>Complies</p> <p>The subject site is not identified as containing any significant cultural heritage values pursuant to Schedule 3 of the Planning Scheme.</p>

Specific Outcomes	Response
Flood Immunity	
<p>O7 Development is immune to flood events which result in unacceptable risk to health and safety or unacceptable risk of property damage.</p>	<p>Complies</p> <p>The subject site is traversed by a waterway (Daly Creek) which could reasonably be assumed to be effected by localised creek flooding during a significant event and has scattered areas of mapped drainage problem area.</p> <p>The modelling Council holds for Daly Creek illustrates all building envelopes are outside of the maximum water surface level of Q100 flooding which is at approximately 28.5 metres Australian Height Datum. The extent of the Q100 flooding is contained to proposed Lot 1 and the western side of proposed Lot 5.</p> <p>Further, the proposed Building location envelopes are sited above forty (40) metres Australian Height Datum, well above the waterway at approximately twenty-five (25) metres Australian Height Datum, and are located away from the waterway, significantly limiting any potential impact from flood.</p>
Vehicle Parking and Movement	
<p>O8 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"> ○ direct access to a road providing a level of service required to accommodate traffic generated by the use; and ○ appropriately designed footpath crossovers; and ○ provision for safe pedestrian movement between public footpath and facility entry points; and ○ manoeuvring within the site/loading/unloading; 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 	<p>Complies</p> <p>Proposed Lots 1 (and subsequently Lots 5 and 6) and 2 are proposed to access from Bungundarra Road with the access locations already approved as part of an unrelated access works permits.</p> <p>Access to proposed Lots 3 and 4 is proposed to be from Madges Road. Council engineers confirm that Madges Road is currently a gravel seal and is a Rural Access road. It can accommodate the proposed two (2) additional lots. New access crossovers will be required to service the subject lots.</p> <p>The proposed building location envelopes are of sufficient size to accommodate future on-site car parking to meet the requirements of Schedule 2.</p>

Specific Outcomes	Response
<p>and unloading of goods and safe manoeuvring of vehicles; and</p> <ul style="list-style-type: none"> • 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. 	
Infrastructure	
<p>O9 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"> ○ readily accessible and available; and ○ robust and reliable in terms of operational life and purpose; and ○ 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; and • meet the standard of service nominated in Division 1 of Schedule 4 to this planning scheme; and • are constructed in accordance with standards nominated in Division 2 of Schedule 4 to this planning scheme. 	<p>Complies in part</p> <p>The subject site does not have access to reticulated water or sewer.</p> <p>An on-site water supply for domestic purposes would be required and also a supply for firefighting purposes would be required. For firefighting purposes, a minimum of 25,000 litres is required for each allotment.</p> <p>Onsite sewerage treatment and disposal would also be required, subject to a Development Permit for Plumbing and Drainage Works, from which no contaminated runoff to be discharged to Daly Creek.</p> <p>In terms of water supply and on-site sewerage treatment, this is provided at the time future development occurs.</p> <p>Electricity and telecommunications would be required to the standard of service nominated by the electricity supply authority and can be conditioned.</p> <p>All lots also require vehicular access to a road and must meet the <i>Capricorn Municipal Development Guidelines</i>.</p>

As evident from the above assessment, the proposal does not comply with the Specific Outcomes and the underlying rationale for subdivision design and character and amenity which further undermine the ability of the proposal to achieve the Overall Outcomes and Purpose sought for the Rural Zone.

Special Management Areas Codes

The subject site is affected by the Capricorn Coast Landscape overlay (precinct B) and five (5) of the elements within the Natural Features Code:

- Bushfire Hazard (Overlay Map O5);

- Drainage problem (Overlay Map O2);
- Steep Land (Overlay Map O2);
- Wetland (Overlay Map O3); and
- Waterway (Overlay Map O3).

Natural Features Code

- (a) *The purpose of the Natural Features Code is the achievement of the overall outcomes sought for the special management areas shown on Overlay Maps O1 to O8 as identified in this code.*
- (b) *The overall outcomes sought for the special management areas shown on Overlay Maps O1 to O8 as identified in this code are:*
- (i) *that development is managed to protect the significant values of the various natural features and resources in terms of:*
 - (A) *physical change;*
 - (B) *damage or removal;*
 - (C) *accessibility; or*
 - (D) *visual detraction;*
 - (ii) *development avoids or minimises, within acceptable levels, risk to the natural or built environment or human health or safety; and*
 - (iii) *development does not adversely impact the safety and operational integrity of operational airspace associated with the Rockhampton Airport.*

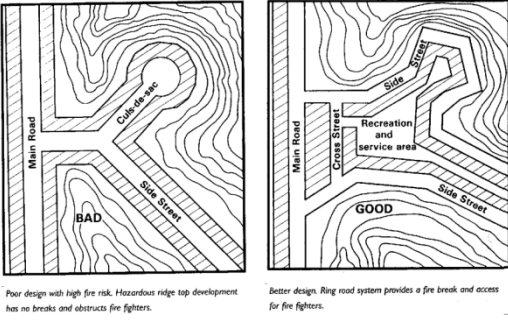
The proposed development will cause physical change to the landscape in terms of removal of vegetation and will cause a visual detraction to the visual amenity. The risk of bushfire hazard has not been sufficiently addressed due to the location of proposed building location envelopes.

The following is an assessment of the proposal against the above elements of the Natural Features Code, which includes an assessment of the development against the relevant specific outcomes.

Specific Outcomes		Response
Bushfire Hazard Special Management Area		
O5	Public safety, lives and property are not placed at unacceptable levels of risk.	<p>Complies in part</p> <p>The Bushfire Hazard Assessment identified all building location envelopes were of different Bushfire Attack Levels (BAL).</p> <p>The proposed Building Location Envelopes for Lots 2, 3 and 6, without the proposed firebreaks around the envelope, would be in a flame zone. This is not a preferred outcome to locate people and property in the highest level of hazard. Significant clearing would be required to reduce the bushfire attack levels for building.</p> <p>The Bushfire Management Plan recommends that no lower than a BAL 29 could be achieved with a building protection zone with a total distance of thirty five (35) metres from the edge of the building</p>

Specific Outcomes		Response
		<p>location envelopes. There was an outer zone required if it was a BAL 29 or higher.</p> <p>There is no certainty at this stage as to where a future landholder may construct their Dwelling house within the identified building location envelopes. This will require significant vegetation clearing (approximately 4.4 hectares inclusive of the building location envelope area) and building construction techniques to mitigate the risk to a tolerable level. In doing so, the scenic and biodiversity values of the land are significantly diminished.</p> <p>In response to the further advice, the Bushfire Hazard Assessment has provided individual assessments for each of the proposed lots and Building Location Envelopes. The hazardous vegetation is wholly mapped as flame zone, rather than classifiable vegetation and there is no distances (metres) identified in the report to support the BAL score for each building envelope. The envelope on proposed Lot 2 is of concern as it is surrounded by dense vegetation on a steep slope (identified as a downslope of 15-20 degrees) and the access crosses steep land and dense vegetation in the event of an emergency.</p> <p>It is not clear from the report if the ground fuel, fire scarring, weed abundance (and the like) was assessed in the envelopes. Further, the report identifies the entire site as RE 11.11.14 however, the online mapping identifies the site as a mix of regional ecosystems.</p>
O6	The highest intensity of use occurs in those parts of the site which are least bushfire prone and limits the intensity of use elsewhere	<p>Does not comply</p> <p>Proposed Lot 5 is of lowest hazard, occurring in a generally clear area of the site. All other building location envelopes, and predominately the whole site for proposed Lot 6, has part of the site within a Bushfire Attack Level of Flame Zone, which is the highest level of hazard. Significant clearing and building works techniques would need to be undertaken to ensure buildings achieved no greater than a BAL-29. This is not considered a suitable outcome to locate people and property in this high level of hazard.</p> <p>Although, there are mechanisms available to minimise the risk through building provisions and vegetation clearing, these</p>

