



ORDINARY MEETING

AGENDA

18 JANUARY 2022

Your attendance is required at an Ordinary meeting of Council to be held in the Council Chambers, 4 Lagoon Place, Yeppoon on 18 January 2022 commencing at 9.00am for transaction of the enclosed business.

Cale Dendle
CHIEF EXECUTIVE OFFICER
11 January 2022

Next Meeting Date: 15.02.22

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 Andrew Ireland (Chairperson)
Deputy Mayor, Councillor Adam Belot
Councillor Nigel Hutton
Councillor Pat Eastwood
Councillor Glenda Mather
Councillor Andrea Friend
Councillor Rhodes Watson

Officers in Attendance:

Cale Dendle - Chief Executive Officer
Brett Bacon – Executive Director Liveability and Wellbeing
Michael Kriedemann – Executive Director Infrastructure
Andrea Ellis – Chief Financial Officer
Matthew Willcocks - Chief Technology Officer
Kristy Mansfield - Chief Human Resources Officer

3 LEAVE OF ABSENCE / APOLOGIES

Nil

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Minutes of the Ordinary Meeting held 21 December 2021

Minutes of the Special Meeting held 7 January 2022

5 DECLARATION OF INTEREST IN MATTERS ON THE AGENDA

6 PUBLIC FORUMS/DEPUTATIONS

6.1 9AM DEPUTATION - DEVELOPMENT APPLICATION D-137-2021 - FOR A MATERIAL CHANGE OF USE FOR A CHILD CARE CENTRE (115 PLACES) AT 9-11 TANBY ROAD, YEPPON

File No: GV13.4.3

Attachments: Nil

Responsible Officer: Amanda Ivers - Coordinator Executive Support

Author: Lucy Walker - Executive Support Officer

SUMMARY

Chris Hewitt, Associate Director/Principal Civil Engineer, McMurtrie Consulting Engineers will address the Councillors in relation to the Development Application D-137-2021 – For a Material Change of Use for a Child Care Centre at 9-11 Tanby Road, Yeppoon.

OFFICER'S RECOMMENDATION

THAT the deputation be received.

BACKGROUND

This deputation is in relation to Development Application D-137-2021 – For a Material Change of Use for a Child Care Centre (115 Places) at 9-11 Tanby Road, Yeppoon of the agenda.

6.2 9.30AM DEPUTATION - RODNEY JACOBSEN - LAND AT KUNWARARA**File No:** GV**Attachments:** Nil**Responsible Officer:** Amanda Ivers - Coordinator Executive Support**Author:** Justine Schofield - Executive Assistant to the Mayor

SUMMARY*Mr Jacobsen will address the Councillors in relation to land at Kunwarara.***OFFICER'S RECOMMENDATION**

THAT the Deputation be received.

7 BUSINESS ARISING OR OUTSTANDING FROM PREVIOUS MEETINGS

7.1 BUSINESS OUTSTANDING TABLE FOR ORDINARY COUNCIL MEETING

File No: GV

Attachments: 1. Business Outstanding January 2022 [📄](#)

Responsible Officer: Michael Kriedemann - Acting Chief Executive Officer

SUMMARY

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

OFFICER'S RECOMMENDATION

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

7.2 LIFTING MATTERS LAYING ON THE TABLE**File No:** GV13.04.06**Attachments:** Nil**Responsible Officer:** Amanda Ivers - 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 Council resolves that the following reports which are currently 'laying on the table' within the Business Outstanding Table awaiting return to a Council meeting, be lifted from the table to be dealt with later in this meeting:

1. Development Application D-137-2021 – For a Material Change of Use for a Child Care Centre (115 Places) at 9-11 Tanby Road, Yeppoon.

BACKGROUND

These matters were presented at previous Council meetings at which time Council resolved to lay each matter on the table pending return to a future Council meeting.

COMMENTARY

These matters are now requested to be formally lifted from the table and brought back for discussion and consideration.

8 PRESENTATION OF PETITIONS

Nil

9 COUNCILLOR/DELEGATE REPORTS

Nil

10 AUDIT, RISK AND IMPROVEMENT COMMITTEE REPORTS

Nil

11 REPORTS

11.1 MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDING 31 DECEMBER 2021

File No: FM12.14.1

Attachments: 1. [Monthly Financial Report - December 2021](#) ➡

Responsible Officer: Andrea Ellis - Chief Financial Officer

Author: Caitlyn Good - Management and Treasury Accountant
Katie Donovan - Graduate Accountant

SUMMARY

Presentation of the Livingstone Shire Council Monthly Financial Report for the Period Ending 31 December 2021 by the Chief Financial Officer.

OFFICER'S RECOMMENDATION

THAT the Livingstone Shire Council Monthly Financial Report for the period ending 31 December 2021 be received.

BACKGROUND

The attached Financial Report is collated financial data within Council's Finance One and Pathway systems. The report presented includes:

1. Executive Summary
2. Financial Performance Indicators
3. Financial Reports
4. Capital Expenditure
5. Glossary

The attached financial information presents the year-to-date position of Council's financial performance to the 31 December 2021. All prior financial year-end accounting entries have been completed. Commitments are excluded from the reported operating & capital expenditures.

All variances are reported against the budget adopted by Council on the 29 June 2021.

COMMENTARY

The financial report compares actual performance with Council's 2021-22 budget and identifies significant variances or areas of concern. It also provides information about additional areas of financial interest to Council and reinforces sound financial management practices throughout the organisation.

In an effort to streamline the month end process, the Council monthly report has been simplified, with all commentary and analysis forming part of the report.

Additional commentary will be disclosed in the report where either the month or year to date variance exceed \$100,000 and 10% of the budget. The next steps in the continuous improvement plan will be to expand the commentary capital expenditure in the forthcoming months.

In most instances where graphical summaries are included, these now include historical results (past fifteen months or five years) to ensure any seasonality in the results are captured.

1. Executive Summary – summary of the main financial operating results, capital, cash and borrowings.

2. Financial Performance Indicators - a summary of financial performance indicator year-to-date results. Indicators are based on achieving benchmark results.
3. Financial Reports –
 - a. Month and year to date results for operating activities. Supplemented by commentary where either a major positive or variance exists and supporting graphical summaries or results, or previous information requests.
 - b. Balance sheet items with movement on previous month, compared against full year budget. Supplemented by commentary where either a major positive or variance exists and supporting graphical summaries of results, or where details was previously provided.
4. Capital expenditure
 - a. Summary of overall portfolio of program including capital revenue streams.
 - b. Detail of capital expenditure projects >\$100,000.
5. Glossary – updated to reflect the current financial performance indicators.

Procurement

Current Contracts >\$200,000 (GST exclusive)

In accordance with section 237 of the *Local Government Regulation 2012*, Council publishes the details of all contracts valued \$200,000 or more. These details are displayed on Council's website (<https://www.livingstone.qld.gov.au/doing-business/business-and-regulations/contracts-and-tenders>), and on the public notice board located at the Yeppoon Town Hall. In December 2021, no (0) contracts over the prescribed value were established.

Current Tenders

At the end of December, there were three (3) open tenders and four (4) under evaluation. Four contracts were awarded in December. The below table is a summary of current tenders to promote oversight of the progress by Councillors.

Once all contract award documentation is completed, the contract details will be added to the published contract listing.

December 2021 - Open Tenders			
2021.032	Resource Recovery Centre		
2021.033	Roller Door Servicing		
2021.034	Mt Charlton Reservoir Refurbishment		
December 2021 - Tenders Evaluated			
1058T-D	Stanage Bay Road Stages 2 & 3		
2021.018	Preferred Supplier Arrangement (PSA) - Plumbing, Water, Sewer & Pipe Fittings		
2021.024	4ML Reservoir Emu Park West		
2021.026	Yeppoon Town Centre Car Park Façade		
December 2021 - Contracts Awarded		Successful Tenderer/s	Contract Value (exc GST)
2021.025	Marlborough Pool Management	MPB Maintenance	Schedule of Rates
2021.028	Sports Ground Turf Maintenance	Purple Patch Services	Schedule of Rates
2021.029	Emu Park Sewage Treatment Plant Upgrade EOI for ECI	LC Water	Nil - Early Contractor Involvement
2021.029	Emu Park Sewage Treatment Plant Upgrade EOI for ECI	Liquitek	Nil - Early Contractor Involvement
2021.031	Cooee Bay Pool Management	Swim4Life	Schedule of Rates

Status Legend:

Open – tender has been publicly advertised and suppliers are preparing and submitting tender responses. Officers and Councillors are to apply probity by directing all enquiries to the procurement team while the tender is open.

Evaluation – the tender is under evaluation by the tender evaluation panel. Officers outside of the evaluation panel and Councillors are restricted from this process.

Contract Award – the evaluation process is completed and approval process to award contract is underway.

Non-Award – a decision is made not to award the contract, as the submission/s received are deemed unsuitable.

Contract – contract issued by letter of award.

PREVIOUS DECISIONS

The 2021-22 Budget was adopted on 29 June 2021.

ACCESS AND INCLUSION

This report once adopted by Council will be made publicly available on Council's website.

ENGAGEMENT AND CONSULTATION

Information has been provided by the procurement and revenue functions for this report.

Council conducted community consultation on the 2021-22 budget.

HUMAN RIGHTS IMPLICATIONS

Section 4(b) of the *Human Rights Act 2019* requires public entities such as Council 'to act and make decisions in a way compatible with human rights'.

There are no foreseen human rights implications associated with the adoption of this monthly report.

BUDGET IMPLICATIONS

The Monthly Financial Report shows Council's financial position in relation to the 2021-22 Budget.

Changes to budget will be reported to Council as a forecast position, until such time as a formal budget review is completed to meet the legislative requirements under section 169 of the *Local Government Regulation 2012*.

Officers are preparing the Q2 Budget Review. This will be presented to Councillors in February 2022.

LEGISLATIVE CONTEXT

In accordance with Section 204 of the *Local Government Regulation 2012*, a Financial Report is to be presented to Council on at least a monthly basis.

Section 170 of the *Local Government Regulation 2012*, states that council may be resolution amend the budget for a financial year at any time, so long as it complies with all the requirements under section 169, which are essentially all the same material as an annual budget except for decision regarding rates and utility charges which can only be adopted as part of the annual budget process.

LEGAL IMPLICATIONS

There are no anticipated legal implications because of this report.

STAFFING IMPLICATIONS

There are no staffing implications because of this report.

RISK ASSESSMENT

Regular robust reporting of Council's financial results assists in creating a framework of financial responsibility within the Council and providing sound long-term financial management of Council's operations.

CORPORATE PLAN REFERENCE

Leading Livingstone

Community Plan Goal 4.3 - Engagement with the community as advisors and partners

4.3.2 Commit to open and accountable governance to ensure community confidence and trust in Council and its democratic values.

Regular monthly reporting of Council's finance performance and financial position promotes open and accountable financial outcomes whilst providing Council and the community with relevant and reliable information on which to base financial decision-making.

CONCLUSION

The financial report provides information about Council's financial performance and position for the period ending 31 December 2021.

11.2 DEVELOPMENT APPLICATION D-137-2021 - FOR A MATERIAL CHANGE OF USE FOR A CHILD CARE CENTRE (115 PLACES) AT 9-11 TANBY ROAD, YEPPOON

File No: D-137-2021

Attachments:

1. [Locality Plan](#)
2. [Proposal Plans](#)
3. [Code Assessment](#)

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

Author: Gretta Cowie - Planning Officer

SUMMARY

Applicant: C. and D. Thomasson

Consultant: Capricorn Survey Group (CQ) Pty Ltd

Real Property Address: Lot 53 on RP855451 and Lot 54 on RP602613

Area of Site: 2,860 square metres in area

Planning Scheme: Livingstone Planning Scheme 2018

Planning Scheme Zone: Low density residential zone; Tanby Road commercial transition precinct

Planning Scheme Overlays:

- OM01 Acid sulfate soils
- OM11 Biodiversity – Waterway Potential Assessment Area
- OM14 Coastal hazard – Storm tide hazard and Erosion prone area
- OM15 Drainage problem area
- OM17 Flood hazard area
- OM20 Road hierarchy
- OM27 Height limit

Existing Development: A Dwelling house on each lot

Level of Assessment: Impact Assessable

Submissions: Four (4) submissions received

Referral matters: Nil

Infrastructure Charge Area: Charge Area 1

Application progress:

<i>Application received:</i>	12 April 2021
<i>Application properly made:</i>	13 April 2021
<i>Development control unit meeting:</i>	14 April 2021
<i>Confirmation notice issued:</i>	28 April 2021
<i>Information request issued:</i>	11 May 2021

<i>Information request response received:</i>	<i>3 September 2021</i>
<i>Public notification period:</i>	<i>10 September 2021 – 5 October 2021</i>
<i>Notice of compliance received:</i>	<i>8 October 2021</i>
<i>Submission consideration period:</i>	<i>8 October 2021 – 22 October 2021</i>
<i>Extension of time agreed to:</i>	<i>21 December 2021</i>
<i>Decision period commenced:</i>	<i>25 October 2021</i>
<i>Statutory determination date:</i>	<i>21 December 2021</i>

OFFICER'S RECOMMENDATION

THAT in relation to the application for a Development Permit for a Material Change of Use for a Child care centre (115 places), made by C. and D. Thomasson, on Lot 53 on RP855451 and Lot 54 on RP602613, and located at 9 and 11 Tanby Road, Yeppoon, Council resolves to Approve the application subject to the following conditions:

1.0 ADMINISTRATION

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

2.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
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<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
3D Render 1	21_203 S-01	November 2021
3D Render 2	21_203 S-02	November 2021
3D Render 3	21_203 S-03	November 2021
Site Plan	Wd2a	Not dated
Part Floor Plan A	Wd3	Not dated
Part south west elevation	Wd5	
Part south west elevation	Wd6	
Elevation Walkway	Wd7	
Section e-e, Section d-d and Section c-c	Wd8	
Plan room areas	Wd9	
Plan play area	Wd10	
Part Drainage Plan B	Wd13	
Proposed finished levels Plan Part A	Wd16A	
Traffic Impact Assessment	Job No. 1242021 Rev A	August 2021

2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

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

3.0 ACCESS AND PARKING WORKS

3.1 A Development Permit for Access and Parking Works must be obtained prior to the commencement of any access and parking works on the site.

4.0 A compliant vehicle access must be designed and constructed to the proposed development in accordance with the *Capricorn Municipal Development Guidelines, standard drawing CMDG-R-042, titled as "Commercial Driveway slab"*, and located minimum one (1) metre away from any sewer connections, access chambers, valves, fire hydrant, water meter boxes, and any other utility services.

Any non-compliant vehicle access driveway will require a Development Permit for Operational Works (access works) prior to the commencement of any vehicle access works associated with that lot.

4.1 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Australian Standard AS2890 "Off Street Car Parking"*.

4.2 Access, parking and associated vehicle manoeuvring areas must be sealed.

4.3 A minimum of thirty-four (34) standard off-street parking spaces (including universal parking spaces) must be provided.

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- 4.4 Only left in and left out traffic movements are permitted for the development.
- 4.5 The commercial standard access driveway must be designed and constructed to facilitate only left in and left out traffic movements for the development. The final width of the access driveway and its location must be supported by a detailed swept path analysis of the design vehicle.
- 4.6 All ingress and egress traffic movements to and from the development must be in a forward direction (forward gear).
- 4.7 All vehicle operations associated with the proposed use must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Manual of Uniform Traffic Control Devices (Queensland)*.
- 4.8 All stormwater runoff from vehicular manoeuvring areas must be discharged lawfully.
- 5.0 PLUMBING AND DRAINAGE WORKS
- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 5.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.3 The development must be connected to Council's reticulated water supply and sewer networks.
- 6.0 BUILDING WORKS
- 6.1 A Development Permit for Building Works must be obtained prior to the commencement of any building works on the site.
- 6.2 The minimum habitable floor level for the building must be 300 millimetres above the defined 0.5% annual exceedance probability flood which must be determined as part of the Flood hazard risk assessment report provided as part of the Operational Works application.
- 6.3 Fencing between the road frontage lot boundary and the front building line (excluding any driveway location) must have:
- (i) a maximum height of 1.2 metres; or
 - (ii) a maximum height of 1.8 metres if having a minimum transparency of fifty (50) per cent.
- 6.4 A maximum 1.8 metre high wooden fence must be located along all adjoining property (north, south and east) boundaries excluding locations where there are built to boundary walls.
- 6.5 All buildings must be constructed in accordance with the *Queensland Development Code – MP3.5 — Construction of buildings in flood hazard areas*.
- 6.6 Any associated earth works must not, at any time, in any way adversely restrict, impair or change the natural flow of runoff water or damage infrastructure.
- 6.7 Any retaining structures one (1) metre or above in height must be separately approved for structural adequacy by a suitably qualified Registered Professional Engineer of Queensland (RPEQ) or equally qualified person at design submission and certified on completion of construction for compliance with the design.
- 6.8 All structures and buildings must comply with the provisions of *Queensland Development Code Mandatory Part 1.4 (MP 1.4)*, relative to relevant infrastructure.
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7.0 STORMWATER WORKS

- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 7.2 All works must be designed, constructed and maintained in accordance with *Capricorn Municipal Development Guidelines (CMDG)*, *Queensland Urban Drainage Manual (QUDM)*, relevant guidelines, standards (including Australian Standards) and Council policies and certified by a suitably qualified Registered Professional Engineer of Queensland (RPEQ).
- 7.3 All stormwater including roof and allotment drainage must achieve demonstrated lawful discharge and must not adversely affect the upstream or downstream land when compared to pre-development condition, or damage infrastructure.
- 7.4 Any application for Development Permit for Operational Works (stormwater works) must be accompanied by:
- (i) A detailed Stormwater Management Report certified by a suitably qualified Registered Professional Engineer of Queensland (RPEQ). The report must include the following but not limited to:
 - (i) Details addressing stormwater quantity impacts and any required measures to mitigate. The volume of detention must be sufficient to attenuate the peak discharge from the site to ensure pre development flow regime, immediately downstream of the development for a selected range of Annual Exceedance Probability events, up to the Defined Flood Event (inclusive) for a range of storm durations, including critical storm duration;
 - (ii) Drainage catchment layout plans for pre and post-development scenarios and discharge points;
 - (iii) Details addressing the stormwater quality impacts and any required measures to mitigate. The potential pollutants in stormwater runoff, discharged from the site must be managed in accordance with State Planning Policy. Rainfall and PET (Potential Evapo-Transpiration) details must be obtained from Council for any stormwater quality modelling (example: MUSIC);
 - (iv) Detailed engineering plans with details of any new drainage systems, or the amendment and upgrading of any existing drainage systems; and
 - (v) Designs for outlet systems. Considerations must be given to critical scour velocity, discharge frequency and duration at discharge location(s) and relevant management measures;

All ongoing maintenance and management actions necessary for any proposed stormwater quality management devices must be carried out by suitably qualified person(s) in a timely manner. A completed log book must be maintained and must be available on-site for inspection by Council and /or relevant authorities.
 - (ii) A Flood Hazard Risk Assessment report supported by a flood study must be prepared in accordance with the framework outlined in AS/NZS ISO 31000:2009 Risk management and certified by a suitably qualified Registered Professional Engineer Queensland. The report must:
 - (i) take into account all relevant flood event characteristics including the Defined Flood Event (0.5% AEP flood event);
 - (ii) investigate the level of risk to persons, health and property damage and Include necessary measures to mitigate the impacts; and

- (iii) include the analysis of flood impacts due to the reduction in existing flood storage capacity within the floodplain storage area and details of mitigation measures demonstrating that the proposed development in its current form not adversely affect the upstream or downstream land when compared to pre-development condition or damage infrastructure.
- (iii) An Emergency Management and Evacuation plan must be prepared, implemented and readily available within the proposed development. Any such plan must identify the potential risks from natural and manmade hazards and how they would be addressed in terms of preventative measures and emergency procedures for each identified risk. The Emergency Management and Evacuation plan must include information related to:
 - (i) flood hazard classifications;
 - (ii) risk preventive measures;
 - (iii) emergency procedures for each identified risk and warning time / systems; and
 - (iv) compliance and implementation of suitable measures in a timely manner for safe evacuation in the event of a flood.

The plans must be monitored and implemented at the site on an on-going basis. A periodic review must be undertaken by a suitably qualified person and any recommendations must be implemented to ensure safe operation and evacuation.

8.0 ELECTRICITY AND TELECOMMUNICATIONS

- 8.1 Electricity and telecommunication connections must be provided to the proposed development to the requirements of the relevant authority.
- 8.2 All electricity and telecommunications infrastructure must be :
 - (i) located above the defined flood level; or
 - (ii) is designed to exclude water intrusion and resist hydrodynamic and hydrostatic forces from damaging the infrastructure.

