



Notice of Meeting

Notice is hereby given that the **Ordinary Meeting** of the **Whitsunday Regional Council** will be held at the **Bowen Council Chambers, 67 Herbert Street, Bowen** on **25 February 2015** commencing at **9:00 a.m.** and the Agenda is attached.

Councillors: Jennifer Whitney, John Atkinson, David Clark, Jan Clifford, John Collins, Peter Ramage, and Andrew Willcox

Local Government Act 2009

55.(1) Written notice of each meeting or adjourned meeting of a local government must be given to each councillor at least 2 days before the day of the meeting unless it is impracticable to give the notice.

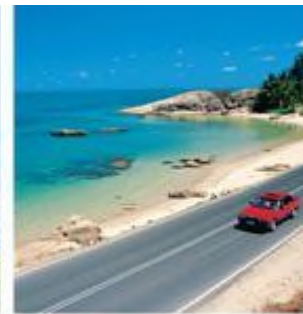
(2) The written notice must state:

- (a) the day and time of the meeting; and
- (b) for a special meeting – the object of the meeting

(3) A **special meeting** is a meeting at which the only business that may be conducted is the business stated in the notice of meeting.

S J WATERS
CHIEF EXECUTIVE OFFICER





**Agenda of the Ordinary Meeting to be held at
Bowen Council Chambers, 67 Herbert Street, Bowen
on 25 February 2015 commencing at 9:00am**

**Council acknowledges and shows respect to the Traditional Custodian/owners
whose country we hold this meeting.**

9:00 am

- Formal Meeting Commences

10:00 am - 10:30 am

- Collinsville Pit Pony Experience Project Update

10:35 am – 11.00am

- Staff Presentation and Morning Tea

1:00 pm

- Lunch

Whitsunday Regional Council
 Agenda of the Ordinary Meeting to be held at
Bowen Council Chambers, 67 Herbert Street, Bowen
 on 25 February 2015 commencing at 9:00am

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1. Apologies

No Agenda items for this section

2. Condolences
- 2.1 CONDOLENCES

RECOMMENDATION

That Council observe one (1) minutes silence for the recently deceased.

3.1 **Mayoral Minute**

No Agenda items for this section

3.2 Mayoral Update

No Agenda items for this section

4. Confirmation of Minutes
4.1 CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the Ordinary Meeting held on 11 February, 2015 be confirmed.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the CEO Department.

BACKGROUND

Minutes were kept from the previous Ordinary Meeting of Council held on 11 February 2015. These minutes once drafted were submitted to the Chief Executive Officer for review before the unconfirmed version of the minutes were attached onto the internet for public viewing.

These minutes are therefore submitted for adoption of their accuracy by the Councillors at this meeting of Council.

REPORT

The Minutes of the Council's Ordinary Meeting held on 11 February 2015 are attached to this agenda report for review by Councillors.

STATUTORY MATTERS

Local Government Regulation 2012 section 272

CORPORATE PLAN REFERENCE

N/A

OPERATIONAL PLAN REFERENCE

N/A

BUDGET REFERENCE

N/A

CONSULTATION

Scott Waters - Chief Executive Officer

ATTACHMENTS

1. Copy of the minutes from Ordinary Meeting held on 11 February 2015 (separate attachment)

5. Delegations

No agenda items for this section.

6. Petitions

No agenda items for this section.

7. Notice of Motion
7.1 NOTICE OF REPEAL - PROSERPINE CARAVAN PARK

RECOMMENDATION

That minute number 2014/10/08.61 from the Council Meeting of 8th October, 2014 as follows:

14.1 Confidential Matters - Office of the CEO
14.1.3 2014/10/08.61 Proserpine Caravan Park

Moved by: J CLIFFORD
Seconded by: J WHITNEY

That Council sell the Proserpine Caravan Park at or above the Reserve price set by the valuer and market the property through the Building a Better Whitsunday web site as well as seeking interest from real estate agents that specialise in selling caravan park businesses, subject to:

- Advising the current “lessee” of Council’s intention to sell the caravan park and re-lease the swimming pool and inviting them to make an offer on the caravan park;
- making arrangements with the current lessee for the continuation of services to the pool and park; and
- making arrangements for a smooth transition to a potential new owner for the caravan park.