Specific Outcomes		Response
		requirements could be negated should the building location envelopes be relocated to a less prone area of land with less slope.
O7	Purposes resulting in high concentrations of people on a site (including child care centre, educational establishment, hospital, residential purposes comprising multi-unit long term accommodation and short term accommodation, commercial and industrial purposes) being exposed to unacceptable levels of risk are inconsistent with the outcomes sought for this special management area	<p>Not applicable</p> <p>The proposal does not result in high concentrations of people, being for a rural subdivision for four additional allotments.</p> <p>It does result in a higher number of people in a bushfire prone area, through the additional four (4) lots with the potential for a Dwelling house on each lot, with the reliance on future land holders to ensure bushfire management plans are implemented.</p>
O8	Development is sited and designed to minimise bushfire risk having regard to: aspect, elevation, slope, and vegetation.	<p>Complies in part</p> <p>In relation to Bushfire hazard, the applicant was requested to provide a bushfire hazard assessment and management plan in accordance with the <i>Australian Standard AS3959-2009</i>. This assessment was a desktop assessment to be utilised for the basis of siting a future dwelling house.</p> <p>This report was amended to include specific recommendations to each building location envelope however, the mapping shows the majority of the site as flame zone which usually would be mapped as the classifiable vegetation and setbacks would be determined from the classifiable vegetation. There have been recommendations for each building envelope however, in order to appropriately mitigate the risk to property, significant vegetation clearing is recommended in addition to building standards to be in accordance with the Australian Standard, at the cost of the future land owner. The proposal fails to mitigate risk of the natural hazard whilst maintaining natural processes and protective functions of the site. The necessary clearing for bushfire mitigation will significantly diminish the biodiversity values of the site.</p>
O9	Road layouts facilitate easy and safe movement in the event of encroaching fire and provides for alternative safe access if one direction is blocked in the event of fire (Refer Figure A below).	<p>Not applicable</p> <p>The proposal does not result in any new roads.</p> <p>Despite this, Lots 1, 2, 5 and 6 are all access via access easements. Private roads must meet section 4 of the Bushfire Management Plan.. It has not been demonstrated if all private access driveways</p>

Specific Outcomes	Response
 <p>Figure A</p>	<p>can meet these standards including gradients, widths, cleared heights and the like.</p> <p>Further, proposed lots one and two results in significant potential for entrapment in the event of a fire, both only offering only one point of entry and exit. There is a recommendation that the landholder of Lot 2 can obtain emergency alternative road access through either Lot 1 or Lot 3 and will be noted on title but this is not proposed as part of this application by way of formal easement or identified the standard of the existing tracks.</p>
<p>O10</p> <p>A sufficient supply of water is available for fire-fighting purposes</p>	<p>Can condition to comply</p> <p>The subject site does not have access to reticulated water. The Bushfire Management Plan recommends water tanks be provided for buildings having a gross floor area greater than fifty (50) square metres. A minimum of capacity of 25,000 litres is required to be provided. As this is for Reconfiguring a Lot, the provision of water will be a requirement of future landholders to provide.</p>
<p>Steep Land Special Management Area</p>	
<p>O11</p> <p>Buildings and structures are located on a site with natural ground level slopes that do not exceed 15%.</p>	<p>Complies in part</p> <p>All building location envelopes have been located outside the steep land overlay.</p> <p>Access to the building envelope on proposed Lot 2 will traverse the steep land and no details have been provided as to access to the land. There are requirements in the Bushfire Management Plan which private access driveways must comply with.</p>
<p>O12</p> <p>Public safety, lives and property are not placed at unacceptable levels of risk.</p>	<p>Complies in part</p> <p>Although the proposal does not impact public safety, the risk to lives and property of potential owners is not an acceptable level.</p> <p>The building envelope on proposed Lot 2, despite not being located in the steep land overlay, is not considered acceptable given the access being through steep land areas and combined with other constraints, such as bushfire hazard, it places the future landholder at an unacceptable level of risk.</p>

Specific Outcomes		Response
O13	Development occurs in those parts of the site which are geologically stable and limits the intensity of use elsewhere.	Complies in part The location of proposed lot two is considered to be highly constrained by slopes in excess of fifteen percent. Although the building location envelope is located on a relative plateau and has been located outside the steep land overlay, the ingress and egress will be constrained by steep land.
O14	Buildings and structures are designed, sited and erected to maintain: natural landform; natural drainage patterns; existing vegetation.	Not applicable The proposal does not involve buildings or structures at this stage however it is noted that the development is unable to retain intact tracts of locally significant vegetation due to proposed building location envelopes, bushfire protection zones and proposed new lot boundaries. These areas will traverse steep land areas may affect the natural landform and will involve the removal of natural vegetation which may assist with the stability of the land.
Wetland Special Management Area		
O15	There are no significant adverse effects on identified wetlands in terms of: habitat; water quality; landscape quality.	Complies The wetland runs along Daly Creek. It will be contained with proposed Lot 1 and proposed Lot 1 is of a sufficient area for a future building to locate outside of the wetland area.
Waterway Special Management Area		
O16	There are no significant adverse effects on identified waterways in terms of: (a) habitat; (b) riparian vegetation; (c) water quality; (d) water flow; (e) landscape quality and amenity; and (f) recreational value.	Complies The waterway follows Daly Creek and will predominately be contained within proposed Lot 1. There will be no new boundaries proposed through the waterway being Daly Creek. There is a waterway tributary towards the north that runs east. This will be divided by a proposed new boundary for proposed Lot 5. There is not considered to be a detrimental affect caused to the waterway as a result of the proposed new boundary, and the building envelope on proposed Lot 5 is towards the east. There should be minimal requirement for the future property owner to need to clear the vegetation along the proposed new boundary to the west.

Specific Outcomes		Response
O17	<p>Riparian land is preserved for public use where the land is required for ecological, open space or recreation functions including:</p> <ul style="list-style-type: none"> (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. 	<p>Not applicable</p> <p>The proposal involves freehold land and does not require public use or access to riparian land.</p>
Drainage Problem Special Management Area		
O18	<p>Development levels are set above the design flood level to avoid property damage and, where applicable, ensure public safety.</p>	<p>Complies</p> <p>Areas along Daly Creek is identified as drainage problem area. It could reasonably be assumed to be prone to localised creek flooding during a significant event. As stated in the report above, the modelling Council holds for Daly Creek illustrates all building envelopes are outside of the maximum water surface level of Q100 flooding which is at approximately 28.5 metres Australian Height Datum. The extent of the Q100 flooding is contained to proposed Lot 1 and the western side of proposed Lot 5.</p> <p>Further, the proposed Building location envelopes are sited above forty (40) metres Australian Height Datum, well above the waterway at approximately twenty-five (25) metres Australian Height Datum, and are located away from the waterway, significantly limiting any potential impact from flood.</p>

As evident from the above assessment, the proposal does not comply with the Specific Outcomes for bushfire hazard and steep land, which further undermines the ability of the proposal to achieve the Overall Outcomes and Purpose sought for the Natural Features Code.

Capricorn Coast Landscape Code

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

- (a) *The purpose of the Capricorn Coast Landscape Code is the achievement of the overall outcomes sought for the special management areas shown on Overlay Maps 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 detracting.*
- (iii) *Vegetation outside the immediate envelope of a building or structure is preserved.*
- (iv) *Development is not visually detracting when viewed from a Level 1 Viewer Place 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.*
- (vi) *In landscape special management area – Precinct A, reconfiguring a lot only occurs if the resulting lots have regular dimensions and are equal to or larger than the minimum lot size specified for the underlying zone for the site with the only exception being within the residential zone where the lot size must be at least 1,500 square metres in area.*

The proposal fails to satisfy the purpose of the Capricorn Coast Landscape Special Management Area Code given the significant fragmentation and resulting clearing involved at lot sizes well below that intended for the Rural Zone and necessary to support Rural uses and/or protect the amenity and natural features of the land.