9.0 ASSET MANAGEMENT

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

10.0 LANDSCAPING WORKS

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

- 10.2 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 2.1) and must include, but is not limited to, the following:
- (i) A plan documenting the “Extent of Works” and supporting documentation which includes:
 - (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
 - (ii) the extent of soft and hard landscape proposed;
 - (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
 - (iv) underground and overhead services;
 - (v) typical details of critical design elements in relation to the ‘living wall’
 - (vi) details of landscape structures including areas of deep planting; and
 - (vii) specification notes on mulching and soil preparation.
 - (ii) A “Planting Plan” and supporting documentation which includes:
 - (i) trees, shrubs and groundcovers to all areas to be landscaped;
 - (ii) position and canopy spread of all trees and shrubs;
 - (iii) the extent and type of works (inclusive but not limited to paving, fences and garden bed edging). All plants shall be located within an edged garden; and
 - (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting;
 - (v) The use of suitable local native plants in revegetation of areas near the rear boundary adjacent to Fig Tree Creek. (Council’s Natural Resource Management officers are available to advise on suitable endemic species)
- 10.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 10.4 Landscaping, or any part thereof, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austroads ‘Guide to Traffic Engineering Practice’* series of publications;
 - (ii) adversely affect any road lighting or public space lighting; or
 - (iii) adversely affect any Council infrastructure, or public utility plant.
- 10.5 All landscaping must be constructed and or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works), prior to the commencement of use.
- 10.6 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 11.0 ENVIRONMENTAL
- 11.1 Undertake the activity in a manner that does not allow environmental nuisance or water contamination caused by construction material, noise, aerosols, particles dust, ash, fumes, light, odour and smoke, which must not go beyond the boundaries of the property during all stages of the development including earthworks, construction and

operation as stated in the *Environmental Protection Act 1994* and subordinate legislation.

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

- (i) site location / topography / soil type;
- (ii) objectives;
- (iii) concept;
- (iv) design details;
- (v) implementation procedures for construction and post construction phases of work.
- (vi) vegetation;
- (vii) interim drainage plan during construction;
- (viii) dust suppression;
- (ix) top soil management;
- (x) Acid sulphate soils; and
- (xi) erosion susceptibility and risk;

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

11.4 Any Operational Works application must demonstrate that vegetation external to the site will be removed if impacted by the development. To the extent that vegetation may be impacted by the development the related operational works application must provide relevant details to be considered by Council in the assessment of the application.

12.0 OPERATING PROCEDURES

12.1 The Child care centre use must not exceed a maximum capacity of 115 children and twenty-two (22) staff at any one time.

12.2 Hours of operation are restricted to between 0630 hours to 1830 hours, Monday to Friday.

12.3 A refuse storage area and must be provided on the site that:

- (i) is screened from view from a public place by a screen fence, or dense vegetation having a minimum height of 1.8 metres;
- (ii) has an imperviously sealed pad, on which to stand the bin(s), and which is drained to an approved waste disposal system;
- (iii) is within proximity to a hose cock;
- (iv) is large enough to accommodate a least one (1) or more industrial bins of a size appropriate to the nature and scale of use.

12.4 All external elements, such as air conditioners, must be adequately screened from public view.

12.5 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and

operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.

- 12.6 All construction materials, waste and waste skips must be located and stored on-site. All construction materials and waste must be secured and not allowed to be washed or blown by the wind off-site. At all times machinery and contractor's vehicles must be parked so as to not unreasonably obstruct the road pavement, road verges/footpaths or any neighbouring property accesses.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. Asbestos Removal

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

NOTE 3. General Environmental Duty

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

NOTE 4. General Safety Of Public During Construction

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

NOTE 5. Water and Sewerage Services

In accordance with the Water Supply (Safety & Reliability) Act 2008, it is an offence to interfere with a service provider's infrastructure. Livingstone Shire Council is the service provider and Infrastructure is the department responsible for water and sewerage services. Alterations to existing services consequential to necessary connections to existing sewerage and / or water infrastructure must be at the responsibility and cost of the Developer. Please contact Infrastructure for further information. Negotiation with other service authorities such as Telstra and Ergon may also be required to adequately affect these connections.

NOTE 6. Flood Study

0.5% AEP flood information is not available. A specific flood study will be required to determine 0.5 % AEP events.

NOTE 7. Infrastructure Charges Notice

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

RECOMMENDATION B

That in relation to the application for a Development Permit for a Material Change of Use for a Child care centre (115 places), made by C. and D. Thomasson, on Lot 53 on RP855451 and Lot 54 on RP602613, and located at 9 and 11 Tanby Road, Yeppoon, Council resolves to issue an Infrastructure Charges Notice for the amount of \$20,680.00.

BACKGROUND

There is no background relevant to the subject Development Application

COMMENTARY**PROPOSAL**

The proposal is for a 115 place Child care centre located at 9 and 11 Tanby Road, Yeppoon. A maximum of twenty-two (22) staff will work at the facility at its highest occupancy.

The facility will be open from 6:30am to 6:30pm from Monday to Friday. Drop off and pick up times will be staggered throughout the day.

The centre will be fenced along all property boundaries for privacy to adjoining sites.

The building has a zero (0) setback to the north east, south east and western side property boundaries and a setback of twenty-six (26) metres to the road frontage property boundary.

Landscaping is proposed within the carpark and surrounding the building entrance.

Access is provided via Tanby road, with a left in/left out configuration proposed.

The site will have allocated vehicle parking areas with sufficient space to cater for thirty-four (34) vehicles.

SITE AND LOCALITY

The subject sites are a total of 2,860 square metres in area and located with the Low density residential zone. The site adjoins residential uses to the north west and south east of the site.

The locality includes multiple uses such as residential uses, community uses (show grounds/sports field) and business uses such as a shopping centre, low impact industries and shops. The site is also located within proximity to the state high school. Tanby Road is the connecting road between Rockhampton Road to the south and Braithwaite Street and Park Street to the north.

The site is relatively flat and located between six (6) metres Australian Height Datum and four (4) metres Australian Height Datum. It is connected to both sewer and water infrastructure and is currently characterised with an existing dwelling house on each lot.

The related permits over the subject site and permits and development on adjoining properties are detailed in the following table:

Existing applications/development permit over the site	
Lot 53 on RP855451 9 Tanby Street, Yeppoon	Development Permit D-137-2021 for a Material Change of Use for a Child care centre – the subject of this application
	Building Memo – BP1682 – Dwelling house – issued 29 May 1972 Building Memo – BP8597 – Shed – issued 6 August 1990
Lot 54 on RP602613	Development Permit D-137-2021 for a Material Change of Use for a Child care centre – the subject of this

11 Tanby Street, Yeppoon	application
	Building Memo – BP15855 Dwelling house addition – issued 12 August 1984
Applications/development permits on adjoining properties	
Lot 8 on SP296918 52 Morris Street, Yeppoon (to the north east)	Development Permit D-56-2017 for Reconfiguring a Lot (Thirty nine lots into two (2) lots and drainage easements) – approved 24 March 2017
Lot 52 on RP602613 5-7 Tanby Road, Yeppoon (to the north west)	Building Permit – 1425-2005-YPCDOM – Shed – approved 28 August 2005 Building Memo – BP1468 – Dwelling house – issued 22 July 1971 Building Memo – BP1682 – Dwelling house – issued 29 May 1972 Building Memo – BP94-693 – Garage – issued 28 September 1994
Lot 55 on RP602613 13 Tanby Road, Yeppoon (to the north west)	Building Memo – BP8990 – Patio roof - issued 06 March 1994 Building Memo – BP92-049 – Dwelling house addition - issued 18 March 1992 Building Memo – BP2221– Dwelling house addition - issued 26 October 1973 Building Memo – BP28889 – Garage - issued 23 July 1975 Building Memo – BP990693 – Enclosed veranda - issued 25 August 1990 Building Permit – 693-1999-YPO – Enclose veranda – approved 25 August 1999 Building Permit – 154-2009-YDOM – Patio – approved 02 April 2009 Building Concurrence Permit – B-1813-2012 – Carport – approved 09 August 2012 Building Permit – B-2371-2012 – Carport – approved 25 September 2012 Building Permit – B-1731-2021 – Re roof of Dwelling house – approved 21 October 2021

ASSESSMENT INCLUDING BENCHMARKS AND RELEVANT MATTERS

This application has been assessed by relevant Council planning, engineering, environmental health, and natural resource management 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 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
Strategic Framework – Settlement patterns theme, Transportation and movement theme, Community identity and diversity theme and Natural hazards and climate change theme Low density residential zone code Biodiversity overlay code Coastal Hazard overlay code Flood hazard overlay code Development Works Code General Development Code	<i>Livingstone Planning Scheme 2018</i> , in force 1 May 2018
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
Submissions provided on the application	In respect of relevant matters raised in submissions.
The Local Government Infrastructure Plan	In respect of trunk infrastructure provisions and charging for development.

Internal advice and assessment

Development Engineering – 8 October 2021

Development Engineering support the proposal subject to reasonable and relevant conditions including demonstrating the defined flood level and habitable floor level as part of the conditioned Operational Work Application. The habitable floor level must be 300 millimetres above a defined 0.5% Annual Exceedance Probability (AEP) flood. It is reasonable to accept the outcome can be achieved as part of the related further Operational Works development application.

Natural Resource Management – 14 April 2021

No comments

Public and Environmental Health – 14 April 2021

Support, subject to standard conditions.

Information request

An information request was issued by Council on 11 May 2021 which included (but was not limited to) the following;

- (i) Transport Impact Assessment Report
- (ii) Finished floor level
- (iii) Flood Hazard Risk Assessment
- (iv) Low density residential zone – Overall Outcomes

The applicant provided a response on 3 September 2021.

State Planning Policy – July 2017

The Minister has identified that the *State Planning Policy* (July 2017) is integrated in the planning scheme for the following aspects:

- Guiding principles
- Agriculture
- Development and construction
- Mining and extractive resources
- Tourism
- Emissions and hazardous activities

Part E of the *State Planning Policy* provides for interim development assessment benchmarks for local government until such time as the other aspects of the *State Planning Policy* are reflected in the planning scheme. An assessment of the State interests relevant to the application are detailed below.

Environment and Heritage - Vegetation

Assessment benchmarks	Officer response
<p>Development is located, designed, constructed and operated to avoid or minimise adverse impacts on environmental values arising from:</p> <p>(a) altered stormwater quality and hydrology</p> <p>(b) waste water</p> <p>(c) the creation or expansion of non-tidal artificial waterways</p> <p>(d) the release and mobilisation of nutrients and sediments.</p>	<p>Conditioned to comply</p> <p>The site is located within an urban area with NO clearing occurring on the site.</p> <p>A Stormwater management report, Flood hazard risk assessment report and an Emergency management and evacuation plan must be provided with the development application for Operational Works and will be assessed at that time.</p> <p>The assessment of the development has concluded that the proposal is located, designed, constructed and operated to avoid or minimise the nominated impacts including as conditioned in the recommendation.</p>
Development achieves the applicable stormwater management design objectives outlined in tables A and B (appendix 2)	
Development in a water supply buffer area avoids adverse impacts on drinking water supply environmental values.	

Natural hazards, risk and resilience: Applicable as the site is mapped as being both flood prone area and Storm tide inundation area under the SPP mapping.

All natural hazard areas:	
Development supports and does not hinder disaster management response or recovery capacity and capabilities.	<p>Complies</p> <p>The subject site is clear of vegetation and located within an existing urban area.</p> <p>The land is mapped as containing flood hazard and Storm tide inundation. A Stormwater management report, Flood hazard risk assessment report and an Emergency management and evacuation plan must be provided with the development application for Operational Works and will be assessed at that time.</p>

Central Queensland Regional Plan

The Minister has identified that the planning scheme, specifically the strategic framework, appropriately advances the *Central Queensland Regional Plan* October 2013, as it applies in the planning scheme area.

Livingstone Planning Scheme 2018

The *Livingstone Planning Scheme 2018* (commenced 1 May 2018) is the relevant categorising instrument applicable to the assessment of this application.

Strategic Framework

The strategic framework sets the policy direction for the planning scheme and forms the basis for ensuring appropriate development occurs within the planning scheme area for the life of the planning scheme. The following themes are relevant to the assessment of this application:

- (i) Settlement pattern;
- (ii) Transportation and movement;
- (iii) Community identity and diversity; and
- (iv) Natural hazards and climate change

The performance assessment of the proposal demonstrates that the development will not compromise the Strategic Framework given it is for a use which is small in scale given the roofed area is 920 square metres and with the combined lot size of 2,860 square metres, the building is low scale in respect of being single storey (approximately 5.7 metres in height) and the appearance of the development being setback from the road frontage with parking and landscaping in the front. The location of the site is within proximity to shopping centres, shops, schools, sports and recreation facilities, community uses (library) and residential areas.

The site can be easily accessed using public transport, walking/cycling with pedestrian walkways leading to the centre from all directions, or by vehicle. The public bus stop is at the Yeppoon Central shopping centre which is within 300 metres of the centre.

Reasonable and relevant conditions are included to provide a Stormwater management report, Flood hazard risk assessment report and an Emergency management and evacuation plan with the development application for Operational Works and the relevant specific details will be assessed as part of that application process.

Low density residential zone code

Purpose

The purpose of the low density residential zone code is:

- (1) to identify the desired character and amenity for the zone and to protect it from incompatible development;*
- (2) to provide for the development of low density neighbourhoods comprising accommodation activities in the form of detached dwellings (predominantly detached dwelling houses) as the preferred and dominant land use within the zone;*
- (3) to provide for the development of other accommodation options only if they provide for the long-term stay of residents and they are designed to be consistent with the character of a neighbourhood comprised of predominantly detached dwellings;*
- (4) to provide for the development of a limited range of non-residential uses only if they are compatible with and support preferred land use;*
- (5) to establish one (1) precinct within the zone where particular development outcomes are specified, and the precinct is identified as follows:*
 - (a) the **Tanby Road Commercial Transition Precinct**; and*
- (6) to facilitate the achievement of the overall outcomes sought for the zone.*

Overall outcomes

The purpose of the code will be achieved through the following overall outcomes:

- (1) the development is:*
 - (a) a use within the accommodation activities group which:*
 - (i) provides only for the long-term stay of residents;*
 - (ii) is designed at a low dwelling density; and*
 - (iii) is designed to be consistent with the character of a residential neighbourhood which is predominantly comprised of detached dwellings; or*
 - (b) a use which supports the residential dwellings of the immediate surrounding area; or*
 - (c) a use which services the convenience needs of residents of the immediate surrounding area; and*
- (2) the development of a use from within the accommodation activities group is a preferred use within the zone in the following circumstances:*
 - (a) it is a caretaker's accommodation; or*
 - (b) it is a community residence; or*
 - (c) it is a dual occupancy and it does not result in there being a dominance of dual occupancies in the street or immediate surrounding area; or*
 - (d) it is a dwelling house; or*
 - (e) it is a dwelling unit; or*
 - (f) it is a home based business and it complies strictly with specified design, siting, and operational requirements; and*
- (3) if the development is a use from within the accommodation activities group and it is not identified in Overall Outcome (2) above, the development occurs within the zone only in the following circumstances:*
 - (a) the use is designed to be consistent with the character of the zone and other uses in the immediate area; and*
 - (b) the use:*
 - (i) is multiple dwellings; or*

- (ii) *is non-resident workforce accommodation; or*
 - (iii) *is a relocatable home park; or*
 - (iv) *is a residential care facility; or*
 - (v) *is a retirement facility; or*
 - (vi) *is rooming accommodation; and*
- (4) *the development of a use that is not within the accommodation activities group occurs within the zone only in the following circumstances:*
 - (a) *it is small in scale;*
 - (b) *it is consistent with the built form and appearance of development in the immediate surrounding area;*
 - (c) *it is located at a site adjoining an appropriate road in the planning scheme road hierarchy; and*
 - (d) *the use:*
 - (i) *is an environment facility; or*
 - (ii) *is a **child care centre**; or*
 - (iii) *is a park; or*
 - (iv) *is a sales office; or*
 - (v) *shop for the purpose of a general corner store; or*
 - (vi) *is within the special activities group and it is an essential component of infrastructure servicing the community; and*
- (5) *development that is likely to have a high impact on sensitive land use does not occur within the zone;*
- (6) *development contributes to a high level of amenity and an attractive living environment;*
- (7) *sensitive land use is not located in proximity to any established incompatible uses without appropriate design and siting to minimise adverse impacts on amenity;*
- (8) *the development is compatible with an urban form that is characterised by:*
 - (a) *a low 'net' dwelling density (up to fifteen dwellings per hectare);*
 - (b) *the height of buildings does not exceed two (2) storeys above ground level;*
 - (c) *low site cover;*
 - (d) *provision of private or communal open space for dwellings;*
 - (e) *appealing streetscapes and public places;*
- (9) *the appearance of development provides visual interest and contributes to a high level of visual amenity when viewed from the street, public places, and the surrounding area;*
- (10) *the development is provided with adequate infrastructure and essential services; and*

Where located in the Tanby Road Commercial Transition Precinct

Note: The overall outcomes of the Tanby Road Commercial Transition Precinct are additional to those of the zone and take precedence in the event of a conflict.

- (11) *the development is:*
 - (a) *a use within the accommodation activities group which provides for the long-term stay of residents; or*

- (b) *a use within the centre activities group which:*
 - (i) *has low-impacts;*
 - (ii) *is within an existing dwelling house;*
 - (iii) *suitably integrates with the established accommodation activities in the immediate area; and*
- (12) *the development of a use within the centre activities group occurs within the precinct only in the following circumstances:*
 - (a) *it is health care services; or*
 - (b) *it is an office; and*

The proposed development is for a Child care centre which is not a preferred use within the Low density residential zone, *Tanby Road Commercial Transition Precinct*. Despite not being a preferred use, the development can occur as it is relatively small in scale, consistent with surrounding built form, on a suitable high order road and provides a much needed service to residents of the local area.

The development is relatively small scale in respect of the built form involving a building located over two lots (totalling 2,860 square metres), is of a low density appearing being 5.7 meters in height and consisting of open areas for play as well as carparking and extensive landscaping. The development is consistent with the variety of built form and appearance of development in the immediate surrounding area. The Tanby Road and Park Street corridor is characterised by a variety of residential, commercial and industrial development with a diversity of built form. As such it is recognised that the development is generally consistent with the varied streetscape and will not compromise the desired character and amenity for the locality.

The proposal is a 115 place Child care centre and is unlikely to have a high impact on sensitive land uses such as the nearby residential uses. Often childcare facilities are located within residential areas and the proposed development contributes to a high level of amenity, provides visual interest in respect of the built form and landscaping when viewed from the street and is proposed to be provided with adequate infrastructure and essential services.

As evident from the code assessment (refer attachment), the proposal complies with the overall outcomes of the Low density residential zone code. The use services the community needs of the immediate residential area and offers a child care centre service proximal to employment centres and schools in the Yeppoon locality.

Biodiversity hazard overlay code

The development will be appropriately conditioned to comply with the relevant outcomes of the code in regard to Stormwater management given the location adjoining Figtree Creek. A condition has been included for a Stormwater management report to be provided as part of the related Operational Works application. The report is required to address stormwater quantity and mitigation measures, drainage catchment layout plans, detailed drainage systems and discharge locations among other items.

As evident from the code assessment (refer attachment), the proposal complies with the Performance Outcomes of Biodiversity hazard overlay code given the imposition of reasonable and relevant conditions.

Coastal hazard overlay code

The development has been appropriately conditioned to comply with the relevant outcomes of the code in regard to the Coastal hazard overlay code. The effects of flood water on this site supersede the effects of Storm tide hazards. The assessment by officers has determined that the development, subject to reasonable and relevant conditions, can occur on the site.

As evident from the code assessment (refer attachment), the proposal complies with the Performance Outcomes of Coastal hazard overlay code.

Flood hazard overlay code

The development has been appropriately conditioned to comply with the relevant outcomes of the code in regard to the Flood hazard. A condition has been included for a Stormwater management report, Flood hazard risk assessment report and Emergency management and evacuation plan to be provided as part of the related Operational Works application. The reports are required to take into account all relevant flood event characteristics including the Defined Flood Event (DFE), investigate the level of risk to persons, health and property damage and include necessary measures to mitigate the impacts and include the analysis of flood impacts where there is a reduction in existing flood storage capacity within the floodplain storage areas.

The assessment by officers has determined that the development, subject to reasonable and relevant conditions, can occur on the site. There is a known flood risk on the site however subject to the conditions in the recommendation and a future operational works application to be submitted to Council the risk can likely be minimised and mitigated to a satisfactory level. In this regard the development has been conditioned to have the habitable floor level 300 millimetres above the defined 0.5 percent Annual Exceedance Probability (AEP) flood. The use will operate in a flood event however the persons on site will not have access to outside play areas during an event.

As evident from the code assessment (refer attachment), the proposal complies with the Performance Outcomes of Flood hazard overlay code.

Development works code and General development code

The development has been appropriately conditioned to comply with the relevant outcomes of the General development code and Development works code in regard to resilience to the adverse impacts of flood events and relevant infrastructure necessary for the use and required for the zone.

As evident from the code assessment (refer attachment), the proposal complies with the Performance Outcomes of Development works code and the General development code.

PUBLIC NOTIFICATION

The proposal was the subject of public notification between 10 September 2021 – 5 October 2021, as per the requirements of the *Planning Act 2016*, and four (4) submissions were received. Of these submissions, three (3) are considered to be properly made in accordance with the *Planning Act 2016*.