Furthermore, that the negotiations and the decision comes back to Council and that any offer should include a concept plan for future development and growth of the facility.

MEETING DETAILS:

The motion was Carried 4/3

CARRIED

be repealed.

Furthermore, that the Caravan Park be retained and to carry on under current lease agreement.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

Cr Collins advised of his intention to move a motion to rescind the motion on 19th February, 2015 to the CEO on the following grounds;

Due to quite a few residents of the Proserpine region having objected personally to me as their representative, I am of the belief that the Park should be retained and continue under its present lease arrangement.

REPORT

Item 12, Rescinding and Altering Resolutions, in Council Policy - Standing Orders - Meetings, last reviewed 21 September 2011, has been referred to and is deemed to be consistent with Section 262 of the Local Government Regulations.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

N/A

OPERATIONAL PLAN REFERENCE

N/A

BUDGET REFERENCE

N/A

CONSULTATION

Scott Waters – Chief Executive Officer

ATTACHMENTS

N/A

8. Questions on Notice

No agenda items for this section.

9. Questions from Public Gallery

PUBLIC QUESTION TIME

At this time in the meeting the opportunity is provided to members of the gallery to ask questions of the Council or to make statements about the Council and its operations. Under Council's Standing Orders the following applies in relation to this public question time:

1. In every Council Meeting time shall be set aside to permit members of the public to address the Council on matters of public interest related to local government. Questions from the Public Gallery will be taken on notice and may or may not be responded to at the Meeting and must be submitted in writing to Council prior to the Council Meeting in accordance with Council's Policy for Standing Orders – Meetings. The time allocated shall not exceed fifteen (15) minutes and no more than three (3) speakers shall be permitted to speak at any one (1) meeting. The right of any individual to address the Council during this period shall be at absolute discretion of the Council.
2. If any address or comment is irrelevant, offensive, or unduly long, the Chairperson may require the person to cease making the submission or comment.
3. Any person addressing the Council shall stand, state their name and address, act and speak with decorum and frame any remarks in respectful and courteous language

10. Office of the Mayor & CEO
10.1 DECEMBER BUDGET REVIEW

RECOMMENDATION

That Council adopt the December Budget Review 2014-15 (Amended Budget).

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February, 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

Council are required during the year to review the adopted Budget and to make adjustments for Capital works or Operations and Maintenance under or over spends or where new revenue or revenue in excess of what was originally planned has been processed through Council's financial records but has not been budgeted.

On the 26 November 2014 the following resolution was adopted:

That the September Budget Review 2014-15 (Amended Budget) be adopted.

REPORT

The Budget review as presented in detail reflects changes that have been made to the recurrent and capital revenue and recurrent and capital expenditure.

In summary some of the key changes from the amended Budget in September to the December review are as follows:

- Refer to the Statement of Comprehensive Income for changes to the operating Budget. The significant changes are an increase in Interest Income and a major decrease in the Salaries and Wages,
- The Capital funding Statement shows that the December Budget review has amended some projects either to reduce the cost and scope or to increase it. The major change is for Argyle Park to be half Budgeted for this financial year and half next financial year.

Overall this Budget review has adjusted the Budget for and increased operating result. The unspent portion of this operating result (Budget only at this stage) is to be transferred to Reserve to replace those Reserves that have previously been identified as not cash backed. The Accumulated Surplus is Budgeted to be \$967k with a transfer to Reserves of \$3.98million.

STATUTORY MATTERS

Local Government Regulation 2012 Section 170(3)

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our organisation is innovative, efficient and financially sustainable.