Specific Outcomes		Response
O1	<p>The height of buildings and structures, except in the Yeppoon Central zone is not greater than:</p> <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. 	<p>Not applicable</p> <p>The proposal does not involve any building works. Any future dwelling house will require a Development Permit for a Material Change of Use.</p>
O2	<p>The slope of natural ground level of any development site is not greater than 15%.</p>	<p>Complies in part</p> <p>As stated in response to the Steep Land Overlay, all building location envelopes have been located outside the steep land overlay.</p> <p>Access to the building envelope on proposed Lot 2 will traverse steep land and no details have been provided as to access to the land. There are requirements in the Bushfire Management Plan which private access driveways must comply with including clearing, maximum gradients and</p>

Specific Outcomes		Response
		the like which may cause a visual impact as a result of these works.
O3	Clearing except in association with other assessable site development is inconsistent development.	<p>Does not comply</p> <p>As previously stated, the proposal is likely to result in the clearing of vegetation around the building location envelopes for construction and bushfire mitigation, for potential rural uses, and for proposed lot boundaries. Additional clearing will require a Development Permit.</p> <p>Clearing of the proposed lot boundaries, in particular for proposed Lots 2 and 4 is not preferred outcome as clearing of vegetation will occur in areas mapped as Precinct B and along ridges which will cause a visual impact.</p>
O4	Buildings and structures are not sited above fifty (50) metres Australian Height Datum.	<p>Does not comply</p> <p>Although the proposal does not involve building or structures, two of the five building location envelopes (proposed Lots 2 and 6) are sited above fifty (50) metres Australian Height Datum. Further, development on proposed Lot 1 could also occur above fifty (50) metres Australian Height Datum.</p>
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%.	<p>Not applicable</p> <p>The proposal does not include for any buildings or structures. Any future Dwelling house will be required to obtain a Development Permit for a Material Change of Use.</p>
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.	<p>Not applicable</p> <p>The proposal does not include for any buildings or structures. Any future Dwelling house will be required to obtain a Development Permit for a Material Change of Use.</p>
O7	Retaining walls are restricted to a maximum of 1.5 metres vertical height.	<p>Not applicable</p> <p>The proposal does not involve any retaining walls at this stage. Any retaining structures in excess of 1.5 metres in the Capricorn Coast Landscape Area will require a planning application.</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 	<p>Not applicable</p> <p>The proposal does not involve any earthworks at this stage. Earthworks may</p>

Specific Outcomes		Response
	metres; or <ul style="list-style-type: none"> are steeper than 25%. 	be required as it is recommended in the Bushfire Hazard Assessment that building pads should rely on cut in benches rather than fill to reduce the likelihood of hazard.
O9	Earthworks and buildings are not located: <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. 	Not applicable The proposal does not involve any earthworks at this stage. There should be no works proposed over the mapped waterways for buildings as the proposed envelopes are away from the mapped waterways.
O10	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 m ² in area and comprise at least one discrete area of not less than 500 m ² which: <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%. 	Not applicable The subject site does not contain any land identified as Precinct A however there are two large tracts of land identified as Precinct B.

As evident from the above assessment, the proposal is unable to comply with Specific Outcomes O2, O3 and O4 of the code in terms of clearing of vegetation, building location envelopes sited above fifty (50) metres Australian Height Datum and the slope of land exceeding fifteen (15) percent to access proposed Lot 2, and comprises the overall outcomes sought for the Capricorn coast landscape area.

Clearing Code

- (a) *The purpose of the Clearing Code is the achievement of the overall outcomes sought for the control of clearing.*
- (b) *The overall outcomes sought are:*
- (i) *The visual integrity of the natural landscape is not significantly impacted by indiscriminate and unnecessary clearing*
 - (ii) *Ecological features and processes that underpin the biodiversity of the Shire are not disturbed by inappropriate clearing;*
 - (iii) *Vegetation in areas vulnerable to land degradation is not cleared, unless such clearing is required for the management of the degradation.*

The proposal cannot be considered to meet the purpose and overall outcomes of Clearing code as the resultant clearing will significantly and irreversibly impact upon the visual amenity and ecological values of the land and the larger vegetation network for the locality.

Specific Outcomes	Response
Vegetation Management	
<p>O1 Development protects the nature conservation values and water quality of watercourses, wetlands, lakes and springs from degradation.</p>	<p>Complies in part</p> <p>The existing property boundary is located along the mapped waterway and may be subject to vegetation clearing which would be considered exempt development under the 2005 planning scheme. It is understood that significant vegetation clearing has been undertaken along the southern side of the watercourse (being the northern property boundary of Lot 1 on SP289213), which limits the ecological function of the waterway in terms of erosion.</p> <p>The proposed new lot layout will allow the waterway (Daly Creek) to be predominately contained within proposed Lot 1 and will remove the ability to clear the proposed lot boundary which currently follows the waterway.</p> <p>There is a waterway tributary towards the north that runs east. This will be divided by a proposed new boundary for proposed Lot 5. There is not considered to be a detrimental affect caused to the waterway as a result of the proposed new boundary, and the building envelope on proposed Lot 5 is towards the east. There should be minimal requirement for the future property owner to need to clear the vegetation along the proposed new boundary to the west.</p> <p>Waterway tributaries in the north-west of Lot 100 SP280113 that drain south-east into Daly Creek are not mapped waterways.</p>
<p>O2 Areas identified (refer to PSM 10A & 10B – Locally Significant Vegetation) as containing locally significant vegetation are protected from development and its effects that may significantly reduce the values of the area in terms of:</p> <ul style="list-style-type: none"> (a) damage or removal of vegetation; (b) loss of biodiversity; (c) loss of canopy cover and habitat; (d) visual detracton. 	<p>Does not comply</p> <p>As previously stated, the site contains large tracts of Locally significant vegetation and native bushland. The large size of this tract of vegetation within a broadly cleared landscape and the feature that native vegetation provides wildlife movement corridors from lower parts of the landscape around Daly Creek up to the hilltop areas to the north and south supports high biodiversity value. The allotment layout proposed will result in vegetation clearing through these areas for building envelopes, lot boundaries, bushfire mitigation and access, significantly diminishing the biodiversity value of the site as the fragmentation will impede the important function of the vegetation as a contiguous wildlife habitat and movement</p>

Specific Outcomes	Response
	<p>corridor. The intensification of land use resulting from higher density occupation will impact upon the existing ecological functions of the locally significant vegetation in regard to the protection of slopes from erosion and prevention of sediment moving into the watercourse. It will result in loss of canopy cover in areas of visual significance on hillsides.</p>
<p>O3 Viable networks of habitat are protected from damage or destruction which may lessen their value to sustain wildlife.</p>	<p>Does not comply</p> <p>The location of property boundaries will result in vegetation clearing in areas recognised as containing Locally significant vegetation. The Ecological Assessment Report has not given sufficient regard to the 'local' value of the vegetation on the subject site, in particular the value of the viable habitat network within an already fragmented landscape. Also, justification for the application is that rural activities could be undertaken which will also result in significant clearing (proposed there may be a minimum of five hectares on each lot suitable for rural pursuits in the Subdivision Report by Grazing BestPrac) which will significantly remove and diminish the natural bushland and locally significant values of the area through fragmentation and edge effects.</p> <p>In this regard, the proposal will directly result in the fragmentation through clearing for property boundaries and fire breaks as well as fencing of these locally significant vegetation communities which perform an important biodiversity role within the locality.</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 in part</p> <p>As stated above, the existing property boundary is located along the mapped waterway. The proposed new lot layout will allow the waterway (Daly Creek) to be predominately contained within proposed Lot 1 and will remove the ability to clear the proposed lot boundary which currently follows the waterway.</p> <p>There is a waterway tributary towards the north that runs east. This will be divided by a proposed new boundary for proposed Lot 5. There is not considered to be a detrimental affect caused to the waterway as a result of the proposed new boundary, and the building envelope on proposed Lot 5 is towards the east. There should be minimal requirement for the future property owner to need to clear</p>

Specific Outcomes	Response
	<p>the vegetation along the proposed new boundary to the west.</p> <p>Unmapped tributaries on the land contribute to the natural filtering of sediments and nutrients and the disturbance of these areas by intersecting property boundaries is likely to adversely impact downstream aquatic habitat.</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 in part</p> <p>Although the extent of clearing is relatively unknown, the potential clearing which would need to take place in order to mitigate bushfire can be considered to result in an increased risk of erosion, particularly on steep and sloping land. This is also the case if the future landowner seeks to undertake a rural pursuit on one of the proposed lots as per the recommendations of the Subdivision Report (by Grazing BestPrac). There is also the risk of erosion for access tracks to service the proposed lots. There are not considered to be a significant known impact upon the fertility of soil or the water table.</p>
<p>Land cleared to facilitate agriculture including forestry business or other intensive forms of agriculture is capable of sustainable use for such activities.</p>	<p>Not applicable</p> <p>The Subdivision Report (by Grazing BestPrac) identifies that a minimum of five (5) hectares on each lot could be used for rural pursuits and the lots have been designed to accommodate this. It has not been clearly identified as to where on each proposed lot agriculture could be undertaken and if this would be within areas for the building envelopes or outside these areas, which would result in additional clearing. It is also not clear where on each of the lots would be capable of facilitating agriculture and if the agriculture would be sustainable.</p>

The proposal conflicts with the Specific Outcomes of the Clearing Code in several instances which further limits its ability to achieve the overall outcomes and purpose of the code.