The following is a summary of the submissions lodged, with Council officer comments:

Issue	Officer Comment
Public notification signage including errors	Despite minor design errors on the signage the submitters were able to identify the sign, determine what the use was for and make a properly made submission. The content of the sign was correct and the applicant corrected the appearance of the sign the day after they were notified of the issue. Public Notification continued and was undertaken for an additional 2 business.
Traffic impact	
No traffic count	Once the Traffic impact assessment report was provided additional information was requested by Council Development Engineers. Supplementary information was provided by the engineering consultant and the

Issue	Officer Comment
	assumptions were reviewed and confirmed by Council Development Engineers.
Proximity of access from Tanby Road, Rockhampton Road and Park Street Round-a-bout	The existing exit speed for the subject round bout is approximately 20-30 kilometres per hour. A safe speed for the site distance from the road about to the access is up to 40 kilometres per hour. The location of the access was assessed by Council's engineers and determined appropriate based on the above information.
Queueing of vehicle within the carpark	Staff car parking is allocated towards the entrance of the site with visitor parking towards the exit. This reduces potential for queueing of vehicles within the site to spill into road reserve and Tanby Road.
Stopping for cyclists/pedestrians	Due to the exit speed of approximately 30 kilometres per hour from the roundabout onto Tanby Road vehicle have sufficient distance to slow and stop for pedestrians or cyclists.
Access	The site adjoins an urban sub-arterial road and will have left in and left out ingress and egress to the site
Land use	
Landscaping	The development has been conditioned to provide a landscaping plan for approval with the required Operational Works application.
Lack of boundary setbacks	Written permission from neighbours is not required. The proposal adequately minimises potential sources of nuisance by limiting windows on particular walls and locating the childcare centre towards the rear of the lot separating the use from the existing dwelling houses on adjoining lots.
Fencing surrounding property in particular road corner	Fencing can be expected for any site including residential uses. The below condition has been included: <i>"A 1.8 metres wooden fence will be located along all adjoining property (north, south and east) boundaries to adjoining sensitive land uses located within the residential category zone."</i>
Emergency evacuation	Most premises contain one road frontage for emergency evacuation. Child care services have their own legislation and guidelines to be adhered to and is managed separately from

Issue	Officer Comment
	this process.
Codes	
Low density residential zone and Tanby commercial precinct overall outcomes	The proposed development is for a Child care centre which is not a preferred use within the Low density residential zone, <i>Tanby Road Commercial Transition Precinct</i> . Despite not being a preferred use, the development can occur as it is relatively small in scale, consistent with surrounding built form, on a suitable high order road and provides a much needed service to residents of the local area.
Flood hazard overlay	The Flood hazard assessment report which is conditioned to be provided at the Operational Works Stage is required to demonstrate how the building, earthworks and retaining walls will not impact the flood water, stormwater and storm tide water.
Coastal hazard overlay	
Biodiversity overlay code	The buildings and retaining walls are located within twenty-five (25) metres from the top of the class three and four stream order.
Development Works Code and General Development Code	The application has been assessed against both codes and where not complying has been conditioned to comply.
Miscellaneous	
Earthworks resulting in flooding of adjoining property	A condition has been included requiring a Development Permit for Operational Works for Earthworks and retaining walls (if required) be obtained. A Flood hazard risk assessment report must support their proposal for the earthworks and demonstrate lawful discharge and water flow which will not adversely impact adjoining properties.
Noise	The development has been conditioned to comply with environmental noise standard.
Limited access to manoeuvre larger vehicles due to increased vehicle congestion	The traffic impact assessment provided with the application indicates additional traffic in the road network due to this development is insignificant (less than 1%). It is unlikely the minimal increase in traffic will affect manoeuvre of larger vehicles due to increased vehicle congestion.

Issue	Officer Comment
Effect rental potential and property value	This is not a planning consideration.

INFRASTRUCTURE CHARGES

Infrastructure charges are levied pursuant to the *Adopted Infrastructure Charges Resolution (No.4) LSC 2019*. The details and breakdown of the charges are outlined below:

Charge area:	The subject site is located within charge area 1
Calculation:	<p>The charge is calculated in accordance with Table 4 - Adopted charge for development Uses within the Priority Infrastructure Area, as follows:</p> <ol style="list-style-type: none"> 1. Child care centre at 868 square metres gross floor area at \$70.00 per square metre; and 2. impervious area of 992 square metres at \$10.00 per square metre. <ul style="list-style-type: none"> • The impervious area of 992 square metres comprises: 868 square metres for the building; and 124 square metres for the parking and manoeuvring area. 3. less a credit of \$50,000.00.
Offset:	No offsets are applicable to the development.

A total contribution of \$20,680.00 is payable and will be reflected in an Infrastructure Charges Notice for the development.

SUMMARY OF ASSESSMENT

Pursuant to Section 45(5)(b) of the *Planning Act 2016*, the assessment manager may carry out an assessment against, or have regard to, any other relevant matter (other than a person's personal circumstances, financial or otherwise), which may include relevant matters that favour Council exercising its discretion to approve the application even though the development does not comply with some of the assessment benchmarks such as a planning need or the current relevance of the assessment benchmarks in the light of changed circumstances.

In response to the above, the assessment of this application concludes that the proposed development, subject to conditions, is not likely to conflict with Council's Strategic Framework and complies with the purpose of the Low density residential zone.

Further to the assessment summary above and pursuant to section 63 (5) of the *Planning Act 2016*, the reasons for the decision are based on findings on material questions of fact and must be included in the statement of reasons accompanying the decision notice as follows:

- (i) The development complies with the settlement patterns, transportation and movement, community identity and diversity and natural hazards and climate change under the Strategic Framework.
- (ii) The development for a Child care centre is not a preferred use within the Low density residential zone, Tanby Road Commercial Transition Precinct. Despite not being a preferred use, the development can occur as it is relatively small in scale, consistent with surrounding built form, on a suitable high order road and provides a necessary service for residents of the local area.

- (iii) The development is consistent with the variety of built form and appearance of development in the immediate surrounding area. The Tanby Road and Park Street corridor is characterised by a variety of residential, commercial and industrial development with a diversity of built form. As such it is recognised that the development is generally consistent with the varied streetscape and will not compromise the desired character and amenity for the locality.
- (iv) The use services the community needs of the immediate residential area and offers a child care centre service proximal to employment centres and schools in the Yeppoon locality.
- (v) The development complies or has been conditioned to comply with the relevant Performance Outcomes of the Low Density residential zone code in relation to fencing, screening of refuse containers and building plant and traffic.
- (vi) The development complies or has been conditioned to comply with the relevant Performance Outcomes of the Biodiversity overlay code in relation to the effects of Stormwater on the adjoining waterway from the proposed development. Conditions have been included to provide a Stormwater Management plan as part of the related Operational Works application.
- (vii) The development complies or has been conditioned to comply with the relevant Performance Outcomes and Overall Outcomes of the Coastal hazard overlay code and the Flood hazard overlay code. Conditions have been included to provide an Emergency Management and Evacuation Plan, Flood hazard risk assessment report and Stormwater Management plan as part of the related Operational Works application.
- (viii) The development complies or has been conditioned to comply with the General development code and the Development works code.
- (ix) The development does not compromise the achievement of the state interest – Natural hazards, risk and resilience outlined in the State Planning Policy.

On balance, the application should be approved because the development has been justified against the strategic framework and can comply with the assessment benchmarks.

PREVIOUS DECISIONS

It is noted that Council has previously approved a development application for Material Change of Use for a Child care centre within the vicinity of the subject site on Park Street. Each application is assessed on a case by case basis.

ACCESS AND INCLUSION

There are no identified access or inclusion issues associated with this development application

ENGAGEMENT AND CONSULTATION

The application was publicly notified between 10 September 2021 – 5 October 2021, as per the requirements of the *Planning Act 2016*, and four (4) submissions were received. Of these submissions, three (3) are considered to be properly made in accordance with the *Planning Act 2016*.

HUMAN RIGHTS IMPLICATIONS

There are no identified human rights implications associated with this development application

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 favorably or unfavorably is the risk of appeal from either a submitter (should Council approve the development application) or from the developer (should Council refuse the development application). These potential legal implications also bring unknown budget implications.

STAFFING IMPLICATIONS

No staffing implications have been identified in the assessment

RISK ASSESSMENT

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

CORPORATE PLAN REFERENCE***Future Livingstone***

Community Plan Goal 5.1 - Balanced environmental and development outcomes

5.1.2 Balance development within Livingstone Shire in accordance with the community's desired environmental and economic outcomes.

The decision will be made in accordance with the *Livingstone Planning Scheme 2018* and relevant legislation, to ensure that development is consistent with current best practice and community expectations.

CONCLUSION

The subject site is located in the Low density residential zone and the proposed use, being for a Child care centre, is not identified as a preferred use within the zone.

Despite this, the proposal is unlikely to have a high impact on sensitive land uses such as the nearby residential uses. Often child care facilities are located within residential areas however, the surrounding area contains mixed uses of residential, community, commercial and education uses. The proposed development contributes to a high level of amenity, provides visual interest in respect of the built form and landscaping when viewed from the street and is proposed to be provided with adequate infrastructure and essential services.

Having regard to the above assessment, it is recommended Council, from a land use perspective, consider the proposed development favourably as there are considered to be relevant matters that favour Council exercising its discretion to approve the development despite not achieving compliance with some of the assessment benchmarks. Further the development is capable of occurring in a manner that is not likely to conflict with Council's strategic framework. As such, the proposal is recommended for approval, subject to reasonable and relevant conditions outlined in the recommendation.

11.3 DEVELOPMENT APPLICATION D-120-2021 FOR A PRELIMINARY APPROVAL (VARIATION REQUEST), MATERIAL CHANGE OF USE (TOURIST ATTRACTION, TOURIST PARK, SHORT TERM ACCOMMODATION AND RENEWABLE ENERGY FACILITY) AND RECONFIGURING A LOT (TWO LOTS INTO THREE LOTS), LOCATED AT 1662 AND LOT 393 YEPPON ROAD, MULARA

File No: D-120-2021

Attachments:

1. [Locality Plan](#)
2. [Overall Masterplan](#)
3. [Stage One Masterplan](#)
4. [Reconfiguring a Lot Plan](#)
5. [Planning scheme code assessment](#)

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

Author: Jenna Davies - Principal Planning Officer

SUMMARY

Applicant: Surf Lakes Holdings Limited c/- Place Design Group

Consultant: Place Design Group

Real Property Address: Lot 1 on LN2240 and Lot 393 on LIV4064 Area of Site: Lot 1 – 321.054 hectares
Lot 393 – 291.374 hectares

Planning Scheme: *Livingstone Planning Scheme 2018*

Planning Scheme Zone: Rural Zone

Planning Scheme Overlays: Overlay Map OM07 – Biodiversity – Habitat and Vegetation – Matters of State Environmental Significance

Existing Development: Dwelling house, associated buildings and cattle grazing. The Surf Lake has been constructed on Lot 1 as Operational Works.

Level of Assessment: Impact Assessable

Submissions: Nil

Referral matters: Clearing Native Vegetation (10.3.4.3.1)
Infrastructure – state transport infrastructure (10.9.4.1.1.1)
State transport corridors and future State transport corridors (10.9.4.2.1.1)
State transport corridors and future State transport corridors (10.9.4.2.4.1)
Ergon Energy

Infrastructure Charge Area: Outside the Priority Infrastructure Area

Application progress:

Application received:	29 March 2021
Application properly made:	4 June 2021

Development control unit meeting:	7 April 2021
Action notice issued:	13 April 2021
Response to Action notice received:	4 June 2021
Confirmation notice issued:	14 June 2021
Application referred to the State Assessment and Referral Agency:	23 July 2021
Application referred to Ergon:	16 July 2021
Information request issued:	2 July 2021
Information request response received:	12 October 2021
Public notification period:	28 October 2021 to 10 December 2021
Notice of compliance received:	15 December 2021
Submission consideration period:	Not applicable, no submissions received.
Ergon Energy response:	16 July 2021
State Assessment and Referral Agency response:	4 November 2021
Council meeting date:	18 January 2022
Statutory determination date:	24 January 2022

OFFICER'S RECOMMENDATION

RECOMMENDATION A

THAT in relation to the application for a Preliminary Approval (Variation Request) to vary the effect of the Local Planning Instrument (*Livingstone Planning Scheme 2018*, version 3) in accordance with the Surf Lake Local Plan ('SLLP' or Variation Instrument) pursuant to Section 50(3) of the *Planning Act 2016*; Development Permit for a Material Change of Use for a Tourist attraction (Surf Lake and associated facilities), Tourist park (fifty two (52) cabins and 100 caravan or tent sites), Short-term Accommodation (fifty two (52) cabins) and Renewable energy facility (stage one); and Development Permit for a Reconfiguration of a Lot (two (2) lots into three (3) lots), made by Surf Lakes Holdings Ltd, on Lot 1 on LN2240 and Lot 393 on LIV4064 and located at 1662 Yeppoon Road and Lot 393 Yeppoon Road, Mulara, Council resolves to Approve the application despite the development not meeting some of the assessment benchmarks pursuant to Section 60(3) and 61 of the *Planning Act 2016*, there are considered to be circumstances that favour Council exercising its discretion to approve the development. The circumstances are

- (i) The proposed development has been justified to comply with Specific Outcomes SO3 and SO5 of the Settlement pattern theme for rural places as the land uses require a large parcel of land, not suited to an urban area. Furthermore, the development seeks to utilise the rural nature of the site and surrounding sites as a feature and will not limit or compromise the agricultural capacity of the adjoining land for primary production through existing operations and buffers to boundaries.
- (ii) The proposed development has been justified to comply with Specific Outcomes SO2 and SO5 of the Natural environment and hazards theme for Natural hazards and climate change as the use will be carried out in accordance with the Bushfire Hazard Assessment and conditioned to ensure uses are above flood levels.
- (iii) The proposed development has been justified to comply with the Specific Outcomes of the Natural resources and economic development theme for Tourism as the main land use on the subject site, being the Tourist attraction, is close to unique cultural features, achieves the rural places specific outcomes and will not compromise the agricultural land or productive capacity of surrounding rural land. The development provides

accommodation for tourists and visitors and supports the growth of the tourism industry in the Shire.

- (iv) The proposed land uses are not preferred uses in the Rural zone. Despite not being preferred uses, the development is adequately separated from sensitive land uses (Dwelling houses on rural lots), will not limit existing rural activities on the two (2) balance lots and will not compromise future rural activities establishing on the surrounding land. Further, the proposed development is unique in respect of operational and siting needs and requires a large area of land with access and servicing provision that is not available in an urban, special purpose, or tourism zoned land.
- (v) The development either complies with, or has been conditioned to comply with, the relevant Performance Outcomes and Acceptable Outcomes of the Rural zone code, Bushfire hazard overlay code, Reconfiguring a Lot Code, Accommodation activities code, General development code and Development works code.
- (vi) The Surf Lake Local Plan, the subject of the variation request, is a reasonable, relevant and comprehensive assessment document for the appropriate future development of the Surf Lake tourism activities on proposed Lot 1.
- (vii) The development does not compromise the achievement of the State Planning Policy.
- (viii) On balance, the application should be approved because the development has been justified against the strategic framework and can be conditioned to comply with the assessment benchmarks.

RECOMMENDATION B

THAT in relation to the application for a Preliminary Approval (Variation Request) to vary the effect of the Local Planning Instrument (*Livingstone Planning Scheme 2018*, version 3) in accordance with the Surf Lake Local Plan ('SLLP' or Variation Instrument) pursuant to Section 50(3) of the *Planning Act 2016*; Development Permit for a Material Change of Use for a Tourist attraction (Surf Lake and associated facilities), Tourist park (fifty two (52) cabins and 100 caravan or tent sites), Short-term Accommodation (fifty two (52) cabins) and Renewable energy facility (stage one); and Development Permit for a Reconfiguration of a Lot (two (2) lots into three (3) lots), made by Surf Lakes Holdings Ltd, on Lot 1 on LN2240 and Lot 393 on LIV4064 and located at 1662 Yeppoon Road and Lot 393 Yeppoon Road, Mulara, Council resolves to Approve the application subject to the following conditions:

PART A - PRELIMINARY APPROVAL

1.0 DEFINITIONS AND INTERPRETATIONS

1.1 In this approval:

- 1.1.1. **Applicant** means Surf Lakes Holdings Ltd being the applicant for a preliminary approval affecting the Council's Planning Scheme with respect to the Subject Land.
- 1.1.2. **Approval** means the approval of the Application by the Council.
- 1.1.3. **Application means the Application made by the Applicant** to the Council on 29 March 2021 over the Subject Land for a Preliminary Approval varying the effect of Council's Planning Scheme for development consistent with the *Surf Lake Local Plan*.
- 1.1.4. **Capricorn Municipal Development Guidelines** means a document adopted by Council containing guidelines and standards for development, as amended from time to time.
- 1.1.5. **Conditions** mean the conditions of this approval including any attachment referred to in these conditions.
- 1.1.6. **Council** means the local government authority having jurisdiction over land use and development on the subject land.

- 1.1.7. **Developer** means Surf Lakes Holdings Ltd or the registered proprietor and any occupier of the Subject Land.
- 1.1.8. **Infrastructure** means infrastructure reasonably required to service the proposed development including roads (internal, external and access), water services and stormwater drainage.
- 1.1.9. **Schedule of Plans for Trunk Infrastructure** means the infrastructure schedules mentioned in Council's *Local Government Infrastructure Plan* or any other plan which replaces it.
- 1.1.10. **Planning Act 2016** means the *Planning Act 2016* as amended from time to time.
- 1.1.11. **Subject Land** means proposed Lot 1 in accordance with Part C – Reconfiguring a Lot of this Decision Notice.
- 1.1.12. **Planning Scheme** means Council's *Livingstone Planning Scheme 2018*, version 3, in effect 15 February 2021.
- 1.1.13. **Local Plan Document** means the document titled 'Surf Lake Local Plan', listed under condition 3.1 of this approval, which includes the assessment table and development codes being a plan of the proposed development for a Material Change of Use, Reconfiguring a Lot, and Overlays, which affects Council's Planning Scheme with respect to the Subject Land, which in particular:
- (i) states what development is:
 - (a) Assessable Development (requiring Code or Impact Assessment); or
 - (b) Accepted, subject to requirements; or
 - (c) Accepted Development; and
 - (ii) identifies codes for the development.

2.0 ADMINISTRATION

- 2.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 2.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 2.3 All conditions, works, or requirements of this approval must be undertaken and completed to Council's satisfaction, at no cost to Council.
- 2.4 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council.

3.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan/Document Name</u>	<u>Reference</u>	<u>Dated</u>
Surf Lake Local Plan	Version 1.2, 1618030	8 October 2021
Overall Masterplan – Preliminary	SK-PA-01, 1620025	11 October 2021

Approval Illustrative Plan		
Traffic Impact Assessment	620.30100-R01-v1.0	25 March 2021
Traffic Technical Memorandum	620.30100-M02-v1.0 Surf Park Yeppoon - TTM 20211008	8 October 2021
Wastewater Treatment and Effluent Management Report	Project No: 212822, Ref AG/AG/101636RPT, Issue B	September 2021
Noise Impact Assessment	Document No: ATP200506-R-NIA-02, Issue 2	8 October 2021
Environmental Assessment Report	Project No 2020184, Issue 1, Rev 2	26 March 2021
Cultural Heritage Assessment and Native Title Duty of Care Assessment	Project No COS20001, Final Report V1.2	8 February 2021
Bushfire Hazard Assessment	Not referenced	February 2021

3.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

3.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of the first application for a Development Permit over the subject land.

4.0 REQUIRED DEVELOPMENT PERMIT(S)

4.1 Other development permits which are necessary to allow the development to be undertaken are listed below and these Conditions do not affect the need to obtain such permits, namely:

4.1.1. Development permits(s) for Reconfiguring a Lot;

4.1.2. Development permit(s) for Material Change of Use (where required);

4.1.3. Development permit(s) for carrying out Operational Work (where required);

4.1.4. Development permit(s) for Building work regulated under the Planning Scheme (where required);

4.1.5. Development permit(s) for all necessary Plumbing and Drainage Works; and

4.1.6. Development permit(s) for carrying out Building Work.

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

5.0 PLANNING FRAMEWORK

Preamble - This is a preliminary approval (variation request) for a Material Change of Use, Reconfiguring a Lot, Building Work and Operational Works, to vary the effect of Council's Planning Scheme under Section 50(3) of the Planning Act 2016 for development in accordance with the proposed Surf Lake Local Plan (the Local Plan Document). The Local Plan Document varies

the Table of Assessment for Building work regulated under the planning scheme and Operational Work however, any reference to the Rural Zone or Rural zone code is to be substituted for a reference to the Local Plan. The Local Plan Document overrides the Planning Scheme overlays and no changes to the category of development or assessment occurs.

The Local Plan Document is an independent document which is the sole reference for the determination of any application over the Subject Land for a Material Change of Use, Reconfiguring a Lot, Building Work and Operational Works, in accordance with this approval. The subject land must be developed generally in accordance with the approved Local Plan Document (refer to condition 3.1).

- 5.1 To remove any doubt the process for determining a category of development and category of assessment is for any development on the Subject Land is section 2.3 of the Local Plan Document for the purposes of this approval and the development of a tourist attraction based around the core surf lake with a series of associated activities and accommodation.

- 5.2 The planning scheme overlays do not apply to the Plan Area in the *Surf Lake Local Plan* and do not change the category of development or assessment under the local plan document.

6.0 CURRENCY PERIOD

- 6.1 The currency period for this Preliminary Approval is ten (10) years from the date the approval takes effect.

7.0 STAGED DEVELOPMENT

- 7.1 Infrastructure must be provided by the developer in a co-ordinated and a planned manner having regard to the overall catchment and staging of the development in a logical and orderly sequence.

- 7.2 Infrastructure (for example: road, property accesses, water, sewer, services) must be provided (if necessary) to the development or lots or stage boundaries for connectivity and to facilitate ease of extension of these Infrastructure during future stages.