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

- 1. Ensure Council's financial position is effectively managed and sustainable.***

BUDGET REFERENCE

All the 2014/15 Original Budget

CONSULTATION

Matthew Mc Goldrick, Chief Financial Officer

Julie Moller Senior Management Accountant

Scott Waters, Chief Executive Officer

Graham Jarvis, Director Corporate Services

Dan Staley, Director Planning and Environment

Hennie Van Der Schyff, Executive Manager Roads and Drainage

Andrew McGregor, Executive Manager Water and Waste

Mayor and Councillors

Relevant Council staff as required

ATTACHMENTS

Appendix Item 1 - December Amended Budget Review Amended Financial Statements 2014/15

Appendix Item 2 - Comparison between September Amended Budget and December Amended Budget.

Appendix Item 3 - Capital Funding spreadsheet showing changes between Budget Rounds

10. Office of the Mayor & CEO
10.2 MONTHLY FINANCE REPORT - JANUARY 2015

RECOMMENDATION

That the financial report for January 2015 be received and adopted.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

This report seeks to inform Council on the performance and position of Council for the year to date to 31 January 2015. The report includes ratios, breakdowns of significant amounts on the Statement of Comprehensive Income and the Balance Sheet.

REPORT

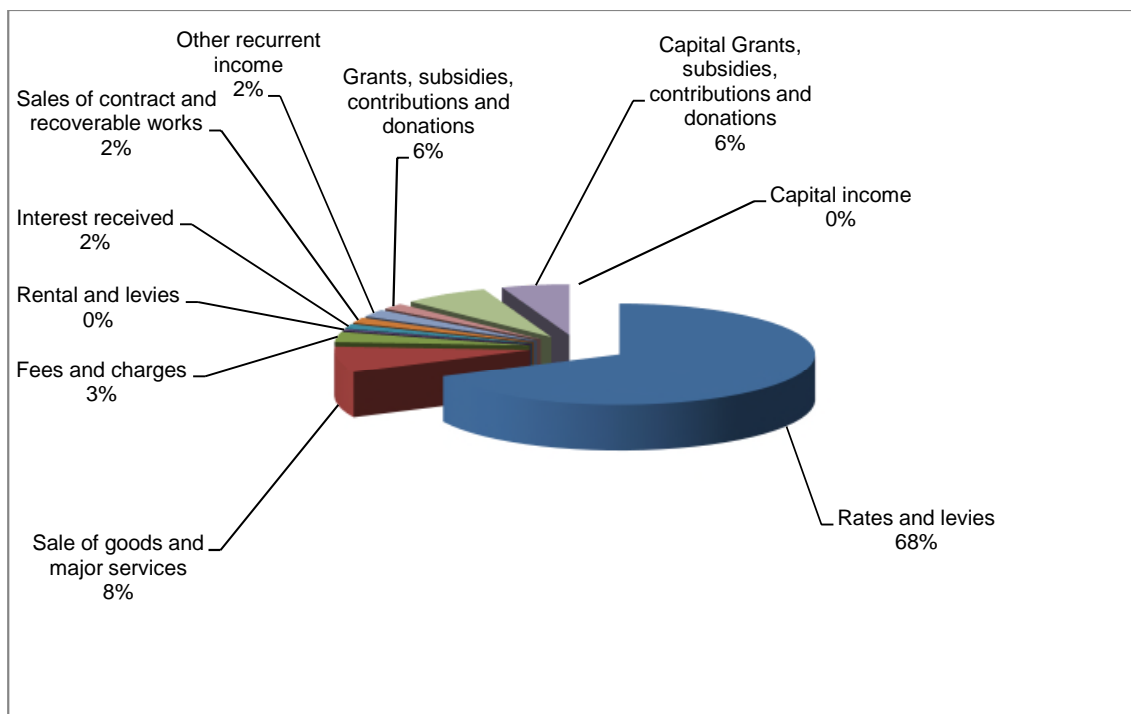
This report aims to provide a plain English summary of the financial position of Council.