Planning Scheme Policy 8 – Retention of Vegetation within Development

Does not comply

This policy provides for the retention of vegetation within development and specifically areas of significant remnant vegetation including areas identified by the State under the *Vegetation Management Act* and Planning Scheme Map 10 as locally significant, and at least twenty (20) metres from the banks of a watercourse. This proposal will result in clearing of both these areas due to the location of property boundaries and location of building envelopes and associated access tracks. The development would not be able to take place without this clearing (due to bushfire mitigation requirements) and therefore cannot be supported.

INFRASTRUCTURE CHARGES

Infrastructure charges are levied pursuant to the *Adopted Infrastructure Charges Resolution (No.3) 2018*. The details and breakdown of the charges are outlined below:

Charge:	\$61,000.00
Charge area:	The subject site is located outside the priority infrastructure area
Calculation:	The charge is calculated in accordance with Table 5 - Minimum infrastructure charge for Reconfiguring a Lot partly outside or entirely outside the Priority Infrastructure Area, as follows: 1. Six (6) lots at \$15,250.00 per lot. 2. less a credit of \$15,250.00 per lot.
Credit:	The above calculation takes into account a credit of \$30,500.00 for the existing allotments pursuant to Part 4.0 of Council's <i>Adopted Infrastructure Charges Resolution (No. 3) 2018</i> . The credit is calculated as follows: two (2) existing lot at \$15,250.00 per lot.
Offset:	No offsets are applicable to the development

Should the proposal be supported, a total charge of \$61,000.00 is payable and must be reflected in an Infrastructure Charges Notice.

REFERRALS

The application was referred to the Department of State Development, Manufacturing, Infrastructure and Planning for the following provisions of the *Planning Regulation 2017*:

- Schedule 10, part 3, division 4, table 2, item 1 – Clearing native vegetation

The Department provided a response on 8 April 2019 stating that the Department has no requirements relating to the application. The reasons for the response is that the development:

- Will allow clearing of 'least concern' regional ecosystems to occur, however the clearing is not considered to threaten ecological processes; and
- The development complies with state code 16.

SUMMARY OF ASSESSMENT

Council should note that pursuant to Section 60(2)(b) of the Planning Act 2016, the assessment manager may decide to approve the application even if the development does not comply with some of the assessment benchmarks. In addition, pursuant to section 60(2)(d), an assessment manager may refuse the application only if compliance cannot be achieved by imposing development conditions.

The assessment concludes that the proposed development, will conflict with the purpose and overall outcomes of the Rural zone, and in this instance there are not sufficient reasons available to support an alternative favourable consideration of the development.

The assessment summary and pursuant to section 62 (2) of the *Planning Act 2016*, the reasons for refusal are based on findings on material questions of fact and must be included in the reasons accompanying the decision notice and are detailed in the recommendation below.

1. REASONS FOR THE DECISION

The development application is refused and the reasons for the decision are based on findings on material questions of fact:

- 2.0 The proposal fails to satisfy the purpose of the Rural Zone Code under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in;
 - (iv) the creation of lots that are not designed and developed to achieve the protection of large tracts of bushland having significant local environmental value and do not have suitable sizes and dimensions commensurate with the natural features, hazards and agricultural land classes exhibited by the site.
 - (v) Potential land use conflicts with nearby productive agricultural uses, resulting from the location of non-rural activities on rural land through the provision of a Dwelling house on each lot (indicated by the Building Location Envelope).
 - (vi) the creation of lots unsuitable for rural purposes to occur, with consideration given to natural hazards and removal of Locally Significant Vegetation. Rural purposes would be subject to the desire of the future landowner and subject to assessment by the Department of Natural Resources, Mines and Energy for a relevant purpose determination prior to clearing as agriculture is not listed as a relevant purpose under section 22A of the *Vegetation Management Act 1999*.
- 2.0 The proposal fails to satisfy the purpose of the Clearing Code under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in:
 - (i) Clearing of large portions of locally significant vegetation for building location envelopes, property boundaries, bushfire mitigation and access tracks, which will significantly and irreversibly impact the visual integrity and ecological features and processes that underpin the biodiversity of site the locality in general.
- 3.0 The proposal fails to satisfy the purpose of the Natural Features Code in relation to Bushfire Hazard Special Management Area under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in:
 - (iii) Locating building location envelopes in very high hazard areas with Bushfire Attack Levels up to Flame Zone resulting in significant impost upon future landholders to implement and maintain vegetation clearing and building design measures to mitigate the risk to a tolerable level and reduce the Bushfire Attack Level to BAL-29 or less.
 - (iv) Significant building protection zones, of thirty-five (35) metres, are proposed outside of the large Building Location Envelopes, which will result in additional clearing to occur to achieve suitable and safe Bushfire Attack Levels for future buildings.
- 4.0 The proposal fails to satisfy the purpose of the Capricorn Coast Landscape Special Management Area Code under the *Livingstone Shire Planning Scheme 2005* as the proposal will result in:
 - (ii) Diminished landscape values in terms of physical changes to the natural environment and significant visual detracting as a result of the necessary clearing for bushfire mitigation. In addition, the proposal does not provide for the protection of vegetation located outside the building location envelopes or along proposed property boundaries.
- 5.0 On balance, the application should be refused because the development does not comply with the Purpose of above aspects of the assessment benchmarks and compliance is unable to be reasonably or relevantly conditioned.

The evidence or other material on which the findings were based are:

- The common material for the development application;
- The assessment benchmarks identified in section 2 of this notice;
- The matters prescribed by regulation identified in section 5 of this notice.

2. ASSESSMENT BENCHMARKS

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Rural Zone Code Natural Features Code Capricorn Coast Landscape Code Clearing Code	<i>Livingstone Planning Scheme 2005</i> Reprint 7 as in force 10 July 2017
Chapter 4 – Regional outcomes and policies	<i>Central Queensland Regional Plan, October 2013</i>
Part E: State interest policies and assessment benchmarks (Biodiversity, Agriculture and Natural hazards, risk and resilience)	<i>State Planning Policy, July 2017</i>

3. COMPLIANCE WITH BENCHMARKS

The development does not comply with the assessment benchmarks as per the summary set out in the findings on material questions of fact in section 1 of this notice.

4. RELEVANT MATTERS

Not applicable to this application.

5. MATTERS RAISED IN SUBMISSIONS

Not applicable to this application.

6. MATTERS PRESCRIBED BY REGULATION

The following matters were given regard to in undertaking the assessment of this development application:

- (i) The State Planning Policy – Part E;
- (ii) The Central Queensland Regional Plan;
- (iii) The Rural Zone Code, Natural Features Code, Capricorn Coast Landscape Area Code and Clearing Code, in the *Livingstone Planning Scheme 2005 (reprint 7)*;
- (iv) The land at 535 Bungundarra Road, Bungundarra, the subject of the application is developed with a Dwelling house and Animal keeping;
- (v) The land at Lot 100 Bungundarra Road, Bungundarra, the subject of the application is vacant;
- (vi) The surrounding development, in terms of commensurate and consistent development; and
- (vii) The common material, being the material submitted with the application.

PREVIOUS DECISIONS

It is noted that Council has previously approved development applications for Reconfiguring a Lot within the immediate vicinity of the subject site which also failed to meet the minimum lot size stipulated in the *Livingstone Shire Planning Scheme 2005*. These decisions include the following:

- D-Y/2007-519 Reconfiguring a Lot (one lot into six lots) at 817 Bungundarra Road

- D-44-2010 for Reconfiguring a Lot (one lot into three lots) at 487 Bungundara Road
- D-52-2015 for Reconfiguring a Lot (one lot into three lots) at 487 Bungundara Road
- D-156-2011 Reconfiguring a Lot (three lots into four lots) at 777 Bungundarra Road
- D-396-2011 for Reconfiguring a Lot (two lots into seven lots) at 777 and 487 Bungundarra Road
- Refusal - D-17-2017 for Reconfiguring a Lot (two lots into four lots) at 535 Bungundarra Road and Lot 100 Bungundarra Road, Bungundarra

As can be seen above, each approval paves the way for additional applications and the impacts of such decisions should not be considered in isolation, in particular the extent of vegetation clearing which has taken place as a direct result of the creation of additional allotments within the vicinity. In each instance above, a large 'balance area' has remained intact in order to provide an ecological and scenic function. This area is now the subject of the current development application.

In addition, it should be noted that each decision is made on its merits at the time and with the best planning information available. There are instances above whereby there were sufficient grounds to support the proposals, subject to reasonable and relevant conditions, which are not considered to exist in the current case. Specifically, the land use conflicts between adjoining properties, bushfire hazard and clearing of locally significant vegetation are unavoidable for the current proposal. It should also be noted that a large consideration in supporting these previous applications was on the proviso that the intact vegetation on this subject site (formerly the balance land for previous decision) remain intact and in some cases be protected by a vegetation covenant.