8.0 INFRASTRUCTURE CHARGES

Preamble – In order for development to proceed, infrastructure must be available (or be capable of being made available) to service the development proposed on the Subject Land.

- 8.1 Infrastructure must be provided by the Developer in a co-ordinated and a planned manner having regard to the staging of the development in a logical and orderly sequence.

- 8.2 Pursuant to the *Planning Act 2016*, the Developer may enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site.

9.0 ROAD WORKS

- 9.1 The proposed Rural Wide Median Treatment and associated intersection works must not damage or impact any Council infrastructure. Any application for a Development Permit for Operational Works (road works) must be provided with a detailed layout demonstrating safety of Council infrastructure.

10.0 WATER WORKS

- 10.1 The development must be connected to Council' reticulated water supply.
- 10.2 A special service arrangement must be established with the relevant service providers.

11.0 STORMWATER DRAINAGE WORKS

- 11.1 All stormwater management works must be designed and constructed in accordance with the Stormwater Management Plan (refer to condition 3.1), the *Capricorn Municipal Development Guidelines*, *Queensland Urban Drainage Manual*, *State Planning Policy*, sound engineering practice, and the provisions of a Development Permit for Operational Works (stormwater works).
- 11.2 All stormwater including roof and allotment drainage must achieve demonstrated lawful discharge and must not adversely affect the upstream or downstream land when compared to pre-development conditions or damage infrastructure.
- 11.3 The Stormwater Management Plan (refer to condition 3.1) must be updated and replaced with a Registered Professional Engineer of Queensland certified detailed stormwater quantity and quality management report. The detail analysis of relevant drainage catchments, pre and post development flows, flow routing, and attenuation must be undertaken using industry standard hydrological/ hydraulic software in accordance with best practices. The report must be submitted as part of the first material change of use or operational works application for the development.

12.0 ASSET MANAGEMENT

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

PART B – MATERIAL CHANGE OF USE (STAGE 1)**13.0 ADMINISTRATION**

- 13.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 13.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 13.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 13.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to commencement of use, unless otherwise stated.
- 13.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to prior to commencement of use, unless otherwise stated.
- 13.6 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:
 - 13.6.1 Operational Works:

- (i) Road Works;
 - (ii) Access and Parking Works;
 - (iii) Water Works;
 - (iv) Stormwater Works;
 - (v) Earthworks; and
 - (vi) Landscaping Works;
- 13.6.2 Building Works; and
- 13.6.3 Plumbing and Drainage Works.
- 13.7 All Development Permits for Operational Works must be obtained prior to the issue of a Development Permit for Plumbing and Drainage Works and Building Works.
- 13.8 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 13.9 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 13.10 Stage one in accordance with Part B of this approval, must not occur until the survey plan has been registered with Titles Queensland for proposed Lot 1 in accordance with Part C of this approval.
- 13.11 This approval includes fifty two (52) cabins that are able to be used interchangeably as either a Tourist park or Short term accommodation.
- 14.0 APPROVED PLANS AND DOCUMENTS
- 14.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Stage 1 Overall Masterplan	1620025, SK-MCU-ST1-02	11 October 2021
Stage 1 MCU – Stage 1A	1620025, SK-MCU-ST1-03	11 October 2021
Stage 1 MCU – Stage 1B	1620025, SK-MCU-ST1-04	11 October 2021
Stage 1 MCU – Stage 1C	1620025, SK-MCU-ST1-05	11 October 2021
Stage 1 MCU – Stage 1D	1620025, SK-MCU-ST1-06	11 October 2021
Stage 1 MCU – Stage 1E	1620025, SK-MCU-ST1-07	11 October 2021
Bushfire Hazard Assessment by Queensland Bushfire Planning	Not numbered	February 2021
Statement of Landscape Intent Surf Lakes Yeppoon Stage 1 SLI	1620025, Revision B	8 October 2021
Surf Lakes Yeppoon Urban Design Report	1620025, Revision B	7 October 2021
Noise Impact assessment	ATP200506, revision 1, issue 2	11 October 2021

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Traffic Technical Memorandum	SLR Consulting (Ref 620.30100-MO2 –v1.0)	8 October 2021
Stormwater Management Plan	REFERENCE: JM/JM/101593RPT-Issue B	September 2021
Engineering Services Report	REPORT NO: CT/CT/101609RPT ISSUE B	September 2021
Traffic Impact Assessment (Car parking Considerations – clauses 5 and 6)	620.30100-R01-V1.0	25 March 2021
DA Services Report (for section 2.1.3 for proposed infrastructure (electrical), 2.2 Telecommunications, 2.3 Lighting and section 3 Energy Services)	301350197, revision 006	8 October 2021

14.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

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

15.0 STAGED DEVELOPMENT

15.1 This approval is for a development to be undertaken in five (5) discrete stages, namely:

15.1.1 Surf Lake, Pavilion, car parking, storage compound, access, pump room and storage water (Stage 1A);

15.1.2 thirty two (32) interim camp sites, ten (10) interim glamping camp sites, pop up food and beverage and amenities (Stage 1B);

15.1.3 Research and development lake, skate park, scuba pool, fifteen (15) cabins and vehicle washdown (Stage 1C);

15.1.4 removal of interim camp sites as per stage 1B and replaced with Village green, ten (10) cabins, seven (7) 6x9 metre cabins and twelve (12) 6x6 metre cabins, amenities and kitchen, thirty five (35) camping sites and group camping areas (total of 44 sites) (Stage 1D);

15.1.5 lagoon and learn to surf, eight (8) hybrid cabins, twenty one (21) tent sites, solar inverter and solar farm (Stage 1E),

in accordance with the approved plans (refer to condition 14.1).

15.2 The stages are not required to be undertaken in any chronological order.

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

16.0 ROAD WORKS

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

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- 16.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 14.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).
- 16.3 Road access works at the road access location comprising a Rural Wide Median Treatment, (at the proposed intersection on Yeppoon Road) must be provided generally in accordance with Modified Rural Wide Median Treatment, prepared by Covey Associates Pty Ltd, dated 17 August 2021, reference SK004 and Issue A (refer to the Traffic Technical Memorandum as per condition 14.1) and must comply with the requirements of the relevant authorities.
- 16.4 The proposed Rural Wide Median Treatment and associated intersection works must not damage or impact any Council infrastructure. Any application for a Development Permit for Operational Works (road works) must be provided with a detailed layout demonstrating safety of Council infrastructure.
- 16.5 The proposed Stage 1 road (refer to condition 14.1) must be designed and constructed to comply with a "*Rural Major Collector*" road classification standard with agreed verge widths. The extent of the full width road seal must be a minimum twenty (20) metres past the proposed access location to the eastern car park area.
- 16.6 All new Council roads must be provided with street lighting. Street and public space lighting must be provided in accordance with *Australian Standard AS1158 "Lighting for Roads and Public Spaces"*, and road, street and public place lighting policy and procedures.
- 16.7 Traffic signs and pavement markings including any alterations must be provided in accordance with the *Manual of Uniform Traffic Control Devices (Queensland)*.
- 16.8 Any application for a Development Permit for Operational Works (road works) must include (but is not limited to);
- 16.8.1 a detailed design drawing for the proposed new road (subject full length of the Council leg) detailing the proposed design configuration and extent of road and seal works, main development entry and exit intersection types (for both stage 1 and ultimate development), and any pedestrian and cycle provisions;
 - 16.8.2 details to demonstrate compliance with drainage (flood immunity and trafficability requirements) and street lighting requirements; and
 - 16.8.3 details, including signage of the Council approved road names for all new roads.
- 16.9 The termination of the proposed stage 1 road (refer to condition 14.1) must include;
- 16.9.1 a temporary turning area (sealed or equivalent standards) which facilitates safe turning movements of the relevant design vehicle;
 - 16.9.2 details of the swept path analysis; and
 - 16.9.3 associated stormwater and public street lighting infrastructure.
- The development must not rely on the above turn around area. As part of future road works within the subject road reserve Council may extinguish the subject turnaround area. All necessary manoeuvring and turnaround areas required by the development generated vehicle(s) must be provided within the development site.
- 17.0 ACCESS AND PARKING WORKS
- 17.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works on the site.
- 17.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 14.1), *Capricorn Municipal Development Guidelines*, *Australian*
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Standard AS2890 "Off Street Car Parking" and the provisions of a Development Permit for Operational Works (access and parking works).

- 17.3 Access, parking and associated vehicle manoeuvring areas must be sealed.
- 17.4 All internal private access roads must be designed and constructed including necessary drainage and lighting systems to ensure safe vehicle and pedestrian movements.
- 17.5 A commercial standard access driveway must be designed and constructed. The width of the access driveway(s) and its locations must demonstrate compliance with the detailed swept path analysis of the design vehicle.
- 17.6 All ingress and egress traffic movements to and from the development must be in a forward direction (forward gear).
- 17.7 The provision of off-street car parking requirements for Tourist and Non-tourist attractions must comply with Table 4 (stage 1 and stage 2) – Revised Parking Requirements of the Traffic Technical Memorandum and Parking accumulation profile(s) of the Traffic Impact Assessment (Car parking Considerations – Clauses 5 and 6). The proposed Stage 1 of the development must be provided, with a minimum of 302 car parking spaces including minimum of seven (7) universal parking spaces, out of which;
 - 17.7.1 Minimum of 184 spaces must be provided for the Tourist park and Short-term accommodation, with one (1) car parking space provided adjacent to each cabin and space for one (1) vehicle per camp site; and
 - 17.7.2 Minimum of 118 spaces must be provided for the Tourist attraction.
- 17.8 Proposed Stage 1 of the development must be provided with separate parking and manoeuvring areas within the site for all relevant modes of transport generated by the use including bicycles, buses, trucks, taxis, emergency vehicles, refuse collection vehicles, and maintenance vehicles.
- 17.9 Universal parking spaces must be provided in accordance with the *Australian Standard AS2890.6 "Parking Facilities - Off-Street parking for people with disabilities"*.
- 17.10 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with the *Manual of Uniform Traffic Control Devices (Queensland)*.
- 17.11 Access intersections between the main development entry and exit and proposed stage 1 road must be provided with public street lighting in accordance with *Australian Standard AS1158 "Lighting for Roads and Public Spaces"*, and Road, street and public place lighting policy and procedures.
- 17.12 Any application for a Development Permit for Operational Works (access and parking works) must:
 - 17.12.1 provide details and demonstrate sufficient entering queue space is available at all site entry point (s) for Stage 1 and ultimate development (a sensitivity check is required for the ultimate stage);
 - 17.12.2 be accompanied by design drawings of proposed access intersections between the main development entry and exit and proposed stage 1 road (for both stage 1 and ultimate stage), and include details of allowable types of ingress and egress traffic movements at each access locations, queuing distances, access spacing details, intersection treatment types, compliant lighting and drainage provisions and swept path movements for the relevant design vehicle(s);
 - 17.12.3 include relevant intersection sight distance details;

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- 17.12.4 include a detailed layout of the parking module accommodating provisions for set down and drop-off facilities, taxi parking if any, public transport, bus parking and set down areas, loading and unloading zones, emergency vehicle parking areas, maintenance vehicle parking areas, waste / refuse collection bay (refer condition 5.6);
 - 17.12.5 be accompanied by a layout of interconnecting access roads and detailed swept path analysis of the design vehicle to demonstrate safe and free flow of traffic movements within the site from relevant entry points to exit points; and
 - 17.12.6 include details including immunity levels to demonstrate that stormwater runoff from parking and vehicular manoeuvring areas are discharged lawfully; and
 - 17.12.7 include sufficient details regarding technical parameters associated with the internal private access roads (geometric details, pavement details, seal type, necessary lighting details and drainage immunity details) to ensure safe operation.
- 17.13 An Internal Operational Plan must be implemented over the lifespan of the development to address traffic management including internal vehicle parking, service vehicle entries and manoeuvres and to meet the requirements of separate users adequately and orderly. The Operational Plan must be:
- 17.13.1 Implemented for all uses within the site on an on-going basis; and
 - 17.13.2 made available to Council officers upon request.
- 18.0 SEWERAGE WORKS
- 18.1 The development must be connected to suitably sized on-site sewage treatment and disposal system designed and constructed to comply with requirements of relevant authorities.
- 19.0 WATER WORKS
- 19.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works on the site.
- 19.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 14.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (water works).
- 19.3 The development must be connected to Council's reticulated water supply.
- 19.4 The connection to Council's reticulated water supply must be a combined fire and domestic metered connection located at a point nominated by the service provider.
- 19.5 A special service arrangement must be established with relevant service providers.
- 19.6 The proposed development must be provided with a master meter at the property boundary and if necessary sub-meters for each individual tenancy or sole occupancy units in accordance with the *Queensland Plumbing and Wastewater Code* and *Council's Sub-metering Policy*.
- 20.0 STORMWATER WORKS
- 20.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 20.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 14.1), *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines, State Planning Policy*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
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- 20.3 All stormwater including roof and allotment drainage must achieve demonstrated lawful discharge and must not adversely affect the upstream or downstream land when compared to pre-development conditions or damage infrastructure.
- 20.4 The Stormwater Management Plan (refer to condition 14.1) must be updated and replaced with a Registered Professional Engineer of Queensland certified detailed stormwater quantity and quality management report. The detail analysis of relevant drainage catchments, pre and post development flows, flow routing, and attenuation must be undertaken using industry standard hydrological/ hydraulic software in accordance with best practices.
- 20.5 Any application for Development Permit for Operational Works (stormwater works or earthworks, whichever occurs the sooner) must accompany a detailed stormwater quantity and quality management report certified by a suitably qualified Registered Professional Engineer of Queensland (RPEQ). The report must include the following but not limited to:
- 20.5.1 Details addressing stage 1 and ultimate stormwater quantity impacts and measures to mitigate. The volume of any detention must be sufficient to attenuate the peak discharge from the site to ensure no nuisance due to the flow regime, immediately downstream of the development for a selected range of Annual Exceedance Probability events, up to the Defined Flood Event (inclusive) for a range of storm durations, including critical storm duration;
 - 20.5.2 Drainage catchment layout plans for pre and post-development scenarios;
 - 20.5.3 Details of discharge point(s) demonstrating compliance with lawful discharge requirements;
 - 20.5.4 Details addressing stage 1 and ultimate stormwater quality impacts and measures to mitigate. The potential pollutants in stormwater runoff, discharged from the site must be managed in accordance with State Planning Policy. Rainfall and Potential Evapo-Transpiration details must be obtained from Council for any stormwater quality modelling (example: MUSIC);
 - 20.5.5 Provisions for the discharge management of the facility;
 - 20.5.6 Details of finished ground levels, free board requirements and habitable floor levels for stage 1 and ultimate development;
 - 20.5.7 Detailed engineering plans with details of any new drainage systems, or the amendment and upgrading of any existing drainage systems; and
 - 20.5.8 Designs of outlet systems. Considerations must be given to critical scour velocity, discharge frequency /duration at the discharge location(s) and relevant management measures;
- 20.6 All ongoing maintenance and management actions necessary for any proposed stormwater quality management devices must be carried out by suitably qualified person(s) in a timely manner. A completed log book must be maintained and must be available on-site for inspection by Council and /or relevant authorities.
- 20.7 All new culvert structure associated with the development must be designed and constructed to ensure safe trafficability during the Defined Flood Event.
- 20.8 The development must be resilient to the adverse impacts of a flood by locating the floor level of all building rooms used for habitation or work, a minimum of 300 millimetres above the level of a flood event of at least the annual exceedance probability specified in Table SC5.1.1 located in Schedule 5 of the planning scheme.
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21.0 EARTHWORKS

- 21.1 A Development Permit for Operational Works (earthworks) must be obtained prior to the commencement of any site works.
- 21.2 Any application for a Development Permit for Operational Works (earthworks) must be accompanied by an earthworks' plan which clearly identifies the following:
- 21.2.1 the location of cut and/or fill;
 - 21.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 21.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 21.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - 21.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 21.3 Lot and embankment filling must be carried out to comply with Level 1 certification requirements in accordance with *Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments*, to confirm as "controlled fill" upon completion.
- 21.4 Any application for Development Permit for Operational Works (earth works) must accompany a layout plan certifying finished ground levels, habitable floor level and freeboard requirements supported by a detailed Registered Professional Engineer of Queensland certified stormwater quantity and quality management report (refer condition 20.5).
- 21.5 Earthworks must be undertaken such that stormwater runoff is managed and discharged lawfully and must not adversely affect the adjoining properties compared to pre-development conditions or damage infrastructure.
- 21.6 All earthworks must be undertaken to ensure that no adverse impact results from an increase in:
- 21.6.1 peak discharge immediately downstream of the development for a selected range of storm durations, and a selected range of Annual Exceedance Probability (AEP) events up to Defined Flood Event (inclusive); or
 - 21.6.2 downstream or upstream flood inundation levels; or
 - 21.6.3 velocity profiles.

22.0 PLUMBING AND DRAINAGE WORKS

- 22.1 A Development Permit for Plumbing and Drainage Works must be obtained prior to the commencement of any Plumbing and Drainage Works on proposed Lot 1.
- 22.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 14.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act* Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 22.3 The development must be provided with adequate fire-fighting protection, in accordance with *Australian Standard AS2419.1 'Fire Hydrant Installations'* and onsite fire-fighting equipment. To remove all doubt, additional facilities must be provided in accordance with the requirements for the location, number, pressure, and other provisions for hydrants, as per the Standard. Should the existing hydrant not comply with the requirements, it must be upgraded in accordance with the Standard.
- 22.4 Any alteration or relocation of internal plumbing and drainage works associated with the building(s) must be in accordance with regulated work under the *Plumbing and Drainage Act*.

23.0 BUILDING WORKS

- 23.1 A Development Permit for Building Works must be obtained prior to the commencement of any Building Works on proposed Lot 1.
- 23.2 All roof and allotment drainage must be discharged lawfully.
- 23.3 All buildings and structures must comply with the provisions of the *Queensland Development Code - Mandatory Part 1.4*.
- 23.4 All habitable floor levels and freeboard requirements must be certified and supported by a detailed Registered Professional Engineer of Queensland certified stormwater quantity and quality management report (refer condition 20.5).

24.0 LANDSCAPING WORKS

- 24.1 A Planting Plan and supporting documentation must be submitted for approval by Council prior to establishment of the landscaping or commencement of use. The landscaping works must be generally in accordance with the Landscape Intent (refer condition 14.1) and must document the "Extent of Works" which includes, but is not limited to:
- (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design). It is recommended to retain the regrowth vegetation in the buffer areas as it is naturally regrowing and will be best suited to the site;
 - (ii) landscaping internal to the site should be native species (refer to advisory note 7);
 - (iii) the extent of soft and hard landscape proposed;
 - (iv) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
 - (v) underground and overhead services;
 - (vi) typical details of critical design elements (stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
 - (vii) details of landscape structures including areas of deep planting;
 - (viii) specification notes on mulching and soil preparation.
 - (ix) trees, shrubs and groundcovers to all areas to be landscaped;
 - (x) position and canopy spread of all trees and shrubs;
 - (xi) the extent and type of works (inclusive but not limited to paving, fences and garden bed edging);
 - (xii) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting; and
 - (xiii) mature plantings in the buffer areas of the site.
- 24.2 Landscaping must not increase the exposure of a habitable building not located in a building protection zone to a bushfire hazard and be in accordance with the bushfire hazard assessment (refer to condition 14.1).
- 24.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 24.4 Root barriers must be provided between proposed trees and relevant infrastructure.
- 24.5 Landscaping, or any part thereof, upon reaching full maturity, must not:

- (i) obstruct sight visibility zones as defined in the *Austroads 'Guide to Traffic Engineering Practice'* series of publications;
 - (ii) adversely affect any road lighting or public space lighting; or
 - (iii) adversely affect any Council infrastructure, or public utility plant.
- 24.6 A minimum ten (10) metre wide vegetation buffer must be planted to all boundaries (except for the location of the Renewable energy facility area). The vegetation buffers must assist with visually screening the development from the surrounding area and must be established with fast growing or mature screening species that are endemic to the location. The buffer, to all boundaries, must be planted as part of Stage one. The buffer must be in accordance with the Landscape Intent and Urban Design Report (refer to condition 14.1).
- 24.7 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 25.0 ELECTRICITY AND TELECOMMUNICATIONS
- 25.1 Electricity and telecommunication connections must be provided to the proposed development in accordance with the DA Services Report (refer to condition 14.1) and to the standards of the relevant authorities.
- 26.0 ASSET MANAGEMENT
- 26.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 26.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 26.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.
- 27.0 ENVIRONMENTAL
- 27.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
 - (i) water quality and drainage;
 - (ii) erosion and silt/sedimentation management;
 - (iii) acid sulphate soils;
 - (iv) fauna management;
 - (v) vegetation management and clearing;
 - (vi) top soil management;
 - (vii) interim drainage plan during construction;
 - (viii) construction programme;
 - (ix) geotechnical issues;
 - (x) weed control;