STATEMENT OF COMPREHENSIVE INCOME

The purpose of this statement is to disclose the revenue and expenses for Council and the resulting surplus or deficit from operating activities.

Recurrent Revenue

Revenue sources as a percentage



Recurrent Revenue

A total of \$63,439,138 has been raised in revenue during the period 1 July to 31 January 2015 against a total revenue revised budget for 2014/15 of \$112,312,604. This represents 56% of the total yearly budgeted revenue expected to be received in the financial year and on a pro-rata basis should be at 58% which is on target to meet budget.

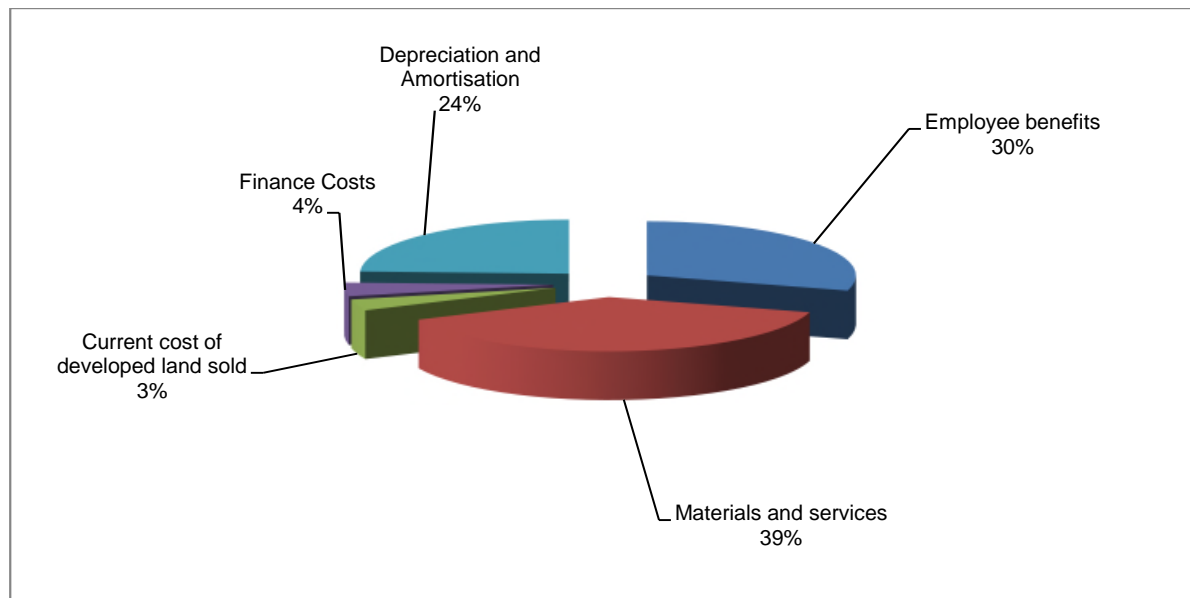
The above revenue is derived from three categories of activity:-

1. Revenue from operations \$59,878,408 (Revised Budget \$105,182,254)
2. Capital Grants, subsidies and contributions \$3,560,729 (Revised Budget \$7,022,350)
3. Other capital income \$0 (Revised Budget \$108,000)

Overall, there is a surplus from Council's operating activities for the period ending 31 January 2015 of \$14,104,378 which is in line with the revised budgeted operating surplus of \$14,124,166 to 30 June 2015.

Recurrent Expenses

Expenses sources as a percentage



Recurrent Expenses

To date Council has expended a total of \$49,334,760 which includes depreciation of \$12,018,033 against a total expenditure revised budget for 2014/15 of \$98,048,588 including depreciation of \$20,726,200. This represents 50% of budgeted expenditure and on a pro-rata basis should be at 58% which is below the expected level for this period.