BUDGET IMPLICATIONS

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

LEGISLATIVE CONTEXT

The application is being assessed pursuant to the *Planning Act 2016* and all subordinate legislation and policies

LEGAL IMPLICATIONS

The legal implications of deciding this development application favourably or unfavourably is the risk of appeal from the developer. It is noted that the applicant currently has an appeal before the Planning and Environment Court in relation to the Decision to Refuse Development Application D-17-2017. Should Council refuse this Development Application, it is thought that the existing appeal would be discontinued given the lower resultant lot yield and an appeal may be lodged against this Decision. These potential legal implications also bring unknown budget implications.

STAFFING IMPLICATIONS

No staffing implications have been identified in the assessment.

RISK ASSESSMENT

A determination of the application contrary to the outcome sought by the applicant may be escalated to appeal by the applicant, should they contend the position by Council is unreasonable. Officers consider that the risk of appeal is a medium to high probability. Costs of an appeal would be borne by Council.

Council's reputation may be impacted if it does not maintain the policy position of the planning scheme given it is the endorsed policy position. Decisions divergent from these policies may undermine future decision making.

CORPORATE/OPERATIONAL PLAN

Strategy GO4 of the Corporate Plan is relevant to the assessment of this application and states: *'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

The proposed development, being for the reconfiguration of two lots into six lots, cannot be considered to meet with the purpose of the Rural Zone Code or Special Management Area Codes. The hazards and constraints, in terms of Locally Significant Vegetation, Bushfire hazard, the Capricorn Coast Landscape Area and Steep land, have not been adequately considered in the proposed lot layout.

The proposed Building Location Envelopes, place people and property at a high level Bushfire Hazard and significant vegetation clearing and construction techniques would be required to mitigate this risk by future land owners. Significant clearing outside of the proposed Building Location Envelopes would also be required to meet the requirements of the Bushfire Hazard Assessment and Management Plans to ensure a Bushfire Attack Level is at or below a BAL-29.

The application material includes a Subdivision Report purporting a minimum of five (5) hectares is available on each proposed lot for intensive agricultural pursuits. The application has not considered the impact of rural purposes on ancillary Dwelling houses, surrounding properties, the clearing required to undertake the rural purpose and other constraints including bushfire hazard, topography and vegetation applicable to each proposed lot. The fragmentation of the land will limit the ability for landholders to undertake a sustainable rural purpose and rural purposes would be subject to the desire of the future landowner.

Insufficient reasons were provided to justify approving the application, despite the various non-compliances with the relevant assessment benchmarks under Section 60 of the *Planning Act 2016*. In addition, conditioning compliance with one element of the non-compliance (being bushfire risk and appropriate mitigation) will significantly and irreversibly diminish the ecological and scenic values of the subject site and the locality in general.

Accordingly, the proposal cannot be supported through reasonable and relevant conditions and is recommended for refusal.

**12.1 - DEVELOPMENT APPLICATION
FOR A DEVELOPMENT PERMIT FOR
RECONFIGURING A LOT (TWO LOTS
INTO SIX LOTS) AT 535
BUNGUNDARRA ROAD AND LOT 100
BUNGUNDARRA ROAD,
BUNGUNDARRA**

Attachment 1 - Locality Plan

Meeting Date: 3 September 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 0.25 0.5 1.1 Km

Locality Plan

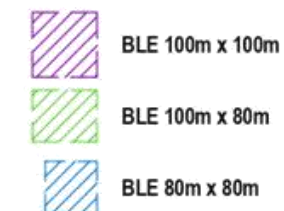
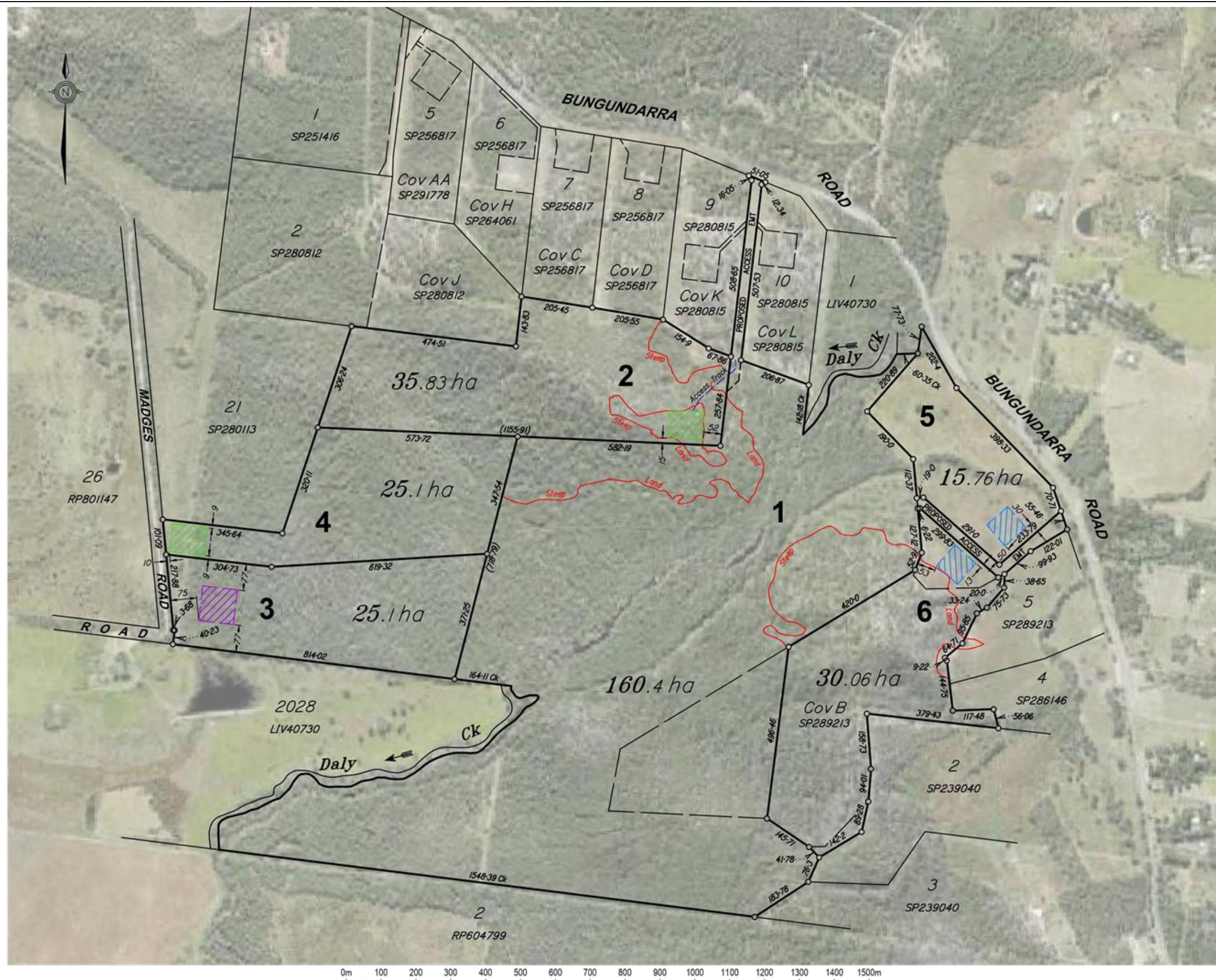
Map Created by: Web AppBuilder for ArcGIS

**12.1 - DEVELOPMENT APPLICATION
FOR A DEVELOPMENT PERMIT FOR
RECONFIGURING A LOT (TWO LOTS
INTO SIX LOTS) AT 535
BUNGUNDARRA ROAD AND LOT 100
BUNGUNDARRA ROAD,
BUNGUNDARRA**

Attachment 2 - Proposal Plan

Meeting Date: 3 September 2019

Attachment No: 2

**IMPORTANT NOTE**

This plan was prepared to accompany an application to Livingstone Shire Council and should not be used for any other purpose.

The dimensions and areas shown hereon are subject to field survey and also to the requirements of council and any other authority which may have requirements under any relevant legislation.

In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land.