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- (xi) bushfire management;
 - (xii) emergency vehicle access;
 - (xiii) noise and dust suppression; and
 - (xiv) waste management.
- 27.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location / topography;
 - (iii) vegetation;
 - (iv) site drainage;
 - (v) soils;
 - (vi) erosion susceptibility;
 - (vii) erosion risk;
 - (viii) concept;
 - (ix) design; and
 - (x) implementation, for the construction and post construction phases of work.
- 27.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 27.4 The Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 27.5 The development must be undertaken in accordance with the recommendations in the approved Bushfire Hazard Assessment (refer to condition 14.1).
- 28.0 FAUNA MANAGEMENT AND HABITAT
- 28.1 A suitably qualified fauna spotter / catcher must be engaged to conduct a pre-assessment of wildlife habitats and breeding places prior to any clearing in the road reserve and on proposed Lot 1. The suitably qualified fauna spotter / catcher must be provided with the Development Approval and be onsite during vegetation felling activities to ensure fauna and habitat management actions are taken as required. All clearing works must be halted if fauna is likely to be injured.
- 28.2 A suitably qualified and licenced spotter catcher is to maintain daily records of pre-clearing assessments conducted, breeding places identified and assessed (including in top layers of sediment to be excavated), observations of wildlife movement and escape and all incidents and actions taken in regard to fauna. Directional clearing must be undertaken to reduce the risk of fauna heading towards Yeppoon Road. Records must be made available to Council on request.
- 28.3 A record of fauna observed, relocated, injured or killed must be kept and provided to Council on request.
- 28.4 Clearing is to be avoided in breeding and nesting seasons where possible.
- 28.5 Proposed Lot 1 must be provided with wildlife movement infrastructure including:
- 28.5.1 Fauna exclusion fencing along roadways;
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- 28.5.2 Fauna friendly fencing along boundaries; and
- 28.5.3 Speed limits on internal roads.
- 28.6 Any fences constructed must be:
 - 28.6.1 using non-combustible or fire retardant materials within twenty (20) metres of any building used for accommodation;
 - 28.6.2 with gates that can be freely accessed for fire-fighting purposes (if applicable); and
 - 28.6.3 to not impede the safe movement of fauna (where applicable); and
 - 28.6.4 in accordance with the approved Bushfire hazard assessment (refer to condition 14.1).
- 28.7 Relocation of the identified *Stackhousia tryonii* must be undertaken. Council's Natural Resource Management team can be contacted for further information.
- 29.0 OPERATING PROCEDURES
- 29.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Yeppoon Road or the newly constructed road.
- 29.2 Noise must be mitigated and managed in accordance with the Noise impact assessment report (refer to condition 14.1).
- 29.3 Outdoor lighting must be designed, installed and maintained in accordance with the DA Services report (refer to condition 14.1), requirements of the current version of the *Australian Standard AS4282 - Control of the obtrusive effects of outdoor lighting* and *Australian Standard AS1158: Public Lighting Code*.
- 29.4 The activities must be undertaken in a manner that does not allow environmental nuisance caused by construction material, noise, aerosols, particles dust, ash, fumes, light, odour and smoke, which must not go beyond the boundaries of the property during all stages of the development including earthworks, construction and operation as stated in the *Environmental Protection Act 1994* and subordinate legislation.
- 29.5 Refuse disposal container(s) and container storage areas for the Tourist park and Short term accommodation must be provided:
 - 29.5.1 throughout the premises must be sited at one-hundred (100) metre intervals; and
 - 29.5.2 screened from a public place by a solid screen fence, wall or dense vegetation having a minimum height of 1.5 metres.
- 29.6 The Tourist attraction must be provided with a refuse container and container storage area that:
 - 29.6.1 is screened from view from a public place by a solid screen fence, wall or dense vegetation having a minimum height of 1.8 metres;
 - 29.6.2 has an imperviously sealed pad, on which to stand the bin(s), and which is drained to an approved waste disposal system;
 - 29.6.3 is within proximity to a hose cock;
 - 29.6.4 is large enough to accommodate at one (1) or more industrial bins of a size appropriate to the nature and scale of use; and
 - 29.6.5 is not located within three (3) metres of the common property boundary where adjoining a lot within a residential category zone or township zone.

- 29.7 A Water Discharge Management Plan for safe draining of the facility (Surf Lake) must be prepared and implemented taking into account lawful discharge, flooding impacts, public safety and damage to infrastructure. The plan must be certified by a suitably qualified person and is subject to compliance and implementation of suitable measures in a timely manner for safe operation.
- 29.8 Cabins and sites of the Tourist park and Short term accommodation must be provided with:
- 29.8.1 appropriately designed and sited numbering which clearly identifies the cabin or site number; and
- 29.8.2 appropriately designed and sited signage for way finding and premises identification.

PART C – RECONFIGURING A LOT

30.0 ADMINISTRATION

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

31.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Reconfiguration Plan	6711-01-ROL, Issue D, sheet 1 of 1	13 October 2020

- 31.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
- 31.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Operational Works.

32.0 ACCESS WORKS

- 32.1 A compliant vehicle access must be designed and constructed to proposed Lot 3 in accordance with the *Capricorn Municipal Development Guidelines, standard drawing CMDG-R-040, titled as rural road access and property access over table drain*. Any non-compliant vehicle access driveway will require a Development Permit for Operational Works (access works) prior to the commencement of any vehicle access works associated with that lot.
- 32.2 Proposed Lot 1 must maintain access from Tookers Road, in accordance with the current agreement with Council, until such time the new road access from Yeppoon Road is constructed as part of Part B and Part C of this approval and the Concurrence Agency conditions.
- 32.3 The existing access to proposed Lot 2 must be maintained.
- 33.0 STORMWATER WORKS
- 33.1 All stormwater must achieve demonstrated lawful discharge and must not adversely affect the upstream or downstream land when compared to pre-development condition or damage infrastructure.
- 34.0 EARTHWORKS
- 34.1 Earthworks must be undertaken such that stormwater runoff is managed and discharged lawfully and must not adversely affect the adjoining properties compared to pre-development conditions or damage infrastructure.
- 35.0 ASSET MANAGEMENT
- 35.1 Any damage or alteration to existing council infrastructure including traffic signs and pavement marking and other public or private utility which occurs during any works carried out in association with the approved development must be repaired and/or replaced at the cost of the Developer.
- 36.0 ENVIRONMENTAL
- 36.1 An Erosion and Sediment Control Plan must be implemented and maintained on-site for the duration of the works. The Erosion and Sediment Control Plan must be available on-site for inspection by Council Officers during those works.
- 37.0 OPERATING PROCEDURES
- 37.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Yeppoon Road or the unconstructed road reserve.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety of Public During Construction

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

NOTE 4. Water Services

In accordance with the *Water Supply (Safety & Reliability) Act 2008*, it is an offence to interfere with a service provider's infrastructure. Livingstone Shire Council is the service provider and Infrastructure is the department responsible for water services. Alterations to existing services consequential to necessary connections to existing water infrastructure must be at the responsibility and cost of the Developer. Please contact Infrastructure for further information. Negotiation with other service authorities such as Telstra and Ergon may also be required to adequately affect these connections.

NOTE 5. Provision for on-site sewer services

On-site sewerage and disposal must be provided for all lots in accordance with the *Queensland Plumbing and Waste Water Code* and Council Plumbing and Drainage Policies. On-site sewerage and disposal facilities must be installed at the issue of building approvals.

NOTE 6. Infrastructure Charges Notice

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

NOTE 7. Clearing in the road reserve

Council's assessment of clearing vegetation in the road reserve will be undertaken in accordance with the Accepted Development Vegetation Clearing Code for relevant infrastructure and is accepted under schedule 7, part 3, section 12 of the *Planning Regulation 2017*. The limit of the clearing is to twenty (20) wide and two (2) hectares. If clearing occurs beyond the code, a Development Application for Operational Works for Clearing vegetation is required to be lodged for assessment.

NOTE 8. Landscaping

Council's Natural Resource team can assist further with native species that are endemic and compatible with the design. The use of natives will also reduce weeds.

RECOMMENDATION C

THAT in relation to the application for a Preliminary Approval (Variation Request) to vary the effect of the Local Planning Instrument (*Livingstone Planning Scheme 2018*, version 3) in accordance with the Surf Lake Local Plan ('SLLP' or Variation Instrument) pursuant to Section 50(3) of the *Planning Act 2016*; Development Permit for a Material Change of Use for a Tourist attraction (Surf Lake and associated facilities), Tourist park (fifty two (52) cabins and 100 caravan or tent sites), Short-term Accommodation (fifty two (52) cabins) and Renewable energy facility (stage one); and Development Permit for a Reconfiguration of a Lot (two (2) lots into three (3) lots), made by Surf Lakes Holdings Ltd, on Lot 1 on LN2240 and Lot 393 on LIV4064 and located at 1662 Yeppoon Road and Lot 393 Yeppoon Road, Mulara, Council resolves to issue an Infrastructure Charges Notice for the amount of \$854,100.90.

BACKGROUND

The surf lake has was constructed on the subject site as a prototype for testing purposes only. Council did not have any requirements, other than the need to obtain the relevant development permits for building work which were obtained. The proponent now seeks to

transition the facility from a prototype for trial purposes only, constituting a material change of use and further relevant permits.

COMMENTARY

PROPOSAL

The development application for Surf Lakes been proposed as a three part application including the Preliminary approval (whole site and ultimate development), Material change of use (stage one of the development) and Reconfiguring a lot. A detailed overview of the various parts of the proposal are provided below.

Preliminary approval

The preliminary approval component is a variation request, to vary the effect of the *Livingstone Planning Scheme 2018* and facilitate the adoption and implementation of the Surf Lakes Local Plan. The local plan seeks to vary the land use intent, development standards and design provisions to be consistent with the overarching urban design philosophy of Surf Lakes. The local plan includes overall outcomes, assessment categories and assessment benchmarks, in the future Surf Lake local plan area (proposed Lot 1). The main change is reducing the level of assessment for land uses from Impact assessable (as would be required by the current rural zoning) to either Accepted, Accepted, subject to requirements or Code assessable.

A preliminary approval overrides the provisions of the zone that would ordinarily apply to the land as prescribed by the planning scheme. To this extent, Council may approve a development plan (essentially a master plan for the site), and whilst such an approval authorises certain assessable development to take place. The conditions of an approval, including an approved Local Plan, set out the future requirements for development of the area which apply in lieu of the planning scheme provisions.

The main land use on the subject site is the Tourist attraction; with other land uses establishing around the main facilities. The reporting submitted with the application identifies that the Tourist attraction will include the primary land use of the surf lake and allows for ancillary or associated uses, including the following:

- (i) surf shop
- (ii) service industry (surf-board shaping),
- (iii) indoor and outdoor sport and recreation (including skate park, Mountain bike pump track and Mountain bike trails and junior playground),
- (iv) photo shop,
- (v) entrance facility / office,
- (vi) café/food and drink outlet,
- (vii) meeting and function facilities,
- (viii) scuba hole,
- (ix) user amenities (including change facilities, showers and toilet), staff facilities / amenities,
- (x) storage areas, lifeguard towers and a surf lake research and development lake facility.
- (xi) a small area included within this attraction is also provided for surfing induction as part of coaching and lessons prior to use of the lake.

The preliminary approval has specific thresholds for code assessable land uses (reflected in the table of assessment) including:

- a) Shop – Up to 500 square metres
- b) Function facility – Up to 300 square metres

- c) Office – Up to 200 square metres
- d) Food and drink outlet – Up to 250 square metres
- e) Bar – Up to 250 square metres

Stage two of the development is anticipated to be the village green, additional accommodation and commercial uses, additional camping, car parking and an adventure play.

Material Change of Use

The development application is for stage one of Surf Lake which includes the following:

Land use definition	Includes	Building height
Tourist attraction	Arrival pavilion: (726 square metres internal and 417 square metres external) Lake: 4.7 hectares Scuba Pool: 0.1 hectares R & D Lake: 0.29 hectares Skate Park: 0.1 hectares Storage / overflow lake: 0.48 hectares	Pavilion: One storey; 3.3 metres to the eaves and 4.4 metres to the ridge Pump room: 4.5 metres to the eave and 5.4 metres to the ridge Life guard towers: 4.5 metres Concentric wave device: twenty three (23) metres (approximately ten (10) metres above still water level) R&D Concentric Wave Device (CWD): twenty seven (27) metres (approximately fourteen (14) metres above still water level)
Tourist park	Cabins: fifty two (52) (equates to seventy five (75) beds) <ul style="list-style-type: none"> - 33 x 1 bedroom - 4 x 1 bedroom accessible - 7 x 2 bedroom cabins - 8 x 3 bedroom hybrid shared deck cabins Caravan/Tent sites: sixty (60) sites – including four (4) group camping. The group camping area has eleven (11) sites at each. Amenities block Camp kitchen	Amenities and camp kitchen: 2.8 metres to the eave and 4.9 metres to the ridge Cabins: one (1) storey, 2.8 metres to the eaves and 4.9 metres to the ridge
Short term accommodation	Tourist park cabins to be used interchangeably as Short-term accommodation	
Renewable energy facility	Solar – five (5) hectares	Approximately three (3) to four (4) metres.

The arrival pavilion is the main entry into the site being the administration, main reception, back of house, café, retail, board hire and repair, public amenities and change facilities. The

Urban Design report identifies (for the tourist attraction area) that: *The character for this area should reflect the relaxed, open air surf lifestyle, with native vegetation softening the fringes of outdoor areas. Outdoor areas will be vibrant and welcoming, pedestrian way finding elements will feature throughout the Proposed Use to create a legible environment that clearly delineates public access, entries and movement corridors.*

The accommodation is a mix of cabins (one and two bedrooms) and camping. The accommodation will provide low impact, eco-sensitive short term accommodation. The Urban Design report identifies: *The character of this area is sensitive to the natural environment, employing small areas for building footprints and shared roads for vehicles, bikes and pedestrians. The built form will reflect the nearby Baga National Park and rural clearing setting of the area. Infrastructure will be low impact and set amongst vegetation. Internal shared access roads are intended to be low order and rural in character.*

Access to the site will be via a newly constructed road from Yeppoon Road (modified rural wide median treatment), into the unconstructed road reserve to the north of the site and enters the site behind the pavilion building.

The Renewable energy facility involves the establishment of necessary structures and supporting infrastructure, including Photovoltaic arrays, inverters, access tracks and security fencing. The solar Photovoltaic arrays array will have a fifteen (15) degree tilt and will be laid out in rows. The inverters will convert the direct current (DC) (produced by the panels) into alternating current (AC) which can be used on site or be put into the grid. The tracks will be compact gravel and small culverts where required for overland flow. The perimeter will be fenced for appropriate security levels. A twenty (20) metre buffer will be provided to the east of the solar farm.

The development of Stage one is proposed to be sub-staged as follows:

- a) Stage 1A – Surf Lake, Pavilion, car parking, storage compound, access, pump room and storage water;
- b) Stage 1B – thirty two (32) interim camp sites, ten (10) interim glamping camp sites, pop up food and beverage and amenities;
- c) Stage 1C – R & D lake, skate park, scuba pool, fifteen (15) cabins and vehicle washdown;
- d) Stage 1D – removal of interim camp sites as per stage 1B and replaced with Village green, ten (10) cabins, seven (7) 6x9 metre cabins and twelve (12) 6x6 metre cabins, amenities and kitchen, thirty five (35) camping sites and group camping areas (total of 44 sites);
- e) Stage 1E – lagoon and learn to surf, eight (8) hybrid cabins, twenty one (21) tent sites, solar inverter and solar farm.

The hours of operation of the Surf Lake are proposed from 6:00 am to 10:00pm daily. Flexibility is sought for events (reflected through the plan of development).

A nominal eight (8) metre buffer has been proposed to the road frontage and southern side boundary to create a buffer between the alternative land use and the rural land. The planting philosophy aims to achieve a low-maintenance natural landscape.

Reconfiguring a Lot

The proposal is to create one (1) additional allotment to wholly encompass the activities of the Surf Lake. The new lot sizes are as follows:

Lot number	Lot size	Access
1	37.18 hectares	Yeppoon Road via a new access
2	299.84 hectares	Yeppoon Road via an existing access

3	275.41 hectares	Via unformed road reserve to the north
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SITE AND LOCALITY

The north western part of the property is currently developed as a full-sized demonstration surf lake, which is accessed from Gravel Pit Road to the east. The residual part of the site is undeveloped grazing land, including a Dwelling house, farm buildings and a vehicular access from Yeppoon Road at the southern end. An electricity line crosses the wider site. The Dwelling house and farm buildings have a separate, existing access to Yeppoon Road to the south.

The north of the site is joined by unformed road reserve and the south of the site is adjoined by a creek within its own reserve area. There is approximately 1,900 metres of frontage to Yeppoon Road to the south-western boundary. The land is generally flat with an average site slope of one (1) percent towards Yeppoon Road from a Reduced Level of forty (40) metres at the eastern side to a low of approximately Reduced Level thirty seven (37) metres Australian Height Datum. The site currently has a connection to the Yeppoon Water pipeline, for non-domestic supply (non-drinking water) purposes.

It is located approximately twenty-seven (27) kilometres from Rockhampton and fourteen (14) kilometres from Yeppoon to the north east.

The locality is characterised by predominately rural land uses, the native environment, ancillary Dwelling houses and buildings and national parks.

Officers undertook a site visit on 27 May 2021 with the Surf Lake developers and operators.

The related permits over the subject site and permits and development on adjoining properties are detailed in the following table:

Existing applications/development permit over the site	
Lot 1 on LN2240 1662 Yeppoon Road, Mulara	Development Permit B-2176-2010 for Building work for a Dwelling Development Permit B-459-2018 for Building work for a steel frame tower to support a wave making device 31-2021 Works in Road Reserve – Maintenance of Driveway and Access Road – Tookers Road, Cawarral
Lot 393 on LIV4064 Lot 393 Yeppoon Road, Mulara	Nil Use for cattle grazing
Applications/development permits on adjoining properties	
Lot 1 on SP314284 221 Tookers Road, Cawarral (to the south)	Nil Cattle grazing and vegetated
Lot 1 on RP601675 223 Tookers Road, Cawarral (to the east)	Development Permit B-2792-2009-B-DOM for Building Works for a Shed Development Permit BP96-0021 for Building Work for a Dwelling

ASSESSMENT INCLUDING BENCHMARKS AND RELEVANT MATTERS

This application has been assessed by relevant Council planning, engineering, environmental health, natural resource management and other technical 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 State Planning Policy, any development approval for and any lawful use of the premises or adjoining premises, and the common material. The assessment has also had regard to other relevant matters (other than a person's personal circumstances, financial or otherwise) discussed further in this report

Benchmarks applying for the development	Benchmark reference
Strategic Framework Rural zone code Bushfire hazard overlay code Reconfiguring a lot code Development works code General development code Accommodation activities code	<i>Livingstone Planning Scheme 2018</i> , Version 3, in effect 15 February 2021
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
Submissions provided on the application	No submissions were received during the public notification period.
The Local Government Infrastructure Plan	In respect of trunk infrastructure provisions and charging for development.
Cultural heritage	The position of the site between two cultural heritage features being Gai-I and Baga.
Scenic amenity	In respect of the development being located along the main road into and out of Yeppoon and the impact of buildings on the view lines given the rural setting.

Internal advice and assessment

Development Engineering Unit – 14 December 2021

Support, subject to conditions.

In principal support is provided for an alternative verge widths for the new rural major collector to be constructed to reduce the clearing required (refer to plans within Engineering Services Report). The Rural Wide Median road treatment is supported.

Natural Resource Management

Support, subject to conditions based on internal communications. The native, regrowth vegetation should be retained in the buffer areas as this will also reduce any spread of weeds to surrounding areas. The modified road treatment is a good outcome to reduce clearing of vegetation in the road reserve. Vegetation in the road reserve should be relocated if possible (particularly the *Stackhousia tryonii*).

Public and Environmental Health – 29 March 2021 and 18 November 2021

Support, subject to conditions.

The Noise Impact Assessment satisfactorily complies with the *Environmental Protection Act 1994*.

Growth Management – 12 October 2021

Support of the Preliminary approval, with comments:

This type of development is not a common occurrence in the Livingstone Shire or throughout the State of Queensland. The type and scale of the proposed primary land use (being the surf lake tourist attraction) requires a large site. There are not often sites of this nature available to develop (particularly in urban areas) and Council has not predicted or planned a location where this type of development is likely to desire to locate or where Council would prefer such a development to locate. Essentially a development of this nature was not contemplated at the time of developing the *Livingstone Planning Scheme 2018*.

Although not consistent with every Strategic Outcome and Specific Outcome identified in the Strategic Framework of the *Livingstone Planning Scheme 2018*, Version 3, this specific tourism oriented development as a whole (including the proposed new categorising instrument) arguably results in development that does not at large compromise the policy direction embodied in the Strategic Framework.

The proposed new categorising instrument (Surf Lakes Local Plan):

- a. is considered to have been drafted in a clear and suitable manner that is consistent with the format of the *Livingstone Planning Scheme 2018*;
- b. clearly identifies which parts of the *Livingstone Planning Scheme 2018* are being varied and which parts are to remain as part of any future development assessment process;
- c. contains enough measures (suitable categories of development, categories of assessment, and assessment benchmarks) to appropriately regulate and assess development, particularly development that is compatible with:
 - (i) the Purpose (that being the creation of an integrated tourism, entertainment, leisure, accommodation and renewable energy hub supporting the Surf Lake Tourist Attraction at its core) and Overall Outcomes for the site as expressed in the Surf Lake Local Plan; and
 - (ii) aspects of the development described in the supporting documentation submitted with all development applications; and
 - (iii) the proposed Reconfiguration of a Lot and Material Change of Use for the Tourist Attraction (surf lake and associated facilities), Tourist Park (fifty-two [52] cabins, and sixty [60] caravan or tent sites); Short-term Accommodation (fifty-two [52] cabins), the Renewable Energy Facility, and any change in scale or intensity of such uses; and
- d. contains sufficient measures to allow for a reasonably straightforward assessment of future development and its potential impacts on planning matters such as those relating

to character and amenity, built form, infrastructure, heritage and the natural environment.