The above expenses is derived from four categories of activity

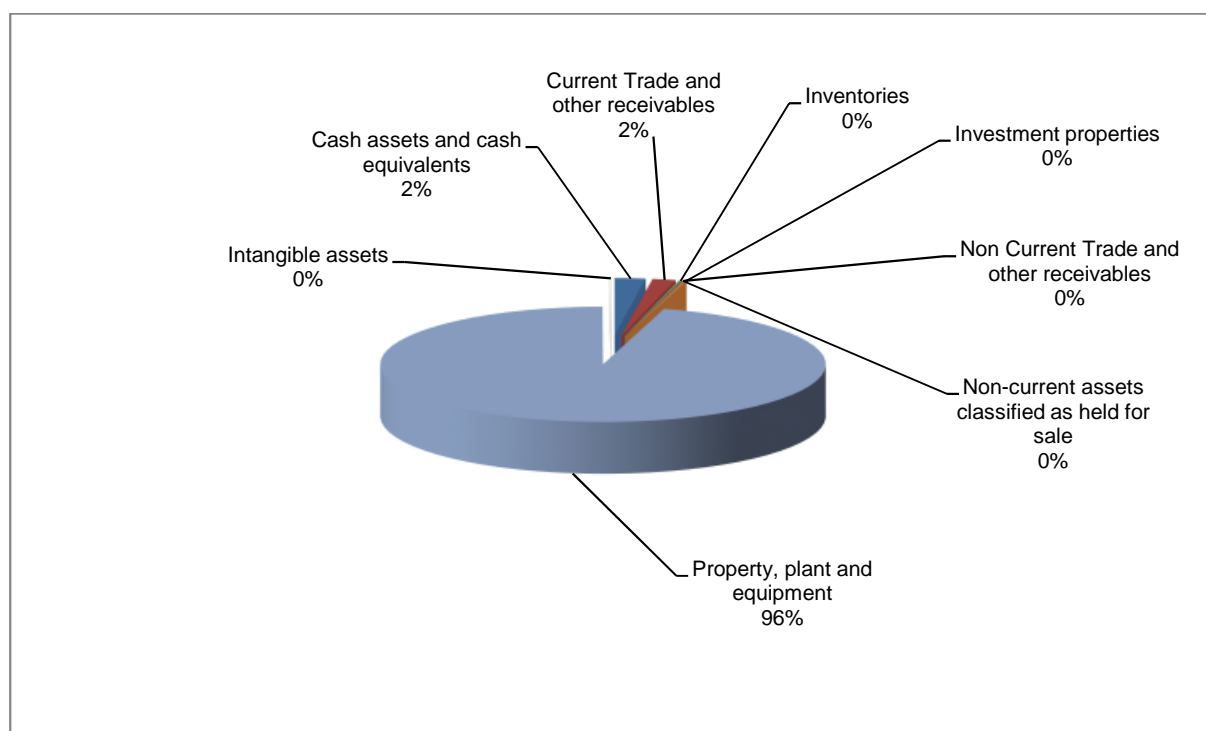
1. Expense for Employee benefits \$14,573,865 (Revised Budget \$27,459,204)
2. Expense for Materials & Services \$19,054,190 (Revised Budget \$42,951,591)
3. Depreciation Expenses \$12,018,033 (Revised Budget \$20,726,200)
4. Expenses for Finance Costs \$2,019,757 (Revised Budget \$3,911,593)

Loan repayments come out every quarter with the second payment being paid in December 2014.

STATEMENT OF FINANCIAL POSITION

The purpose of this statement is to disclose information about Councils assets and liabilities. The result of these two components determines the net worth of Council.

Total Assets



Total Assets

The value of total assets held as at 31 January 2015 is \$1,115,487,436. After deducting total liabilities of \$78,912,295 the total is \$1,036,575,141. This represents the financial interest the community has in the Council and is therefore named Community Equity. The figures represented in the balance sheet include audited closing balances as at 30 June 2014.