This note is an integral part of this plan.

client

C. Roebuck

project

**487 Bungundarra Road,
Bungundarra**

plan of

**Reconfiguration Plan
2 Lots into 6 Lots
(with Ortho Underlay)**

rp'd

**Lot 100 on SP280113 &
Lot 1 on SP289213**

lga

Livingstone Shire Council

issue	date	details	authoriser
A	7-11-2018	Initial Issue	RJN
B	28-05-2019	BLE's amended	RJN
C	29-07-2019	BLE setbacks added	RJN

created



scale
1:10000 @ A3

sheet no.
1 of 1

plan no.
6537-07-ROL

authoriser
QLD Glob

cad file
6537-07-ROL-C

issue
C

12.2 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:

- Reticulated Water to Mabel Edmund Park
- Drain Netting
- Additional Acknowledgment at Meetings
- Traffic incident Phillip Street
- Reallocation of Funding
- OIC Yeppoon Police
- Reinstate Meeting Procedures
- Beach Access Bangalee

BACKGROUND

The information contained in the commentary of this report is being provided in accordance with section 2.9.2 of *Council Meeting's Procedures Policy*, Request by a Councillor to Place an Item on the Agenda.

COMMENTARY

Councillor	Subject	Action	Outcome / Update
Kelly	Reticulated Water to Mabel Edmund Park	Referred to officers to provide a briefing to Councillors.	Briefing was provided to Councillors on 18/3/19. Further investigation of options and an onsite meeting has occurred. Investigation with a divining rod is ongoing and information will be brought back to Council once feasibility has been assessed.
Mather	Drain Netting	Referred to officers to provide a briefing to Councillors noting that Council already utilises pollutant traps.	A briefing is scheduled to be presented to Councillors by the end of September 2019.

Councillor	Subject	Action	Outcome / Update
Belot	Additional Acknowledgment at Meetings	Referred to officers to provide a briefing to Councillors.	20.08.19 Matter layed on the table to return to ordinary meeting 03.09.19
Mather	Traffic incident Phillip Street	Referred to officers to provide a briefing to Councillors.	Briefing due to be provided by the end of September 2019.
Mather	Invitation to OIC Yeppoon Police	This matter was discussed with Councillors on 29 July 2019 prior to receiving Councillor Mather's request.	Senior Constable of Yeppoon Police has been invited to meet with Councillors in September 2019.
Mather	Reallocation of Funding	Referred to officers to provide a briefing to Councillors.	A briefing is scheduled to be presented to Councillors by the end of September 2019.
Mather	Reinstate Meeting Procedures	Referred to officers to provide a briefing to Councillors.	A briefing is scheduled to be presented to Councillors by the end of September 2019.
Hutton	Beach Access Bangalee	Referred to officers to provide a briefing to Councillors.	Councillors have been provided background information on this matter. A future briefing to be provided.

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.

12.3 LIFTING HISTORIC MATTERS LYING ON THE TABLE

File No: GV13.4.1
Attachments: 1. Matters to be Lifted from the Table [↓](#)
Responsible Officer: Chris Murdoch - Chief Executive Officer
Author: Nicole Robertson - Coordinator Executive Support

SUMMARY

This matter was presented at the Ordinary Council meeting held on 20 August 2019 and was laid on the table for the reason stated in the minutes.

This report and is now being presented to Council in order for the listed matters to be formally lifted from the table and removed from business outstanding.

OFFICER'S RECOMMENDATION

THAT Council resolve that the following matters laid on the table at previous Council meetings, as listed in the attachment, be lifted from the table and dealt with as follows:

- 1) The matters that have been listed as having been resolved at a Council meeting be deemed finalised;
- 2) The matters identified as being dealt with operationally are finalised with no further resolution required; and
- 3) The matter of 'Councillor Portfolios' be deemed a matter for the new Council in 2020.

PREVIOUS DECISIONS

Please refer to attachment 1 for details of previous decisions.

CORPORATE/OPERATIONAL PLAN

Strategy GO1 of Council's Corporate Plan states: '*Inform and empower the community through ongoing engagement and communication.*'

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

That the matters be lifted from the table and removed from business outstanding.

12.3 - LIFTING HISTORIC MATTERS LYING ON THE TABLE

Matters to be Lifted from the Table

Meeting Date: 3 September 2019

Attachment No: 1

MATTERS TO BE LIFTED FROM THE TABLE AND FINALISED				
Report Title	Original Meeting Date	Resolution Type	Council Resolution Date	Details of Action Taken
Revised Yeppoon Foreshore Revitalisation Masterplan	26/04/2016	Council Meeting	24/05/16	At the Council meeting held on 24 May 2016 Council resolved the following in relation to this matter: <i>1) THAT Council adopt the Masterplan to guide the development of schematic design, noting that the Masterplan provides the strategic vision for the Yeppoon Foreshore.... and elements including connectivity and place making of the Town Centre that may take many years to implement, and will be subject to change as schematic design progresses.</i>
Notice of Motion - Cr Belot - Framework for Shade & Shade Structures, LSC Playgrounds	13/12/2016	Council Meeting	18/04/17	At the Council meeting held on 18 April 2017 Council resolved the following in relation to this matter: <i>THAT Council resolve to proceed with development of a Playground Shade Framework generally in accordance with the Conclusion section of this report for Existing Playgrounds and artificial shade is to be provided over all new playgrounds as part of initial development.</i>
Yeppoon and Capricorn Coast Region Joblink	04/04/2017	Council Meeting	2/05/17	At the Council meeting held on 2 May 2017 Council resolved the following in relation to this matter: <i>THAT the Yeppoon and Capricorn Coast Region Joblink website 'go live', post Council endorsement, and be supported by the promotion strategy to encourage residents (job seekers), local businesses (employers) and broader community to utilise the website.</i>
Acquisition of Land for Road Purposes - Wildin Way, Yeppoon	06/06/2017	Council Meeting	15/08/17	At the Council meeting held on 15 August 2017 Council resolved the following in relation to this matter: <i>THAT Council:</i> <i>1. Discontinue discussions with the owners of Lot 43 SP202178 regarding the acquisition of land for road purposes;</i> <i>2. Commence negotiations with the owner of Lot 4 RP620054 to acquire a portion of their property as a 10m wide road reserve along the southern boundary; and</i> <i>3. Endorse the submission of an Application to Dedicate State Land as Road to the Department of Natural Resources & Mines as shown on Drawing No 17-006-51.</i>
Council Support - Central Queensland Hospitals Foundation	20/06/2017	Operational	n/a	This matter was discussed with Councillors at a Workshop on 4 July 2017 and was dealt with operationally.
Yeppoon Forshore & Town Centre Revitalisation Project - Car Park Façade Art Project	20/06/2017	Council Meeting	04/07/17	At the Council meeting held on 4 July 2017 Council resolved the following in relation to this matter: <i>THAT the updated artwork concept developed for the Yeppoon Town Centre car park be approved and that Edwards Clarke (the concept artist) be authorised to proceed with final design and installation of the updated artwork concept proposal presented.</i>
Development Application for a Development Permit for a Material Change of Use for a Service Station and Shop	04/07/2017	Council Meeting	04/07/17	At the Council meeting held on 4 July 2017 Council resolved to approve the application - refer to Minutes for full resolution which includes conditions.
Development Application for a Material Change of Use for a Local Utility	04/07/2017	Council Meeting	01/08/17	At the Council meeting held on 1 August 2017 Council resolved to approve the application - refer to Minutes for full resolution which includes conditions.
GKI Waste	21/11/2017	Council Meeting	20/02/18	At the Council meeting held on 20 February 2018 Council resolved the following in relation to this matter: <i>THAT the commercial properties on Great Keppel Island be provided with the number of bin services and corresponding charges as per the following table: (please see minutes document for full details of table).</i> <i>THAT Council provides an additional four public bins and four recycling bins on Great Keppel Island to augment public bins on the island for a trial of 6 months placed in appropriate locations to commence as soon as possible as practical.</i>
Request for Reduction of Material Change of Use Application Fees	12/12/2017	Council Meeting	06/02/18	At the Council meeting held on 6 February 2018 Council resolved the following in relation to this matter: <i>THAT Council resolve to support the request for waiver of development application fees.</i>
Request for Negotiated Decision for a Development Permit D159-2017	06/02/2018	Council Meeting	17/07/18	At the Council meeting held on 17 July 2018 Council resolved the following in relation to this matter: <i>THAT in relation to the change representations for Development Permit D-159-2017 for Reconfiguring a Lot (one lot into fifteen lots) made by RPS on behalf of Dr Peter Dunbar C/-</i>
Notice of Motion - Councillor Glenda Mather - Tracking Budget Expenditure	07/08/2018	Operational	n/a	The requested information has been included in each of the Monthly Financial Reports since August 2018.
Notice of Motion - Councillor Adam Belot - ICESUP CQ - Budget Request	18/09/2018	Operational	n/a	Manager Community Wellbeing advised that this matter has been dealt with operationally with inkind support for a venue to hold their workshops.
Councillor Portfolios	18/12/2018			This matter is to be lifted from the table with a resolution that the matter will be revisited in the new local government term in 2020.