Community Development & Engagement – 15 November 2021

Support. There is evidence to show that Surf Lakes have engaged with Traditional Owners (via Darumbal Enterprises) and plan to continue doing so. There is not sufficient evidence to demonstrate Traditional Owner's approval of the overall concept/development, however Community Development is confident that the engagement will continue and that Darumbal Enterprises will have ongoing opportunities to provide feedback/input.

External referral

The application was referred to the State Development, Infrastructure, Local Government and Planning as a concurrence agency in accordance with Schedule 10 of the *Planning Regulation 2017*. The application was referred for:

- a) Schedule 10, Part 3, Division 4, Table 3, Item 1 (*Planning Regulation 2017*) - Clearing native vegetation
- b) Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 (*Planning Regulation 2017*) - Infrastructure - state transport infrastructure
- c) Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (*Planning Regulation 2017*) - State transport corridors and future State transport corridors
- d) Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (*Planning Regulation 2017*) State transport corridors and future State transport corridors

The Department assessed the application and requested further information on 3 August 2021. Following a response to the information request, the Department provided conditions on 4 November 2021; approving a modified rural wide median access treatment from Yeppeoon Road into the site.

The application was also referred to Ergon Energy as advice agency in accordance with Schedule 10 of the *Planning Regulation 2017*. Ergon Energy assessed the application and provided a response on 16 July 2021. An amended response was provided on 11 November 2021.

Information request

An information request was issued by council on 2 July 2021 which included (but was not limited to) the following;

- (i) Amendments to the Local Plan;
- (ii) Changes to the layout of the new road to facilitate the protection of vegetation in the road reserve;
- (iii) Clarification of stage 1;
- (iv) Lighting details;
- (v) Traffic assessment and main access;
- (vi) New road works proposed and internal access parking and traffic circulation;
- (vii) Water reticulation and connection;
- (viii) Adjoining land uses; and
- (ix) Community development.

The applicant provided a response in full on 12 October 2021.

State Planning Policy – July 2017

The Minister has identified that the *State Planning Policy* (July 2017) is integrated in the planning scheme for the following aspects:

- Guiding principles
- Agriculture
- Development and construction
- Mining and extractive resources
- Tourism
- Emissions and hazardous activities

Part E of the *State Planning Policy* provides for interim development assessment benchmarks for local government until such time as the other aspects of the *State Planning Policy* are reflected in the planning scheme. An assessment of the State interests relevant to the application are detailed below.

Liveable Communities: The application is for development in the Rural zone and is not for the provision of residential land; nor in an urban area. The proposal however, does deliver a tourist attraction and associated facilities to support the diverse economic, demographic, social, cultural and lifestyle needs of the community. It proposes a high quality design and to integrate into the surrounding landscape and natural environment.

Planning for the Environment and Heritage:

The proposal has considered the natural environment and seeks to ensure they are protected and enhanced through the development. The Ecological assessment has been lodged to support the proposal and the applicant has worked with Council to reduce clearing in the road reserve with reduced verges proposed to the new road.

The site is not within a coastal environment.

The proposal has considered cultural heritage through the supporting reports. There is evidence to show that Surf Lakes have engaged with Traditional Owners (via Darumbal Enterprises) and plan to continue doing so.

Water quality assessment benchmarks are not applicable as the development of a tourist attraction and tourism accommodation is not an urban activity or purpose. Water quality objectives have been considered through the protection and enhancement of environmental values and appropriate stormwater design will be provided as part of the development. A Stormwater Management Plan will be conditioned.

Natural hazards, risk and resilience: The site is mapped as bushfire prone area. An environmental assessment and bushfire hazard assessment report have been submitted to support the application.

The bushfire hazard assessment identified that the development will not place people or property at an unacceptable risk from bushfire hazard. A new road will be constructed, connecting to Yeppoon Road, and there will be water available onsite via on-site storage and the availability to take water from the surf lake if in an emergency.

Energy and water supply: The subject site is in the rural zone. There is the ability in the rural zone to provide for on-site electricity supply. The Stage one proposal includes a solar farm which can be used for on-site operations and to connect to the grid. There is also a major electricity easement running through the site which has been considered through the design.

The site (of the Surf Lake) is currently connected to the water pipeline for lake purposes only (not drinking). The site proposes to keep this connection and ensure it is suitable for drinking purposes.

Infrastructure integration: The proposal does not compromise planned infrastructure, from State or Local levels. It is in a location which is able to connect into the transport network and water supply network to service the development. It will provide economic benefits through the construction and operations, social benefits from the outdoor activities for tourists and locals and environmental benefits through landscaping and retention of existing vegetation through the design and proposal of the solar farm.

Transport infrastructure: The application has been supported by a traffic impact assessment and the access from Yeppoon Road has been assessed and approved by the State Government (Department of Transport and Main Roads). Significant upgrades and intersection works are required to facilitate access to the site and a new road, to be dedicated in a new road reserve, is required to be constructed by the development to facilitate access to the site. The internal, local road, will be dedicated to

Strategic airports and aviation facilities: Not applicable.

Strategic ports: Not applicable.

Central Queensland Regional Plan

The Minister has identified that the planning scheme, specifically the strategic framework, appropriately advances the *Central Queensland Regional Plan* October 2013, as it applies in the planning scheme area.

Other State or Commonwealth Legislation

Aboriginal Cultural Heritage Act 2003

The *Aboriginal Cultural Heritage Act 2003* is the principal Act that governs that a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the “cultural heritage duty of care”). The development application has provided a Cultural Heritage Assessment Report. There is evidence to show that Surf Lakes have engaged with Traditional Owners (via Darumbal Enterprises) and plan to continue doing so.

Nature Conservation Act 1992

The site is not mapped as a high-risk area for protected plants under the *Nature Conservation Act 1992*.

Future Lot 1 is not mapped as High-Risk Trigger Mapping. The field assessment identified the presence of one threatened flora species within the study area: *Stackhousia tryonii*. Therefore, a Protected Plant Clearing Permit (and associated Impact Management Plan) will be required under the *Nature Conservation Act 1992* as “in the wild” endangered, vulnerable and near threatened (EVNT) individuals were located within the works area and within 100 metre of the clearing and works area (plants within the road reserve and proposed Lot 1). The road reserve mapped as High-Risk Trigger Mapping; therefore, a Protected Flora Survey is also required for the road reserve.

Solar Farm – Guidance for Local Government in Plan Making by Queensland Treasury

The *Livingstone Planning Scheme 2018* has minimal information (other than section 3.7.3.1 of the Strategic Framework) relating to Renewable energy facilities. The guidance materials were reviewed and it was concluded that the subject site is suitable in terms of minimal conflict with surrounding rural land uses, mainly screened (visual amenity) from roads and adjoining sites by vegetation and the Tourist attraction, will support the Tourist attraction (Surf Lake) development by providing an alternative power source, the site has a main power line running through the site and is accessible by the newly constructed road and road reserve is available to the north of the site. Stormwater runoff will be to the ground; and stormwater can be addressed through the subsequent Operational Works application.

Livingstone Planning Scheme 2018

The *Livingstone Planning Scheme 2018* (commenced 1 May 2018) is the relevant categorising instrument applicable to the assessment of this application.

Strategic Framework

The strategic framework sets the policy direction for the planning scheme and forms the basis for ensuring appropriate development occurs within the planning scheme area for the life of the planning scheme. The strategic framework is structured as follows:

- (a) the strategic intent, and statements of preferred dominant land uses in the form of

- describing the *places* that form part of the planning scheme area;
- (b) the following six (6) *themes* that collectively represent the policy intent of the planning scheme:
- (i) Settlement pattern;
 - (ii) Natural environment and hazards;
 - (iii) Community identity and diversity;
 - (iv) Access and mobility;
 - (v) Infrastructure and services; and
 - (vi) Natural resources and economic development;
- (c) the *strategic outcomes* proposed for development in the planning scheme area for each theme;
- (d) the *specific outcomes* for each, or a number of, elements of each theme; and
- (e) the *land use strategies* for achieving these outcomes.

The following themes are relevant to the assessment of this application:

- (i) Settlement pattern – Rural places;
- (ii) Natural environment and hazards – Areas of ecological significance, Natural hazards and climate change, water resources, catchment management and Landscape and scenic amenity;
- (iii) Community identity and diversity – Recreation;
- (iv) Access and mobility – Public and active transport and Road network;
- (v) Infrastructure and services – Local area networks; and
- (vi) Natural resources and economic development – Rural land and Tourism.

3.3.5 Rural places

3.3.5.1 Specific outcomes	Assessment Response
(1) Rural places are identified on strategic framework maps (SFM-01 to SFM-04) to show the broad locations preferred for rural activities.	Complies
(2) Rural activities develop in rural places only where they can be managed to mitigate significant adverse impacts.	Not applicable Proposed Lot 1 will be designed to accommodate the surf lake development and the two balance lots will remain for rural purposes.
(3) Non-rural activities only occur in rural places if: <ul style="list-style-type: none"> (a) they are compatible with the area, or have a nexus with a specific natural resource or requires a large land area which is not available in an urban zone; (b) they do not limit or compromise the operations of established rural activities on adjoining land; 	Justified to comply The proposed tourist attraction (surf lake) development is supported by the surf lake local plan through the preliminary approval. The development is conscious of the surrounding rural land and provides a buffer of approximately eight (8) metres around the perimeter of proposed Lot 1 (the lot to accommodate the surf lake development and associated facilities). The proposal is not suitable to occur in an urban zone given

3.3.5.1 Specific outcomes	Assessment Response
<p>(c) they do not limit or compromise the potential development of rural activities on the site or on adjoining land;</p> <p>(d) they do not result in adverse impacts on amenity or infrastructure</p>	<p>the size of the land required to establish such a land use.</p> <p>The proposal of the tourist attraction is not anticipated to limit or compromise the existing cattle grazing operations on the adjoining land, within a vegetation buffer to the southern side, the solar panels being along the eastern side and the new road to the north.</p> <p>There is no adverse impacts anticipated as the infrastructure will be appropriately planned and integrated to be sufficient on site with a special water supply arrangement entered into in relation to accessing the reticulated supply.</p> <p>In terms of amenity, landscaping is proposed to the frontage and side boundaries, landscaping on site, articulation of the built form on site to be appropriate to the intent of the local plan, to ensure the amenity is to an appropriate level due to the rural nature. Building heights are limited to sixteen (16) metres (not including the concentric wave devices); equivalent to five storeys. Any future building that is sixteen (16) metres high is required to be setback twenty (20) metres and a ten (10) metre high building is required to be setback ten (10) metres.</p>
<p>(4) Rural places containing important features identified by scenic amenity overlays or biodiversity areas overlays are protected from development which could adversely affect the values associated with the overlay features.</p>	<p>Complies</p> <p>The subject site is not affected by the scenic amenity overlay or biodiversity overlay. The development has been designed to reduce the amount of clearing required in the road reserve to the north to reduce the native vegetation clearing and the landscape statement of intent show the integration of landscaping around the boundaries and around the proposed buildings to soften the development.</p>
<p>(5) Development in rural places does not result in fragmentation of land which is suitable for primary production by virtue of the following:</p> <p>(a) being identified as agricultural land Class A or Class B; or</p> <p>(b) being identified as rural land needing retention in larger lot sizes; or</p> <p>(c) being identified as having known</p>	<p>Justified to comply</p> <p>The proposed development will cause the fragmentation of rural land through the subdivision; however the lot that is being created is for the sole purpose of accommodating the tourist attraction. The balance lots are of adequate size to continue the rural activities.</p>

3.3.5.1 Specific outcomes	Assessment Response
minerals or other natural resources.	
(6) A range of lot sizes in rural places is identified based on the capabilities of the land for primary production, with rural places predominantly being retained in larger lots except for the Capricorn Coast Rural Precinct, where minimum lot sizes of ten (10) hectares or greater are provided for.	Not applicable The site is not in the Capricorn Coast Rural Precinct.
(7) In the Capricorn Coast Rural Precinct, relatively low impact rural activities involved in primary production remain as the preferred and dominant land use.	Not applicable The site is not in the Capricorn Coast Rural Precinct.
(8) The development of small rural residential lots does not occur unless there is a demonstrated need for an additional supply of lots only where located adjacent to the townships of Cawarral, Mount Chalmers, or The Caves.	Not applicable No small rural residential lots are proposed.
(9) Development of non-rural activities (other than a dwelling house, home based business, rural workers' accommodation, or secondary dwelling) only occurs on agricultural land Class A or Class B if: (a) there is a significant need, an overriding community benefit and there are no available alternative sites of lesser agricultural value; or (b) the development is small-scale, has low impacts and is focussed on tourism which is directly associated with a rural activity undertaken on the <u>site</u> ; or (c) the development is small-scale, has low impacts and is focussed on tourism which involves education, promotion, or sales associated with primary produce sourced from the <u>site</u> or local area; or (d) the potential undertaking of agriculture on the subject land (alone or in association with surrounding land) is not practicable.	Not applicable The site, subject to the tourist attraction (proposed Lot 1), is not identified as agricultural land class A or class B.

3.3.5.1 Specific outcomes	Assessment Response
(10) Key Resource Areas (including their haulage routes) and other identified resource areas which are located in rural places are protected from the encroachment of sensitive land uses by the implementation of appropriate separation distances and mitigation measures.	Not applicable The site is not a key resource area.
(11) Rural places having historical subdivisions which are considered to be inappropriate for certain types of development, are limited to development for rural activities which: <ul style="list-style-type: none"> (a) do not involve accommodation activities; (b) can operate having access to limited infrastructure; and (c) can mitigate potential impacts from any natural hazards. 	Not applicable The site is not a historical subdivision.

3.4.2 Areas of ecological significance

3.4.2.1 Specific outcomes	Assessment Response
(1) A network of nature conservation and open space places, waterways, water bodies and nature corridors or links are identified for protection within the planning scheme area.	Complies The site does not contain biodiversity corridors. The proposal has been accommodating to the protection of the natural environment that is located in the road reserve and the site will be landscaped in accordance with the landscape intent report to ensure land uses are integrated and blend with the surrounding environment.
(2) Nature corridors or links are maintained and where appropriate, rehabilitated and expanded to support: <ul style="list-style-type: none"> (i) the natural movement and proliferation of native species; (ii) ecological responses to climate change; (iii) the maintenance of large scale migratory lifecycle processes; and (iv) connectivity between significant habitat areas and areas of remnant vegetation. 	Not applicable The site does not contain any mapped corridors.
(3) Development avoids causing adverse	Not applicable

3.4.2.1 Specific outcomes	Assessment Response
impacts on areas containing <u>matters of environmental significance</u> and protects these areas from encroachment by development and human activity and the negative impacts of both (including but not limited to pollution, species or habitat loss, soil degradation due to clearing, erosion and contamination, acidification, salinity, waste disposal and modification to natural processes).	The site does not contain any mapped environmental areas. However, the proposal has been accommodating to the protection of the natural environment that is located in the road reserve by reducing the verge width and pulling the road towards the site as close as possible.
(4) Corridors and associated buffers have dimensions which suitably provide for: (i) movement of native fauna; (ii) viable habitat areas; (iii) minimisation of edge effects; (iv) maintenance of the hydrological functions of waterways or wetlands; (v) appropriate access for sustainable recreation; and (vi) any additional maintenance and bushfire setback functions to be located outside the areas required for ecological purposes.	Not applicable The site does not contain any mapped environmental areas. The corridor along the road reserve has been considered by officers and through the design to reduce the amount of clearing.
(5) Fragmentation of existing habitat areas is minimised, particularly where it impacts on the future health of populations of native fauna and flora species.	Complies As stated above, existing habitat to the north of the site will be maintained as much as possible; to retain the corridor of vegetation in the road reserve and connecting further north. The sites, subject of this application, are routinely cleared of regrowth vegetation and the land is grazed.

3.4.3 Natural hazards and climate change

The proposed development has been supported by a Bushfire hazard assessment and will be conditioned to be above any flood level. The development is not anticipated to exacerbate natural hazard (bushfire or flood) impacts due to climate change. Further, the development has been conditioned to minimise and mitigate risks of hazards.

3.8.6 Tourism

3.8.6.1 Specific outcomes	Assessment Response
(1) Tourism and ecotourism development providing short-term accommodation for tourists and visitors primarily located at identified urban infill places or specific use places.	Complies The main land use on the subject site is the Tourist attraction; with other land uses establishing around the main facilities. The report identifies that; the Tourist attraction will include the primary land use of the surf

3.8.6.1 Specific outcomes	Assessment Response
	<p>lake and allows for ancillary or associated uses, including surf shop, service industry (surf-board shaping), indoor and outdoor sport and recreation (including skate park, MTB pump track and MTB trails and junior playground), photoshop, entrance facility / office, café/food and drink outlet, meeting and function facilities, scuba hole, user amenities (including change facilities, showers and toilet), staff facilities / amenities, storage areas, lifeguard towers and a surf lake research and development lake facility. A small area included within this attraction is also provided for surfing induction as part of coaching and lessons prior to use of the lake.</p> <p>The Economic Report, which has been submitted with the application, identifies that the economic benefits of the proposal are <i>'...likely to be the single biggest impact that any project has ever had on the tourism industry in the Livingstone Shire'</i>.</p> <p>The Report identifies that Livingstone Shire will receive the majority (seventy four [74] to seventy eight [78] percent) of the economic benefits from the development and operation of the application proposals. It estimates that the operation of Stage 1 will increase output in the Livingstone Shire tourism sector by 15.6 percent; grow full time employment by twenty (20) per cent; and grow the tourism economy by around fourteen (14) percent. Upon full development it estimates that the project will represent an increase in the current Livingstone Shire tourism sector by the following factors:</p> <ul style="list-style-type: none"> – Output = increase twenty nine (29) per cent – Employment (full time equivalent) = increase thirty eight (38) percent – Economic Value Added = increase twenty six (26) percent
<p>(2) Major tourist resorts and accommodation activities providing for short-term accommodation develop at tourism specific use places identified on the strategic framework maps SFM-01 to SFM-04.</p>	<p>Does not comply</p> <p>The proposal is not within the general area of the tourism specific use places; however, the location of the proposal is not suited to an urban area and requires a large parcel of land. The land is situated between Rockhampton and Yeppoon and has direct access to a main road.</p>

3.8.6.1 Specific outcomes	Assessment Response
<p>(3) The location of new or existing supporting services, infrastructure and operations to support the management and maintenance of major tourism resorts and ecotourism developments, may be located separate to main resort operations. This is in response to the kind of infrastructure required, and the location and nature of the major tourism resort or ecotourism development.</p>	<p>Not applicable</p> <p>No staff accommodation has been proposed as part of stage one and caretaker's accommodation will be subject to assessment against the surf lake local plan.</p>
<p>(4) Tourism focussed uses only develop in urban places, rural places, nature places, or townships if:</p> <p>(a) the development:</p> <ul style="list-style-type: none"> (i) is in proximity to unique cultural, historical or natural environment features; or (ii) where located in a rural place, it achieves the relevant specific outcomes for rural places as identified in section 3.3.5.1; and <p>(b) appropriate infrastructure is provided;</p> <p>(c) any cultural, historical or natural environmental features present are not adversely affected by the development; and</p> <p>(d) where located in a rural place, it does not limit or compromise the ability to use agricultural land Class A or Class B, or the capacity for land in rural places to be used for other productive agricultural or resource development purposes.</p>	<p>Complies</p> <p>The proposal is in a rural place and the development is between two cultural features, being Baga and Gai-I. The development will be provided with on-site electricity (the ability to connect to the network is available if required), water supply will be connected to the reticulated network, on-site sewerage will be provided, access to the main road and a new local road will be constructed to service the development and stormwater will be in accordance with a stormwater management plan.</p> <p>There is evidence to show that Surf Lakes have engaged with Traditional Owners (via Darumbal Enterprises) and plan to continue doing so.</p> <p>As identified above, the proposal includes a eight (8) metre vegetation buffer to the southern side boundary and the solar panels join the boundary to the east, providing a buffer to the adjoining two lots that are currently used for grazing. The land is not mapped as class A or B agricultural land.</p>

The performance assessment of the proposal demonstrates that the development will not compromise the Strategic Framework specific outcomes and measures and recommendations have been included to ensure a suitable development outcome is achieved.

Although the Local Plan and development is not consistent with every Strategic Outcome and Specific Outcome identified in the Strategic Framework of the *Livingstone Planning Scheme 2018*, Version 3, this specific tourism oriented development as a whole (including the proposed new categorising instrument) arguably results in development that does not at large compromise the policy direction embodied in the Strategic Framework.