Within the Statement of Financial Position the assets of council are divided into current and non-current. The non-current portion includes all the infrastructure and plant and equipment owned by council.

The above assets are broken up into the following six categories:-

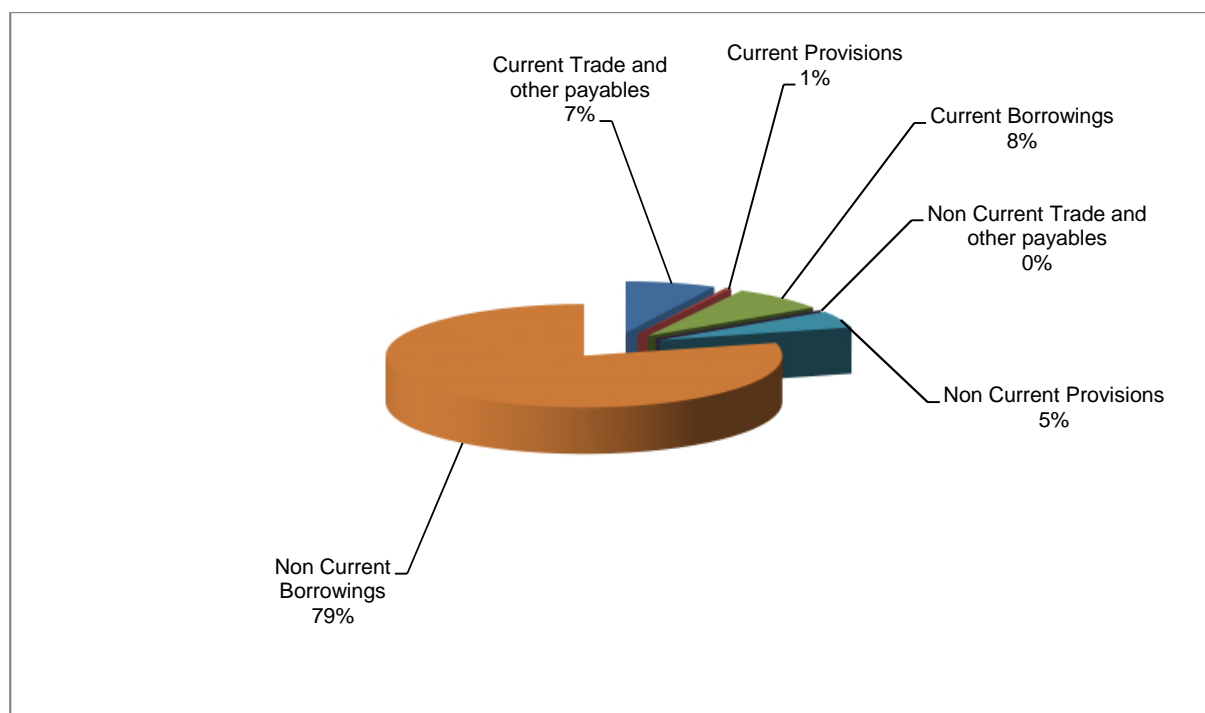
1. Cash & Cash equivalents \$24,980,151
2. Trade & Other receivables \$18,951,464
3. Inventory Assets \$1,742,280
4. Non-current Assets \$1,210,784
5. Investment Properties \$2,450,000
6. Property, Plant & Equipment Assets \$1,066,152,757

Trade and Other receivables includes pro-rata of rates levies as per summary below:

Note 15 (a) summary

Rates revenue and utility Charges	42,158,903
Rates accruals	(26,940,119)
Other Debtors	3,215,493
Impairment	(306,524)
Prepayments	770,209
Loan and advances to community (current)	14,434
Loan and advances to community (non current)	39,069

Total Liabilities



Total Liabilities

The Total Liabilities as at 31 January 2015 of \$78,912,295 includes Accrued Employee Benefits (annual leave, long service leave and sick leave benefits up to January 2015) and Payables.