12.4 REQUEST FROM COUNCILLOR BELOT - ADDITIONAL ACKNOWLEDGEMENT**File No:** GV13.4.1**Attachments:**
1. **Original Request**[↓](#)
2. **Revised Wording**[↓](#)**Responsible Officer:** Chris Murdoch - Chief Executive Officer**Author:** Nicole Robertson - Coordinator Executive Support

SUMMARY

This matter was presented at the Council meeting held on 20 August 2019 and was laid on the table to return to a future meeting. Councillor Belot has requested an additional acknowledgement to be included at the commencement of Council meetings and other events of importance conducted by Livingstone Shire Council.

RECOMMENDATION

THAT Council consider Cr Belot's revised wording for an additional acknowledgement.

BACKGROUND

Council received a submission requesting the inclusion of an acknowledgment of Traditional Owners at the commencement of Council meetings and other events of importance, as a mark of respect to Traditional Owners and ongoing custodians of the land.

A report was presented for resolution at the Ordinary Council meeting held on 15 July 2019.

Councillor Belot has submitted a request for additional wording and the matter was presented at the Council meeting on 20 August 2019 and laid on the table at Councillor Belot's request to allow time for revised wording to be presented.

COMMENTARY

Councillor Belot has submitted a request to the Chief Executive Officer proposing an additional acknowledgement, beyond the standard government acknowledgement of country, be spoken at Livingstone Shire Council Meetings and major events, refer to *attachment 1*.

Councillor Belot provided revised wording following the Council meeting held on 20 August 2019, refer to *attachement 2*.

PREVIOUS DECISIONS

On 15 July 2019 Council resolved the following:

THAT Council resolve to include an Acknowledgement of Country to Council Meetings and other Council events of importance.

BUDGET IMPLICATIONS

There are no budget implications to consider.

LEGISLATIVE CONTEXT

There is no legislative requirement to include the additional acknowledgment.

LEGAL IMPLICATIONS

There are no legal implications by including an Acknowledgment of Country.

STAFFING IMPLICATIONS

There are no staffing implications to consider.

RISK ASSESSMENT

There are no identified risks in association with this request.

CORPORATE/OPERATIONAL PLAN

Corporate Plan Reference: Strategy CO2: Facilitate programs and support local social, cultural, artistic and community building initiatives.

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 is seeking guidance in relation to additional acknowledgements at Council meeting and major events.

12.4 - REQUEST FROM COUNCILLOR BELOT - ADDITIONAL ACKNOWLEDGEMENT

Original Request

Meeting Date: 3 September 2019

Attachment No: 1

Chief Executive Officer
Livingstone Shire Council
Yeppoon Q 4703

Date 29/07/2019

Proposed Motion
Broader Inclusive acknowledgement to accompany Current LSC Policy.

*I Cr Adam Belot propose the follow words to accompany the recently adopted Welcome/
Acknowledgement of Country wording to be spoken at Council Meetings and major
events.*

***"We also acknowledge and respect all cultures of the world
represented in this nation and the contribution they have made to
our shared history; and we will continue to embrace the
foundational principle of doing unto others as you would have them
do unto you, striving to ensure equality and justice for all people."***

Background

Recently LSC endorsed wording that aims to honor our traditional owners the Darrumbal People. These words are to be spoken at the beginning of Council meetings and major events. In supporting this initiative I have been encouraged by members of the community, to put forth additional wording to broaden those who have contributed to our society. Therefore the additional wording endeavors to acknowledge and recognize the contribution that many different cultures have also made alongside the Traditional owners toward our shared history.

Sincerely,

Cr Adam Belot

12.4 - REQUEST FROM COUNCILLOR BELOT - ADDITIONAL ACKNOWLEDGEMENT

Revised Wording

Meeting Date: 3 September 2019

Attachment No: 2

Nicole Robertson

From: Adam Belot
Sent: Monday, 26 August 2019 7:51 AM
To: Executive Support
Subject: information as requested - ACK sent 26/08 - NR

Hi Nicole,

Please find the final version of acknowledgement of pioneers and shared culture.

‘WE ACKNOWLEDGE OUR PIONEERS AND HONOR ALL CULTURES FORGED INTO OUR SHARED HISTORY AND FUTURE, BY DOING UNTO OTHERS AS WE WOULD DO TO OURSELVES’.

REGARDS ADAM

12.5 REQUEST FOR A TWO (2) YEAR EXTENSION OF THE CURRENT INFRASTRUCTURE AGREEMENT FOR DEFERRED CHARGES - SEAHAVEN ESTATE STAGE 4 (D-6-2014)**File No:** D-6-2014**Attachments:**

1. Request from Capricorn Survey Group (CQ) Pty Ltd on behalf of their client, Keppel Developments Pty Ltd dated 24 June 2019 [↓](#)
2. Development Incentive Policy for Reconfiguring a Lot [↓](#)

Responsible Officer: Maddie Ward - Co-ordinator Development Assessment
David Battese - Manager Liveability**Author:** Kerry Mulcahy - Development Officer

SUMMARY

This report addresses a request for an extension to a deferred charges agreement pursuant to Part 6.4 of the Infrastructure Agreement for Deferred Payment of Infrastructure Charges for Sea Haven Estate Stage 4, being for an extension from two (2) years to four (4) years. This request is not supported by officers, as it is not in accordance with Council's adopted Development Incentive Policy for Reconfiguring a Lot (Community Policy) which specifies a maximum period of two (2) years.

OFFICER'S RECOMMENDATION

THAT Council resolve to refuse the request made by Capricorn Survey Group (CQ) Pty Ltd, on behalf of Keppel Developments Pty Ltd, for an extension of the Infrastructure Agreement for deferred payment of infrastructure charges for the ten (10) unsold lots in Sea Haven Estate Stage 4, as it does not accord with Councils *Development Incentive Policy for Reconfiguring a Lot*.

BACKGROUND

The Infrastructure Agreement for Deferred Infrastructure Charges is permissible under Council's *Development Incentive Policy for Reconfiguring a Lot (Community Policy)*, adopted at the Council Meeting on 12 July 2016. The Infrastructure Agreement for stage 4 of the Sea Haven Estate was entered into on 27 July 2017 and in accordance with the policy, allowed charges to be paid within two (2) years of the endorsement of the survey plan or when the developer ceases to be the registered owner of the land, whichever comes first. The two (2) year period for this agreement expires on 27 July 2019.

COMMENTARY

The related Survey Plan SP296906 was endorsed by Council on 27 July 2017 and all Infrastructure Charges owing are payable by 27 July 2019 (two years from date of Survey Plan endorsement).

At the time of this report, ten (10) lots remain unsold from Stage four (4) and the developer is requesting to extend the current Infrastructure Agreement date by a further two (2) years until 27 July 2021 or to include the ten (10) unsold lots under a new agreement they wish to enter into for Stages 4B, 4C, 5A, 5B and 5C (D-180-2017) for forty-five (45) lots, 6A, 6B, 6C and 6D (D-182-2017) for forty-seven (47) lots, 7A, 7B, 7C and 7D (D-183-2017) for forty (40) lots, 8A, 8B and 8C (D-185-2017) for forty-four (44) lots and 9A and 9B (D-186-2017) for twenty-three (23) lots.

The deferment of charges levied against Development Permit D-6-2014 for the ten (10) remaining lots are \$5,148.15 per lot (plus CPI at time of payment) which is a total amount outstanding of \$51,481.50.

Officers are not supportive of the request as the incentive was that *'the payment must be provided within two (2) years of Council issuing a compliance certificate for a survey plan for*

a component lot or before the applicant ceases to be a registered owner of a component lot, whichever occurs the earlier'.

Officers have reviewed the Infrastructure Charges Incentive policies of three other Local Government's. In relation to deferment timeframes and interest applied and provides the following table as a brief comparison for consideration.