Rural zone code

The purpose of the rural zone code is:

- (1) *to identify the desired character and amenity for the zone and to protect it from incompatible development;*

-
- (2) *to provide predominantly for a wide range of uses from within the rural activities group, particularly those involved primary production, and to protect these from land use conflict that may result from the development of sensitive land use and other non-rural uses;*
 - (3) *to protect or manage significant natural resources and processes to maintain the capacity for primary production;*
 - (4) *to provide for the development of a limited range of other uses that are compatible with rural areas and rural activities, where they do not limit or compromise the potential for the development of uses involved in primary production;*
 - (5) *to establish two precincts within the zone where particular development outcomes are specified, and the precincts are identified as follows:*
 - (a) *the Capricorn Coast Rural Precinct;*
 - (b) *the Yaamba Historic Township Precinct; and*
 - (6) *to facilitate the achievement of the overall outcomes sought for the zone.*

Overall outcomes

The purpose of the code will be achieved through the following overall outcomes:

- (1) *the development is:*
 - (a) *a use within the rural activities group; or*
 - (b) *a use which:*
 - (i) *is compatible with and supports a use within the rural activities group; or*
 - (ii) *does not limit or compromise the development of a use within the rural activities group on an adjoining rural zoned lot;*
- (2) *the development of a use from within the rural activities group is a preferred use within the zone in the following circumstances:*
 - (a) *it is designed, sited and operated to mitigate significant adverse impacts on sensitive land use; and*
 - (b) *the use:*
 - (i) *is animal husbandry; or*
 - (ii) *is animal keeping; or*
 - (iii) *is aquaculture; or*
 - (iv) *is cropping; or*
 - (v) *is extractive industry; or*
 - (vi) *is intensive animal industry; or*
 - (vii) *is intensive horticulture; or*
 - (viii) *is a permanent plantation; or*
 - (ix) *is a roadside stall; or*
 - (x) *is a rural industry; or*
 - (xi) *is a wholesale nursery; or*
 - (xii) *is a winery; and*
- (3) *the development of a use from within the accommodation activities group occurs within the zone only in the following circumstances:*
 - (a) *it is ancillary to the use of the land for a use within the rural activities group;*

- (b) *it is designed and sited so as not to limit or compromise the continuing operation of an established use from within the rural activities group on an adjoining lot;*
- (c) *it is designed and sited so as not to limit or compromise the future development of rural zoned land on an adjoining lot for a use from within the rural activities group;*
- (d) *it is appropriately separated and buffered from uses that are likely to result in adverse impacts on amenity; and*
- (e) *the use:*
 - (i) *is a caretaker's accommodation; or*
 - (ii) *is a dwelling house; or*
 - (iii) *is a dwelling unit; or*
 - (iv) *is a home based business; or*
 - (v) *is rural worker's accommodation;*
 - (vi) *is short-term accommodation (being a farm stay);*
- (4) *the development of other non-rural uses occur within the zone only in the following circumstances:*
 - (a) *the use:*
 - (i) *is compatible with development in the immediate area; or*
 - (ii) *has characteristics which tie it to a specific natural resource; or*
 - (iii) *requires large area of land that is not available in an area zoned for urban activities; and*
 - (b) *it is designed and sited so as not to limit or compromise the continuing operation of an established use from within the rural activities group on an adjoining lot; and*
 - (c) *it is designed and sited so as not to limit or compromise the future development of rural zoned land on an adjoining lot for a use from within the rural activities group; and*
 - (d) *it is designed, sited and operated to mitigate significant adverse impacts on sensitive land use; and*
 - (e) *it is located at a site adjoining an appropriate road in the planning scheme road hierarchy; and*
 - (f) *the use:*
 - (i) *is within the business activities group and is:*
 - (A) *bulk landscape supplies; or*
 - (B) *a garden centre; or*
 - (C) *veterinary services; or*
 - (ii) *is within the recreation activities group and is:*
 - (A) *an environment facility; or*
 - (B) *outdoor sport and recreation; or*
 - (C) *a park; or*
 - (iii) *is within the special activities group and is:*
 - (A) *is emergency services; or*
 - (B) *a landing; or*

- (C) a transport depot containing no more than four (4) vehicles; or
 - (D) other uses within the special activities group if they are an essential component of infrastructure servicing the community; and
- (5) the development is compatible with a form that is characterised by:
 - (a) development on lots which have appropriate areas and dimensions relative to the quality and potential of the land to be developed for uses from within the rural activities group, particularly those involved in primary production;
 - (b) buildings and structures having a height designed relative to the operational needs of the use, characteristics of the location, and the surrounding land use;
 - (c) use of vegetation screening, separation distances and buffering to manage impacts between adjoining land use;
 - (d) protection of a reasonable level of visual amenity when viewed from the street and public places; and
 - (e) development being appropriately integrated with any large tracts and corridors of remnant vegetation and habitat, and any State or local significant vegetation, habitat, wetlands or waterways, so as to protect landscape values and natural environment values; and
- (6) land that is identified as Agricultural Land Class A or Class B:
 - (a) is retained for development that is unlikely to limit or compromise the capacity of the land to be used for primary production;
 - (b) is protected from fragmentation due the creation of inappropriate lot sizes for the location;
 - (c) is protected from inappropriate and incompatible development, unless:
 - (i) there is a proven overriding need in terms of public benefit for the development and no other site is suitable for that particular development; or
 - (ii) the development is small-scale, has low impacts and is focussed on tourism which is directly associated with a rural activity undertaken on the site or involves education, promotion, or sales associated with primary produce sourced from the site or local area; or
 - (iii) the potential undertaking of agriculture on the subject land (alone or in association with surrounding land) is not practicable; and
- (7) development maximises the potential to undertake uses from within the rural activities group by retaining lots in a suitable size and shape ((unless there is a demonstrated need adjacent to an identified township in accordance with Overall Outcome (7)(c) or if located in the Capricorn Coast Rural Precinct)) as specified in the minimum lot sizes and dimensions of the reconfiguration of a lot code and in this code as follows:
 - (a) a minimum area of sixty (60) hectares only where located upon land identified as being entirely within Agricultural Land Class A or Class B; or
 - (b) a minimum area of one-hundred and fifty (150) hectares where located upon land that is not as being entirely within Agricultural Land Class A or Class B;
 - (c) a minimum area of two (2) hectares where located adjacent to the township of Cawarral, Mount Chalmers, or The Caves, and all of the following circumstances exist:
 - (i) the site is not located within the Capricorn Coast Rural Precinct or is not located within land identified as Agricultural Land Class A or Class B; and

- (ii) *the site is not included in, or within five (5) kilometres of land designated as urban, new urban, or future urban as shown on the Strategic Framework maps; and*
 - (iii) *the new lots do not limit or compromise the continuing operation of an established use from within the rural activities group on an adjoining lot; and*
 - (iv) *it can be demonstrated that there is a need for additional supply of lots within a five (5) kilometre radius of the township zone; and*
 - (v) *the site is in proximity to primary school or a bus route; and*
 - (vi) *each new lot created has regular proportions; and*
 - (vii) *lots that adjoin rural zoned land are provided with adequate additional internal areas to provide separation and buffer areas; and*
 - (viii) *new lots do not take direct access from a State main road; and*
 - (ix) *a sufficient minimum number of lots is proposed in the one estate; and*
 - (x) *the land is capable of adequately providing for the on-site treatment and disposal of effluent and wastewater (where reticulated municipal sewerage is unavailable); and*
 - (xi) *the following infrastructure and services are provided:*
 - (A) *a bitumen sealed road of a suitable standard;*
 - (B) *approved municipal water supply; and*
 - (C) *electricity and telecommunications; and*
- (8) *the development does not compromise the use of declared stock routes;*
- (9) *the development is provided with adequate infrastructure and essential services; and*

The proposed development does not include a preferred use as nominated in the purpose or overall outcomes of the Rural zone code. Despite this the development is adequately separated from sensitive land uses (Dwelling houses on rural lots), will not limit existing rural activities on the two (2) balance lots and will not compromise future rural activities establishing on the surrounding land. Further, the proposed development is unique in respect of operational and siting needs and requires a large area of land with access and servicing provision that is not available in an urban, special purpose, or tourism zoned land.

In terms of the Stage 1, the development is the core and primary land use being the tourist attraction in which all other land uses are centred around. The Stage 1 development establishes the Surf Lake and pavilion, commencing the main land use and sub-stages establishing the accommodation and ancillary facilities around the main land use. The development achieves and commences the integrated tourism, entertainment, leisure, accommodation and renewable energy hub with a Surf Lake / surf park tourist attraction at its core.

The code assessment is included as an attachment to the report and includes an assessment of the proposal against the specific benchmarks of the Rural zone code and secondary codes, with consideration given to the Surf Lake Local Plan, which includes an assessment of the development against the relevant performance outcomes of the codes.

PUBLIC NOTIFICATION

The proposal was the subject of public notification between 28 October 2021 to 10 December 2021, as per the requirements of the *Planning Act 2016*, and no submissions were received.

INFRASTRUCTURE CHARGES

Infrastructure charges are levied pursuant to the *Adopted Infrastructure Charges Resolution (No.4) 2019*. The details and breakdown of the charges are outlined below:

Charge area:	The subject site is located outside the priority infrastructure area
Calculation:	<p>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. Further, the charge is also calculated in accordance with section 3.4.2 - Development located partly outside or entirely outside the priority infrastructure area, Table 4 - Adopted charge for development Uses within the Priority Infrastructure Area and Table 6 – Proportional Split of adopted infrastructure charge for trunk infrastructure networks within the priority infrastructure area for Reconfiguring a Lot and development Uses, as follows:</p> <p>Reconfiguring a Lot</p> <ol style="list-style-type: none"> Three lots at \$14,750.00 per lot. less a credit of \$29,500.00. <p>Material Change of Use – Stage One</p> <ol style="list-style-type: none"> Tourist Park or Short term accommodation (fifty two (52) cabins) as follows: <p>Forty four (44), one or two bedroom cabins at \$10,000.00 = \$440,000.00</p> <p>Proportional split applied (81% for water, transport and parks and community facilities) = <u>\$356,400.00</u></p> <p>Eight (8), three bedroom cabins at \$14,000.00 = \$112,000.00</p> <p>Proportional split applied (81%) = <u>\$90,720.00</u></p> <p><u>Total: \$447,120.00</u></p> Tourist Park (100 sites) at \$10,000.00 for every 1 or 2 tent or caravan sites and \$14,000.00 for every 3 tent or caravan sites: <p>Ninety nine (99) sites at \$14,000.00 (33 lots) = \$462,000.00</p> <p>One (1) site at \$10,000.00 (1 lot) = \$10,000.00</p> <p>Total: \$472,000.00</p> <p>Proportional split applied (81%): <u>\$382,320.00</u></p> Renewable energy facility – nil charge Tourist attraction (pavilion building of 726 square metres) at \$70.00 per square metre of gross floor area plus \$10.00 per square metre of impervious area (1,143 square metres). <p>Total: \$47,180.00 gross floor area plus \$11,430.00 = \$58,610.00</p> <p>Proportional split applied (water, transport and parks and community facilities only 77.55% – note: impervious is not included as this is the stormwater charge) - to GFA only: <u>\$39,410.91</u></p> less a credit of \$14,750.00.
Credit:	<p>The above calculation takes into account a credit of \$14,750.00 for the existing allotment pursuant to Part 4.0 of Council's <i>Adopted infrastructure Charges Resolution (No. 4) 2019</i>. The credit is calculated as follows:</p> <p>Reconfiguring a Lot</p> <p>(i) two existing lots at \$14,750.00 per lot.</p> <p>Material Change of Use</p>

	(ii) one existing lot at \$14,750.00 per lot.
Offset:	No offsets are applicable to the development.
Networks Covered:	Apportionment of charges over the following networks Transport Parks & Community Facilities Water

A total charge of **\$854,100.91** is payable and will be reflected in an Infrastructure Charges Notice for the development including a breakdown of the charge applying to each stage of the development.

SUMMARY OF ASSESSMENT

Pursuant to Section 45(5)(b) of the *Planning Act 2016*, the assessment manager may carry out an assessment against, or have regard to, any other relevant matter (other than a person's personal circumstances, financial or otherwise), which may include relevant matters that favour Council exercising its discretion to approve the application even though the development does not comply with some of the assessment benchmarks such as a planning need or the current relevance of the assessment benchmarks in the light of changed circumstances.

Further to the assessment summary and pursuant to section 63 (5) of the *Planning Act 2016*, the reasons for the decision are based on findings of material questions of fact and must be included in the statement of reasons accompanying the decision notice as follows:

- (i) The proposed development has been justified to comply with Specific Outcomes SO3 and SO5 of the Settlement pattern theme for rural places as the land uses require a large parcel of land, not suited to an urban area. Furthermore, the development seeks to utilise the rural nature of the site and surrounding sites as a feature and will not limit or compromise the agricultural capacity of the adjoining land for primary production through existing operations and buffers to boundaries.
- (ii) The proposed development has been justified to comply with Specific Outcomes SO2 and SO5 of the Natural environment and hazards theme for Natural hazards and climate change as the use will be carried out in accordance with the Bushfire Hazard Assessment and conditioned to ensure uses are above flood levels.
- (iii) The proposed development has been justified to comply with the Specific Outcomes of the Natural resources and economic development theme for Tourism as the main land use on the subject site, being the Tourist attraction, is close to unique cultural features, achieves the rural places specific outcomes and will not compromise the agricultural land or productive capacity of surrounding rural land. The development provides accommodation for tourists and visitors and supports the growth of the tourism industry in the Shire.
- (iv) The proposed land uses are not preferred uses in the Rural zone. Despite not being preferred uses, the development is adequately separated from sensitive land uses (Dwelling houses on rural lots), will not limit existing rural activities on the two (2) balance lots and will not compromise future rural activities establishing on the surrounding land. Further, the proposed development is unique in respect of operational and siting needs and requires a large area of land with access and servicing provision that is not available in an urban, special purpose, or tourism zoned land.
- (v) The development either complies with, or has been conditioned to comply with, the relevant Performance Outcomes and Acceptable Outcomes of the Rural zone code, Bushfire hazard overlay code, Reconfiguring a Lot Code, Accommodation activities code, General development code and Development works code.

- (vi) The Surf Lake Local Plan, the subject of the variation request, is a reasonable, relevant and comprehensive assessment document for the appropriate future development of the Surf Lake tourism activities on proposed Lot 1.
- (vii) The development does not compromise the achievement of the State Planning Policy.

On balance, the application should be approved because the development has been justified against the strategic framework and can be conditioned to comply with the assessment benchmarks.

PREVIOUS DECISIONS

It is noted that there has been no recent development applications for similar land uses surrounding the subject site. The following is information on similar applications and decisions.

Council has previously approved development applications for a Preliminary Approval (variation request) and some examples include:

- (i) Preliminary Approval D-122-2013, affecting the Planning Scheme (section 242) for a Material Change of Use and Preliminary Approval affecting the Planning Scheme (section 241) for Operational Work for undertaking Tidal Work in a coastal management district and a Preliminary Approval (section 241) for a Material Change of Use for Environmentally Relevant Activity 63, Sewerage Treatment and Environmentally Relevant Activity 53, Composting and Soil Conditioner Manufacturing, located at Great Keppel Island;
- (ii) Preliminary Approval D-245-2007, that includes a variation request for a Material Change of Use for a Master Planned development located at 318 Tanby Road, Taroomball; and
- (iii) Preliminary Approval D-35-2016 for a Material Change of Use to vary the effect of the Planning Scheme for Park Residential Zone and Business Zone uses.

Council has previously approved a development application for a Tourist park (previously called a Caravan park) as follows:

- (i) Development Permit D-227-2015 for a Caravan park (extension to existing Caravan park).

It is also noted that Council has previously approved a development applications for Reconfiguring a Lot in the Rural zone below the minimum lot size, for various reasons of site suitability and surrounding development.

It should be noted that each decision is made on its merits at the time of assessment and with the best planning information available. There are instances whereby grounds of justification to support the proposal must be established, subject to reasonable and relevant conditions.

ACCESS AND INCLUSION

There are no identified access or inclusion issues associated with this development application.

ENGAGEMENT AND CONSULTATION

The application was publicly notified between 28 October 2021 to 10 December 2021, being thirty (30) business days, and no submissions were received in accordance with the *Planning Act 2016*.

HUMAN RIGHTS IMPLICATIONS

There are no identified human rights implications associated with this development application.

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 favorably or unfavorably is the risk of appeal from the developer (should Council refuse the development application). These potential legal implications also bring unknown budget implications.

STAFFING IMPLICATIONS

No staffing implications have been identified in the assessment.

RISK ASSESSMENT

The risks associated with this assessment have been appropriately addressed in the body of this report. Specifically, the risk of appeal to any decision made by Council and any financial/budget implications such action may have.

CORPORATE PLAN REFERENCE***Future Livingstone***

Community Plan Goal 5.1 - Balanced environmental and development outcomes

5.1.2 Balance development within Livingstone Shire in accordance with the community's desired environmental and economic outcomes.

The decision will be made in accordance with the *Livingstone Planning Scheme 2018* and relevant legislation, to ensure that development is consistent with current best practice and community expectations.

CONCLUSION

The proposed development seeks to vary the planning scheme to be in accordance with the Surf Lake Local Plan, commence stage one of the development consisting of a Tourist attraction, Tourist park, Short term accommodation and Renewable energy facility, and reconfiguring a lot. The proposal for Stage one, whilst not for preferred uses ordinarily located in the Rural zone, has been justified against the relevant codes and can be supported as it will provide a new, major tourist attraction for the region, achieving the Strategic framework for Tourism (outcome 3.8.6). It has been suitably located, directly adjoining a State controlled road, which will provide efficient access from urban areas and tourist routes. Appropriate infrastructure will be provided to service the development, with the site being connected to the reticulated water supply.

In addition, the development has measures in place to mitigate and reduce impacts to surrounding rural land and sensitive land uses, through noise management and landscape buffers around the boundaries.

The Local Plan is a reasonable, relevant and comprehensive assessment document for the appropriate future development of the Surf Lake tourism activities on proposed Lot 1.

In summary, despite the development not being for preferred uses within the zone, the activities will not undermine the viability, role or function of the Rural zone and there are reasonable circumstances to support the location for development. The performance assessment of the proposal demonstrates that the development will not compromise the Strategic Framework and can comply with all relevant overall outcomes subject to relevant and reasonable conditions and infrastructure charges as detailed in the recommendation.

11.4 ENVIRONMENTAL SUSTAINABILITY IN LIVINGSTONE: THE YEAR IN REVIEW 2021

File No:	11.12.3
Attachments:	1. Environmental Sustainability in Livingstone: The Year in Review 2021 ⇒
Responsible Officer:	David Mazzaferri - Manager Community Wellbeing Brett Bacon - Executive Director Liveability & Wellbeing
Author:	Matthew Baldock - Principal Sustainability Officer

SUMMARY

The *Environmental Sustainability in Livingstone: The Year in Review 2021* report has been compiled to showcase all of the projects, plans, initiatives, and other activities under Environmental Sustainability which have been delivered in 2021, as identified in relevant corporate governance documents. The report also provides a list of proposed activities in the year ahead and highlights a number of projects, plans, initiatives, and other activities which will need to be resourced to be delivered in future years. The past year has by in large been a successful year with a number of key outcomes achieved, despite challenges with resources, funding and Covid 19.

OFFICER'S RECOMMENDATION

That Council: Receive the *Environmental Sustainability in Livingstone: The Year in Review 2021* report.

BACKGROUND

Environmental Sustainability is defined as: '*Ensuring actions meet current needs without compromising the prospects of future generations and that these actions result in the integration of environmental, economic, social, cultural and governance factors.*' (Livingstone Shire Council Environmental Sustainability Policy).

The term environmental sustainability encompasses a number of different themes, as encapsulated in Council's *Environmental Sustainability Policy*, ranging from waste, water, climate change, biodiversity, pest management, traditional custodians, disaster resilience, and the Great Barrier Reef. While the majority of the responsibility sits within the Natural Resource Management Unit, operationally, environmental sustainability goes across other business units and teams.

This report details all activities undertaken in environmental sustainability over the past year, as required through relevant corporate governance documents.

COMMENTARY

The 'year in review' report highlights and showcases what has been achieved in environmental sustainability in 2021. The report firstly identifies the corporate governance at a strategic and operational level, which guides and drives the delivery of environmental sustainability. The governance hierarchy starts with Council's Community Plan and Corporate Plan which identify community priorities and a commitment to progressing the community vision respectively. The *Environmental Sustainability Policy* provides the overarching framework for a series of strategies and plans and their respective actions. All of the projects, plans, initiatives, and other activities which fall out of the governance framework are then featured, including where available data and graphics showing outcomes. Actions range from projects (Great Keppel Island Decarbonisation project), strategies or plans (Biodiversity Strategy), initiatives (Reusable Nappy Rebates), education/behavioural change (Sustainable Living workshops), and operational activities (environmental rehabilitation). The final part of the report identifies what lies ahead for environmental sustainability in 2022, including projects which may need to be considered in upcoming budget deliberations.

Despite challenges with resources, funding, and Covid 19, the year 2021 has been a successful one for environmental sustainability in Livingstone with the following key outcomes achieved:

- (1) the Cycad translocation projects, generating revenue for Council;
- (2) the adoption of the Our Living Coast and Waste Strategies, and the development of the draft Biodiversity Strategy, providing clear direction on these topics;
- (3) creating resilience and sustainability through the Great Keppel Island Decarbonisation project;
- (4) advancing sustainable behaviour in the community through the Sustainable Livingstone programme;
- (5) continuing the transition to a cleaner low carbon economy through events such as the Queensland Local Government Carbon Forum;
- (6) continued protection of key native fauna such as marine turtles, flying foxes, native birds, and more; and
- (7) continued control of pest plants and animals throughout the shire.

Advancing Environmental Sustainability in Livingstone has been heavily reliant on effective partnerships and collaboration between both internal and external stakeholders. Forming stronger relationships with traditional custodians and furthering understanding of their culture and practices has been a key part of this.

PREVIOUS DECISIONS

No previous decisions have been made with respect to this matter.

ACCESS AND INCLUSION

The *Environmental Sustainability in Livingstone: The Year in Review 2021* report is consistent with the commitment to equitable outcomes to all the community.