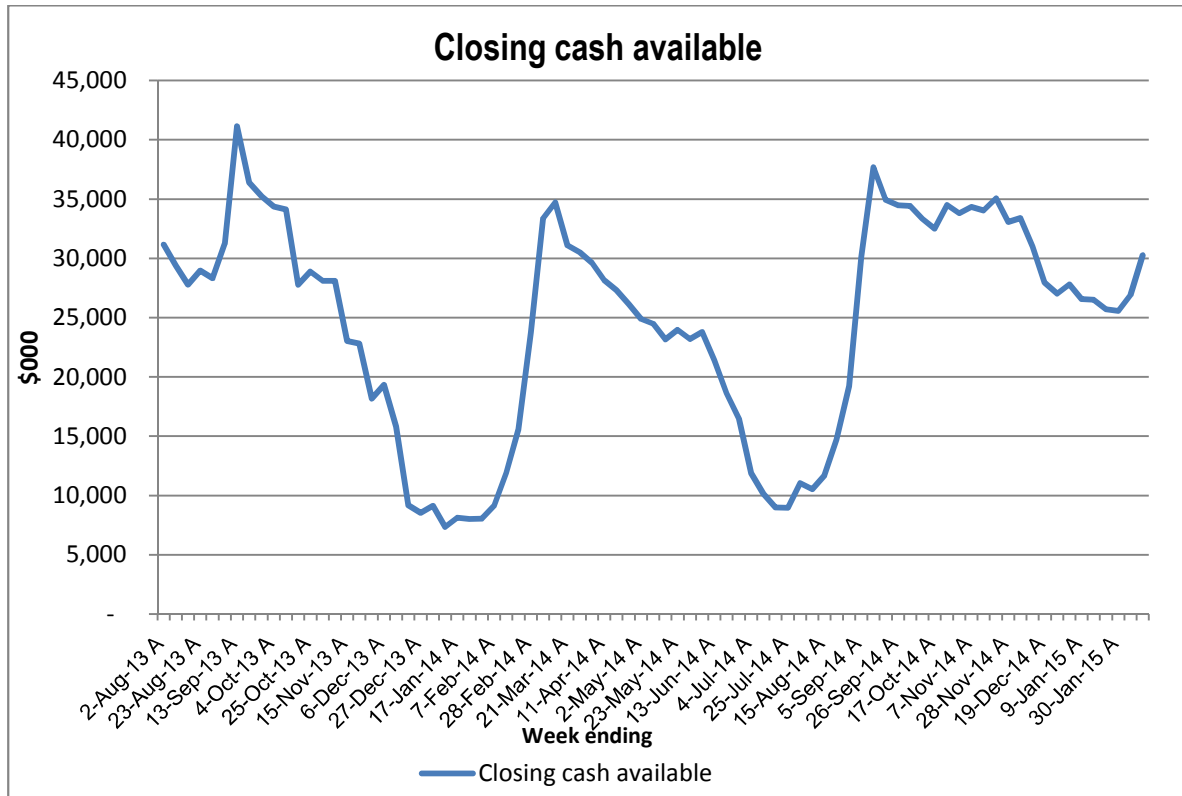
The above liabilities are broken up into the following three categories:-

1. Trade & Other Payables including Annual Leave \$5,828,928
2. Provisions including Long Service Leave \$4,535,919
3. Loan Borrowings \$68,547,448