Local Government	Timeframe for deferment	Application of CPI, PPI or Interest
Rockhampton Regional Council	2 years	Nil at present
Gladstone Regional Council	No incentive policy for deferment of infrastructure charges in relation to reconfiguring a lot	
Fraser Coast Regional Council	2 years	Dependent on Infrastructure Agreement

PREVIOUS DECISIONS

Council has not received any previous requests to extend the due date for payment of deferred Infrastructure Charges. The decision made in relation to this request may set a precedence for future requests. In particular, considering the current economic climate and pace of development for this estate in particular.

BUDGET IMPLICATIONS

The current outstanding amount of charges due and payable by the 27th July 2019 is \$51,481.50 (plus CPI). A further extension to this period may affect Councils capacity to deliver required trunk infrastructure.

LEGISLATIVE CONTEXT

The Infrastructure Charges were charged pursuant to the *Sustainable Planning Act 2009*. The Infrastructure Agreement was prepared pursuant to the *Planning Act 2016* and Council's *Development Incentive Policy for Reconfiguring a Lot*. This request is not in accordance with the allowances under the Infrastructure Agreement or the Development Incentives Policy.

LEGAL IMPLICATIONS

The amendment of the Infrastructure Agreement will be at the Developers cost.

STAFFING IMPLICATIONS

The management of the request has been undertaken in accordance with current staffing allocations and its decision (either way) will not require any additional resourcing in this regard however will require the engagement of King and Company for amendment purposes.

RISK ASSESSMENT

The risks associated with extending the timeframe for payment of the Infrastructure Charges is the financial/budget implications, such as the further delay of income towards the provision of trunk infrastructure. Further, there is the risk other developers will request to extend the timeframe therefore making the policy redundant.

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

Officers are unable to support the request from Capricorn Survey Group (CQ) Pty Ltd, on behalf of Keppel Developments Pty Ltd, for an extension of the Infrastructure Agreement for deferred payment of infrastructure charges for the ten (10) unsold lots in Sea Haven Estate Stage four (4) as it does not accord with Councils *Development Incentive Policy for Reconfiguring a Lot*.

**12.5 - REQUEST FOR A TWO (2) YEAR
EXTENSION OF THE CURRENT
INFRASTRUCTURE AGREEMENT FOR
DEFERRED CHARGES - SEAHAVEN
ESTATE STAGE 4 (D-6-2014)**

**Request from Capricorn Survey Group
(CQ) Pty Ltd on behalf of their client,
Keppel Developments Pty Ltd dated 24
June 2019**

Meeting Date: 3 September 2019

Attachment No: 1



capricornsurveygroupcq
SURVEYING & PLANNING SOLUTIONS

24 June 2019

Our Ref: 6616

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

Attention: Jodie Roche

Dear Madam,

RE: Request Infrastructure Agreement
Sea Haven Estate Stages 4-9

Our client wishes to enter into an infrastructure agreement for the deferral of the infrastructure charges for the following Stages of Sea Haven Estate:

D/180-2017 – Stages 4B, 4C, 5A, 5B and 5C
D/182-2017 – Stages 6A, 6B, 6C and 6D
D/183-2017 – Stages 7A, 7B, 7C and 7D
D/185-2017 – Stages 8A, 8B and 8C
D/186-2017 – Stages 9A and 9B

Stage 4B has been completed and the survey plan is currently with Council for endorsement (SP307486).

We would also like to either request a 2 year extension to the current Infrastructure Agreement for Stage 4 (D/6-2014) else include the 10 unsold lots in this new agreement if possible. We are aware that there is no current mechanism contemplated for further extension. The lots are presently vacant and unsold.

If you have any queries with regards to the above, please do not hesitate to call this office.

Yours Faithfully,

Richard Ford

12.5 - REQUEST FOR A TWO (2) YEAR EXTENSION OF THE CURRENT INFRASTRUCTURE AGREEMENT FOR DEFERRED CHARGES - SEAHAVEN ESTATE STAGE 4 (D-6-2014)

Development Incentive Policy for Reconfiguring a Lot

Meeting Date: 3 September 2019

Attachment No: 2



DEVELOPMENT INCENTIVE POLICY FOR RECONFIGURING A LOT

(COMMUNITY POLICY)

1. Scope

The Development Incentive Policy for Reconfiguring a Lot (this 'Policy') applies to any development permit for reconfiguring a lot within Livingstone Shire.

2. Purpose

The purpose of the Development Incentive Policy for Reconfiguring a Lot is to establish a framework which will enable the payment of infrastructure charges associated with specific development approvals to be deferred.

This Policy is designed to help Livingstone achieve the long-term goals of expanding the resident base, providing new jobs to residents and providing for the enhancement of the quality of life in the community, while at the same time giving consideration to the legitimate cost concerns of companies locating or expanding within the Shire.

3. References (legislation/related documents)

Planning Act 2016

4. Definitions

To assist in interpretation, the following definitions shall apply:

Component Lot	<p>An individual, separately-titled lot, which is:</p> <ul style="list-style-type: none"> (1) part of the development site; (2) created by the proposed development; and (3) intended not to be further reconfigured into other lots.
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5. Policy Statement

Livingstone Shire Council recognises the importance of the development and construction industries to the local and regional economy and employment opportunities which these industries afford the residents of Livingstone.

The Development Incentive Policy for Reconfiguring a Lot establishes a framework for providing a financial incentive for specific developments to proceed. This Policy is in accordance with Section 123 of the *Planning Act* which provides as follows:

- (1) *The recipient of an infrastructure charges notice and the local government that gave it may agree about either or both of the following—*

Development Incentive Policy for Reconfiguring a Lot

Adopted/Approved: Adopted, 7 November 2017
Version: 2.1

Portfolio: Liveability and Wellbeing
Business Unit: Liveability

Page 1 of 2

- (a) whether the levied charge under the notice may be paid other than as required under section 122 including whether the charge may be paid by instalments;
- (b) ...

Council will consent to the deferral of infrastructure charges in accordance with the following criteria:

- 5.1 the deferral is associated with a development permit for reconfiguring a lot involving the creation of five or more lots;
- 5.2 only those infrastructure components which are not required immediately can be deferred (for example, if a particular development requires the establishment of an identified sewerage pump station for the first lot, then the sewerage component cannot be deferred);
- 5.3 the deferral of infrastructure charges must be done via an infrastructure agreement, pursuant to Chapter 4 Part 4 of the *Planning Act*.
- 5.4 payment must be provided within two years of Council issuing a compliance certificate for a survey plan for a component lot or before the applicant ceases to be a registered owner of a component lot, whichever occurs the earlier
- 5.5 the infrastructure charges will be increased by the *All Groups Quarterly Consumer Price Index for Brisbane* as declared by the Australian Bureau of Statistics, to reflect the fact that Council has forgone a financial benefit in not receiving the income at the time of the lots being created;
- 5.6 the developer (or recipient of the infrastructure charge) must pay the full cost of the preparation of the infrastructure agreement; and
- 5.7 the developer (or recipient of the infrastructure charge) must pay an administration fee associated with the processing of each component lot's payment (that fee to be set annually as part of Council's schedule of fees and charges, at a quantum which reflects the cost of providing the service).

6. Changes to this Policy

This Policy is to remain in force until any of the following occur:

1. The related information is amended/replaced; or
2. Other circumstances as determined from time to time by the Council

7. Repeals/Amendments

This Policy repeals the former Livingstone Shire Council policy titled 'Development Incentive Policy for Reconfiguring a Lot (v1)'.

Version	Date	Action
1	12/07/2016	Adopted
2	07/11/2017	Amended Policy Adopted
2.1	27/08/2018	Administrative Amendments – reflect organisational restructure

CHRIS MURDOCH
CHIEF EXECUTIVE OFFICER

Development Incentive Policy for Reconfiguring a Lot

Adopted/Approved: Adopted, 7 November 2017
Version: 2.1

Portfolio: Liveability and Wellbeing
Business Unit: Liveability

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13 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.

14 CLOSED SESSION

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

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.

15.1 Potential Sale of 9 Pineapple Drive The Gateway Business and Industry Park

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 Council.

15 CONFIDENTIAL REPORTS

15.1 POTENTIAL SALE OF 9 PINEAPPLE DRIVE THE GATEWAY BUSINESS AND INDUSTRY PARK

File No: ED8.5.2

Attachments: Nil

Responsible Officer: Brett Bacon - Executive Director Liveability and Wellbeing

Author: Jan Anfruns - Manager Economy and Places

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 Council.

SUMMARY

A business owner is looking to relocate his business from the Banana Shire to the Capricorn Coast area and has expressed interest in purchasing 9 Pineapple Drive, Hidden Valley, also known as Lot 5, The Gateway Business and Industry Park.

16 CLOSURE OF MEETING