ENGAGEMENT AND CONSULTATION

Engagement and consultation with relevant internal stakeholders has taken place to assist in informing the content of the report.

HUMAN RIGHTS IMPLICATIONS

There are no human rights implications in regards to this report under the *Human Rights Act 2019*.

BUDGET IMPLICATIONS

The report has identified projects and initiatives that may require future budgets.

LEGISLATIVE CONTEXT

There is no specific legislation associated with the consideration of this matter.

LEGAL IMPLICATIONS

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

STAFFING IMPLICATIONS

The report has identified that future staffing resources will be required to deliver on some environmental sustainability projects and initiatives.

RISK ASSESSMENT

Council will consider the risks associated with future project commitments identified in the Year in Review report.

CORPORATE PLAN REFERENCE***Future Livingstone***

Community Plan Goal 5.3 - Community capacity and resilience in respect of future risk

5.3.3 Plan the response to changes in social, economic, and climate conditions.

A major part of environmental sustainability is building capacity and resilience within the community to enable adaptation to the changing world, which includes:

- (1) understanding the state of our current environment;
- (2) identifying the pressures on the environment such as climate change, natural hazards, development, poor land management practices, and pest incursions; and
- (3) responding effectively to these pressures.

CONCLUSION

The *Environmental Sustainability in Livingstone: The Year in Review 2021* report showcases all activities undertaken in environmental sustainability over the past year. Despite a number of challenges, successful outcomes have been achieved.

11.5 BANGALEE BEACH ACCESS REFERENCE GROUP

File No:	CR2.13.40
Attachments:	1. Terms of Reference ⇒
Responsible Officer:	Michael Kriedemann - Acting Chief Executive Officer
Author:	Tony Lau - Acting Executive Director Infrastructure
Previous Items:	8.7 - Bangalee Beach Access Reference Group - Briefing Session - 07 Dec 2021 9.00am

SUMMARY

Officers presented the draft Terms of Reference for the Bangalee Beach Access Reference Group at the December 2021 briefing session. Officers have since received comments and feedback from Council and now seek resolution to adopt the Terms of Reference and form the Reference Group.

OFFICER'S RECOMMENDATION

THAT Council resolves to endorse the draft Terms of Reference and supports the composition of the Bangalee Beach Access Reference Group.

BACKGROUND

Investigations into the Bangalee Beach access (Hinz Avenue) and traffic management issues are ongoing with continued planning, design and community engagement.

Following the briefing session on 6 October 2021, officers were directed to prepare a draft Terms of Reference (ToR), for a reference group to provide guidance and oversight to progress the Bangalee Beach access project. Officers were instructed to include a list of reference group members with the draft ToR, and present back to Council during the December 2021 briefing session.

A reference group is the appropriate forum to involve community members in the decision making process to deliver the project. A steering committee, which traditionally has power to make decisions and provide approvals, was deemed not appropriate as the project is likely to require actions that necessitate Council resolutions to proceed. The Bangalee Beach Access Reference Group (BBARG) will be responsible for, but not limited to:

1. Distributing information and keeping stakeholders informed.
2. Collating responses and feedback from stakeholders to Council.
3. Representing the Bangalee residents and stakeholders at meetings with Council officers.
4. Making recommendations to Council on matters that require approval.
5. Make decisions and provide approval on matters within the scope of the Terms of Reference.

COMMENTARY

The draft Terms of Reference (ToR) was presented to Council at the December 2021 briefing session and officers were provided with feedback, which has now been considered and incorporated into the proposed final version (attachment 1).

The proposed ToR outlines the roles and responsibilities of members, along with the membership makeup and it is prudent to restrict the number of members to 13 persons, consisting of three (3) Councillors, three (3) officers, three (3) local residents, three (3) wider community representatives and a Queensland Government MP.

The proposed membership of the Bangalee Beach Access Reference Group consists of:

- Councillor Belot

- Councillor Eastwood
- Councillor Friend
- Member for Keppel (Brittany Lauga MP)
- Manager Engineering Services
- Coordinator Infrastructure Planning
- Coordinator Engagement and Events (Chair)
- Bangalee residents:
 - Helen Schweikert
 - Gary Hourn
 - Ian Doherty
- Wider community representatives:
 - Business owner / sporting club / environmental group (Surfrider Foundation Capricorn Coast)
 - Business owner/sporting club/environmental group (Fitzroy Basin Association – tentatively Rebecca French)
 - Emergency Services (Queensland Police Service – tentatively Erin Shawcross)

Council's Engagement and Events Team have been liaising with the Bangalee residents and the above three residents have been nominated to be their representatives.

Officers contacted the nominated group members and all have indicated that they are happy to be involved. These members will be responsible for distributing and gathering information from other stakeholders, including but not limited to:

- Councillors
- Officers
- Bangalee residents
- Wider community residents
- Businesses and sporting groups such as Sea Q Boardriders and 4x4 groups
- Environmental groups
- Tourism groups
- Other QLD Government Departments

PREVIOUS DECISIONS

There are no previous decisions pertaining to the formation of a reference group, or the Terms of Reference.

ACCESS AND INCLUSION

The reference group provides a forum for the community and stakeholders to participate in the decision making process, as this project progresses. Although the project does not intend to provide accessible access to the beach (via beach matting, etc.) it does intend to provide improved vehicular beach access along with all-weather car parking and associated facilities. Improved vehicular beach access will better enable visitors with mobility aids to traverse the soft sands and access the beach.

ENGAGEMENT AND CONSULTATION

The primary purpose of establishing a Bangalee Beach Access Reference Group is to engage and consult with the community and stakeholders as this project progresses. The Chair of the BBARG will be the Coordinator Engagement and Events. The Engagement and Events team will be responsible for preparing engagement plans and facilitating BBARG meetings. The ToR also outlines the roles and responsibilities of all members.

HUMAN RIGHTS IMPLICATIONS

Public access to public beaches is a right of all Australian citizens, although vehicle access may be restricted by the local authority, Council in this instance, as there is a road reserve over a portion of Farnborough Beach.

BUDGET IMPLICATIONS

Future land acquisition and construction works will be subject to the preparation of business cases. Previous reports and community engagements have provided stakeholders with indicative cost estimates for various alternative alignments and locations for a new beach access. It is not anticipated that Council will incur any additional costs associated with the formation of the reference group. Costs associated with meetings and engagement activities will be covered under existing operational budgets.

LEGISLATIVE CONTEXT

There are no legislative requirements associated with the formation of reference groups.

LEGAL IMPLICATIONS

By signing the Terms of Reference each member agrees to act in accordance with it. Although there are no legal implications associated with any breach of the ToR, the offending member may be removed from the reference group.

STAFFING IMPLICATIONS

Reference group activities, including participation and administration, will be carried out by existing staff. It is anticipated that staff will have the capacity to manage the reference group activities.

RISK ASSESSMENT

The formation of the reference group aims to mitigate risks associated with the delivery of project outcomes that may or may not align with community expectations. By including the community in the decision making process, the risk of not meeting community expectations can be mitigated.

CORPORATE PLAN REFERENCE***Leading Livingstone***

Community Plan Goal 4.3 - Engagement with the community as advisors and partners

4.3.3 Take actions to enable the use of meaningful tools to engage the community on diverse issues so that the community is well informed and can contribute to decision making.

The formation of the Bangalee Beach Access Reference Group supports the Community Plan by providing a forum for residents and other stakeholders to be involved with the decision making process as the project progresses.

CONCLUSION

The formation of the reference group is a decision by Council to ensure appropriate levels of community and stakeholder involvement as the Bangalee Beach access project progresses. Officers believe that the diverse cross section of community members, chosen to participate as members of the reference group, will provide a comprehensive and constructive forum for the community to be involved in the decision making process, and ensure the project

outcomes meet community expectations. The proposed Terms of Reference clearly outlines the roles and responsibilities of all reference group members, and identifies who those members will be. Officers are seeking endorsement for the proposed ToR to be adopted, and the reference group to be implemented.

11.6 EMU PARK WEST RESERVOIR PROJECT - BUDGET INCREASE

File No: WS32.03.04
Attachments: Nil
Responsible Officer: Tony Lau - Acting Executive Director Infrastructure
Author: Nige Deacon - Manager Water and Waste Operations

SUMMARY

The purpose of this report is to seek Council's endorsement to increase the budget allocation for Emu Park West Reservoir project in order to award a contract to the preferred tenderer and deliver the project.

OFFICER'S RECOMMENDATION

THAT Council resolves to:

1. Increase the total budget allocations within the 2021/2022 & 2022/2023 financial years for the Emu Park West Reservoir project from \$2.5M to \$3.102M;
2. Carryover an estimated \$2.15 M from current approved 2021/22 budget into 2022/23 based on revised total projected expenditure of \$0.35 M in 2021/22 and
3. Note that the increased remaining allocation of \$2.752M will reduce the available capital budget for other projects yet to be prioritised in the 2022/2023 budget process by a total of \$0.602 M.

BACKGROUND

The Emu Park West Reservoir project involves the design and construction of a 4 megalitre (ML) reinforced concrete water reservoir to tie into the existing potable water main servicing the Emu Park West area.

This project has been identified several years ago in order to increase system storage to provide additional capacity and reliability within the Emu Park water supply network to accommodate future population growth. With the current limited storage in the Emu Park water supply network the entire Emu Park, Zilzie and Keppel Sands communities are vulnerable to losing supply during periods of high demand. This limited storage also exposes these communities to lack of fire-fighting capacity during the summer months when fire danger is at its peak.

Council included the Emu Park West Reservoir project in the Forward Works Program with a preliminary budget estimate of \$2,200,000 fully funded by Council. The project was submitted for an application for funding in the 2019 Queensland Bushfires Local Economic Recovery Program (LERP), with a total budget \$2,500,000 in the application. The project was successful in receiving \$2,000,000 of external LERP funding with the remaining \$500,000 to be funded by Council. This successful funding application meant that Council saved \$1,700,000 from the original Forward Works Program budget allocation of \$2,200,000. Following the successful funding application the project was included in the capital works program for 2021/2022 for \$2,500,000.

The project was tendered as a Design and Construct (D&C) contract. The tender closed on 30 November 2021 and two conforming tenders were received, both of which were over the allocated budget for the projects. Details of the tender prices are below.

Note: Project is still in tender evaluation stage therefore tenderer's details shall remain confidential until contract has been awarded.

	Project Budget	2021/22 Budget	Tender 1	Tender 2
Emu Park West Reservoir Project	\$2,500,000	\$2,500,000	\$2,860,000	\$4,062,709

COMMENTARY

Tenders received for the project exceed the 2021/2022 and 2022/23 budget allocations. Budgets for the project within the capital works program reflect the funding agreement for the project, in which funding was granted based on preliminary cost estimates developed in the absence of detailed design and local contractor rates. The tenders received for the project demonstrate that the market value to undertake the works is greater than what was originally forecast when initially applying for the funding. Reservoir construction is also a specialized type of work which is not undertaken by any local contractors, demonstrated by the tender responses, meaning it is difficult to gauge rates.

The Tender Evaluation Panel assessed tenderer 1 as the preferred tenderer and requested a number of clarifications. All clarification requests have been addressed satisfactorily and the tendered price has remained unchanged. The tender evaluation report has been completed and officers are awaiting the outcome of this report to finalise the tender award process.

Additional budget is required to proceed to award the contract to the preferred tenderer. The tendered D&C price from the preferred tenderer exceeds the current 2021/2022 budget by ~\$360,000. To complete the project, there will also be further project management and contract administration costs, as well as the need for a contingency. An estimate of cost to complete the project (based on the preferred tenderer's offer) is detailed below. The estimated budget shortfall for the project is also included in the table.

	Amount
Project Management	\$26,400
Tender Price	\$2,860,000
Survey / Design	\$110,000
Construction	\$2,750,000
Contingency	\$150,000
Contract Administration	\$65,200
TOTAL	\$3,101,600
2021/22 Budget	\$2,500,000
Budget Shortfall	\$601,600
Required budget	\$602,000

PREVIOUS DECISIONS

There have been no previous decisions in relation to this matter.

ACCESS AND INCLUSION

There are no issues.

ENGAGEMENT AND CONSULTATION

There are no issues.

HUMAN RIGHTS IMPLICATIONS

There are no issues.

BUDGET IMPLICATIONS

The budget process approved expenditure up to \$2.5M. This report seeks to increase the total project budget allocation from \$2.5M to \$3.102M.

LEGISLATIVE CONTEXT

Under the Drinking Water Safety & Reliability Act 2008 Council is required to maintain pressurised water supplies which is difficult during times of peak demand / mains burst to the Emu Park supply zone which this additional water storage will help to mitigate.

LEGAL IMPLICATIONS

Under the Drinking Water Safety & Reliability Act 2008 Council is required to report any significant system failures including pressure loss when the drinking water reticulation may be exposed to backflow from unsafe customer supplies.

STAFFING IMPLICATIONS

The additional reservoir will impose additional routine maintenance and monitoring needs which can be met from current resources.

RISK ASSESSMENT

There has been a deficiency in system water storage for an extended period which should have led to constraints on new development and will finally be addressed with construction of this new reservoir.

CORPORATE PLAN REFERENCE***Future Livingstone***

Community Plan Goal 5.3 - Community capacity and resilience in respect of future risk

5.3.3 Plan the response to changes in social, economic, and climate conditions.

CONCLUSION

Based on tenders received and evaluated, there is currently insufficient funds in the 2021/2022 and 2022/23 budget for the Emu Park West Reservoir design and construct project. An additional amount of approximately \$602,000 is required to complete the project based on the budget outlined above. Approval for this additional funding is required prior to awarding a contract and issuing a purchase order.

11.7 RESPONSE TO QUESTIONS ON NOTICE - DRAINAGE ISSUE 4-6 RICHARD STREET, EMU PARK**File No:** CR2.13.38**Attachments:**

1. QoN - 21 December 2021 [⇒](#)
2. Contour map - 4-6 Richard Street, Emu Park [⇒](#)
3. 4-6 Richard Street - Google street view image [⇒](#)

Responsible Officer: Tony Lau - Acting Executive Director Infrastructure**Author:** Kat Groves - Executive Assistant to Director Infrastructure Services**Previous Items:** 12.3 - Questions on Notice - Councillor Mather - Drainage Issue 4-6 richard Street, Emu Park - Ordinary Council - 21 Dec 2021 9.00am

SUMMARY

This report provides a response to Questions on Notice tabled by Councillor Mather at the Ordinary Council meeting on 21 December 2021.

OFFICER'S RECOMMENDATION

THAT Council resolves to receive the report providing a response to Councillor Mather's Questions on Notice regarding drainage issues at 4-6 Richard Street, Emu Park.

BACKGROUND

Councillor Mather tabled six (6) Questions on Notice at the Ordinary meeting on 21 December 2021 pertaining to drainage issues at 4-6 Richard Street, Emu Park. Accordingly, Council resolved that the questions be received and a report providing responses be presented at a future Council meeting.

COMMENTARY

The lot in question was created many years ago when there were no standards requiring allotments to drain towards the road. In the case of 4-6 Richard Street, the original topography of the surrounding area sloped towards the subject property (see contour plan attached).

The units at the subject property are high set with "non-habitable" garages under each. The tops of the concrete slabs for these garages sit at existing ground level (refer to attachment 3 of Google "street view").

The following responses are provided to Councillor Mather's Questions on Notice:

1. *What action, if any, has been undertaken to address this problem?*

Council records indicate that since December 2016 there have been several customer requests received in relation to the drainage issues. Following the initial request in December 2014, a swale drain was constructed in 2015 and subsequently reshaped in 2016.

An upgrade to the inlets in Richard Street is planned for this financial year. This upgrade will include a 600mm diameter pipe and reshaping of the swale drain downstream of the inlet outside the subject property to provide extra capacity in the road reserve and allow excess water to drain to the field inlet on the corner of the intersection of Keppel Street.

2. *Have there been any reports setting out the specific issues, and what's needed to correct them?*

No planning reports have been undertaken in relation to this localised drainage issue.

3. *Have there been any costings done?*

A historic project from pre-2014 sits in the Forward Works Program (FWP) to upgrade drainage in Richard Street (between Higson and Keppel Streets) in the 2025/26 financial year. It has a nominated concept estimate of \$250,000.

In September 2020, a business case was formulated to retrofit kerb and channelling (K&C) to numerous urban streets throughout the shire. This business case included installation of K&C in Richard Street in 2025/26 for an estimated concept cost of \$225,000. These projects were subsequently entered into the FWP in March 2021.

\$31,000 was allocated in the 2020/21 capital works budget to upgrade inlets in Richard Street adjacent to the affected property. Due to high workloads in that year, the project has been carried over to 2021/22 and is expected to be completed by 30 June 2022.

4. *Has the matter ever been submitted to the table?*

This matter has not previously been tabled for discussion at a Council meeting.

5. *Has the matter ever been placed on a budget list?*

Refer to question 3 above.

6. *Is the current problem the result of work previously carried out by Council, which is now causing the drainage problem?*

The drainage issues are not the result of work previously carried out by Council. As mentioned above, older urban subdivisions did not require allotments to drain towards roads, resulting in some lots being located in localised low spots. In this particular case infrequent stormflows into the allotment only affect the lower "non habitable" areas of the buildings which was considered an appropriate level of service at the time of their construction.

PREVIOUS DECISIONS

There have been no previous decisions in relation to this matter.

ACCESS AND INCLUSION

There are no foreseen access and inclusion implications associated with providing responses to these questions on notice.

ENGAGEMENT AND CONSULTATION

Officers have not undertaken any engagement or consultation (internally or externally) in relation to responding to these questions on notice.

HUMAN RIGHTS IMPLICATIONS

There are no human rights implications associated with responding to these questions on notice.

BUDGET IMPLICATIONS

There are no budget implications associated with responding to these questions on notice.

LEGISLATIVE CONTEXT

There is no legislation pertinent to the consideration of this matter.

LEGAL IMPLICATIONS

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

STAFFING IMPLICATIONS

There are no staffing implications for Council associated with the provision of the above responses to these questions on notice.

RISK ASSESSMENT

There are no risks associated with the provision of the above responses to the questions on notice.

CORPORATE PLAN REFERENCE***Leading Livingstone***

Community Plan Goal 4.3 - Engagement with the community as advisors and partners

4.3.2 Commit to open and accountable governance to ensure community confidence and trust in Council and its democratic values.

CONCLUSION

This report provides a response to Questions on Notice tabled by Councillor Mather.

12 QUESTIONS/STATEMENT/MOTIONS ON NOTICE FROM COUNCILLORS**12.1 QUESTIONS ON NOTICE - COUNCILLOR NIGEL HUTTON - TARANGANBA ROAD****File No:** GV13.4.4**Attachments:** 1. Questions on Notice - Councillor Nigel Hutton - Taranganba Road [⇒](#)**Responsible Officer:** Amanda Ivers - Coordinator Executive Support

SUMMARY

Councillor Nigel Hutton submitted a request to include the attached Questions on Notice at the Council Meeting 18 January 2022.

COUNCILLOR RECOMMENDATION

THAT the 'Questions on Notice' be received and a report providing a response to the Councillor's questions be presented to a future Council meeting.

BACKGROUND

The background for the questions on notice are detailed in Attachment One. In the interests of brevity, they have not been repeated within this report.

12.2 QUESTIONS ON NOTICE - COUNCILLOR NIGEL HUTTON - TREES**File No:** GV13.4.4**Attachments:** 1. Questions on Notice - Councillor Nigel Hutton - Trees [⇒](#)**Responsible Officer:** Amanda Ivers - Coordinator Executive Support

SUMMARY

Councillor Nigel Hutton submitted a request to include the attached Questions on Notice at the Council Meeting 18 January 2022.

COUNCILLOR RECOMMENDATION

THAT the 'Questions on Notice' be received and a report providing a response to the Councillor's questions be presented to a future Council meeting.

BACKGROUND

The background for the questions on notice are detailed in Attachment One. In the interests of brevity, they have not been repeated within this report.

12.3 NOTICE OF MOTION - COUNCILLOR NIGEL HUTTON - BOTANIC TRAIL**File No:** GV134.4**Attachments:** 1. Notice of Motion - Councillor Nigel Hutton - Botanic Trail [⇒](#)**Responsible Officer:** Amanda Ivers - Coordinator Executive Support

SUMMARY*Councillor Nigel Hutton has submitted a 'Notice of Motion' in relation to Botanic Trail.***COUNCILLOR RECOMMENDATION**

THAT Council seek funding opportunities to create the Livingstone Botanic Trail from 'the Bush to the Bay'

BACKGROUND

Details of the Notice of Motion are contained within Attachment One and in the interests of brevity will not be repeated in this report.

12.4 NOTICE OF MOTION - COUNCILLOR NIGEL HUTTON - ELECTRIC VEHICLES**File No:** GV134.4**Attachments:** 1. Notice of Motion - Councillor Nigel Hutton - Electric Vehicles [⇒](#)**Responsible Officer:** Amanda Ivers - Coordinator Executive Support

SUMMARY

Councillor Nigel Hutton has submitted a 'Notice of Motion' in relation to Electric Vehicles.

COUNCILLOR RECOMMENDATION

THAT Council investigate opportunities to amend the Livingstone Shire Planning Scheme to facilitating the uptake of electric vehicles through the inclusion/incentivisation of 'charging infrastructure' in private developments

BACKGROUND

Details of the Notice of Motion are contained within Attachment One and in the interests of brevity will not be repeated in this report.

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 CLOSURE OF MEETING