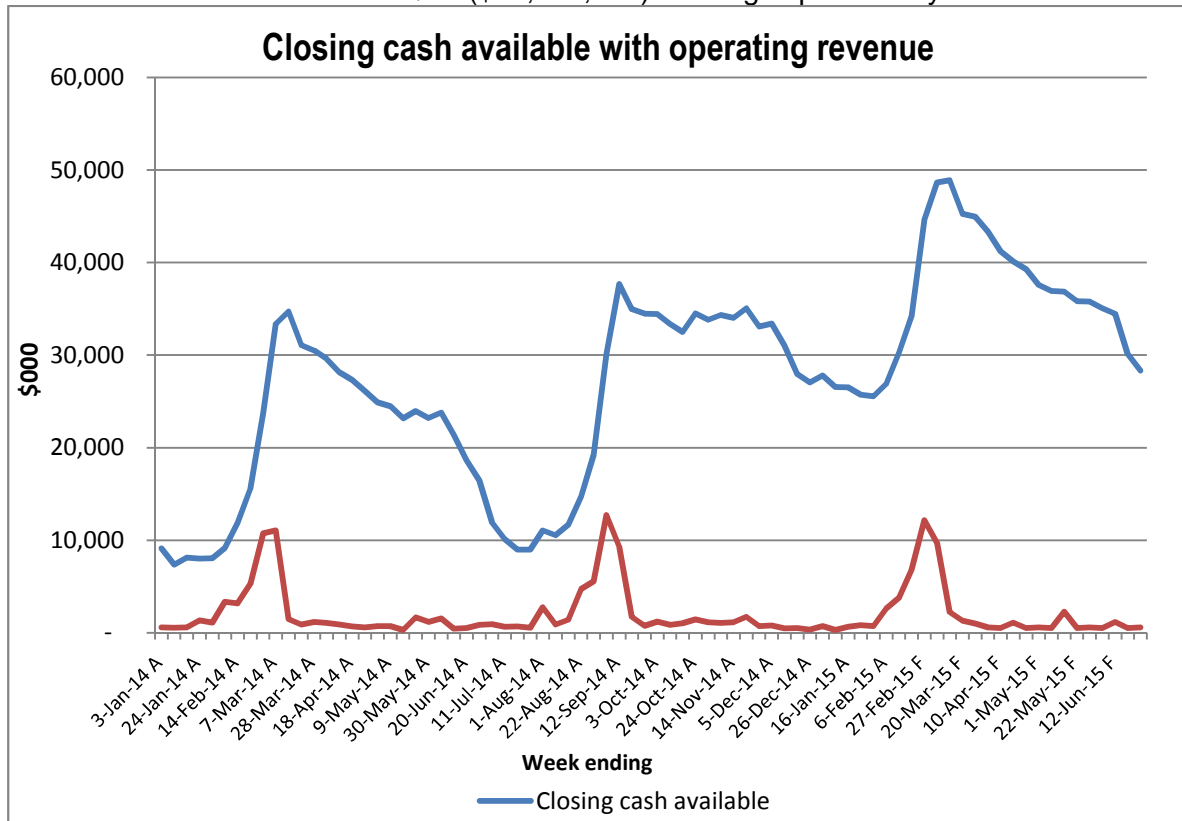
The loan borrowings of \$68,547,448 divided by 18,273 rateable assessments equates to \$3,751 per assessment.

Investments

Cash flow modelling actuals and projection of cash and investments.



Cash flow modelling measuring revenue and cash on hand up to 12 June 2015. Does not included a drawn down of the QTC (\$15,000,000) working capital facility.



Aged Debtors Balance as at 31 January 2015

Current	97,479.17	5.07%
< 30 Days	1,011,407.71	52.62%
< 60 Days	341,072.41	17.74%
< 90 Days	59,076.70	3.07%
> 90 Days	413,056.65	21.49%

Balance 1,922,092.64

Rates Debtors Balances as at 31 January 2015

Brought Forward Arrears	5,334,259
Levies	76,154,278
State Government Rebates	(379,962)
Council Pensioner Rebate	(508,962)
Discount	(1,507,264)
Write off	(678,792)
Receipts	(36,871,368)

Arrears Closing Balance 41,542,190

Prepayments (236,119)

Outstanding Rates as a % of levies & brought forward arrears

Arrears	2,730,416	3%
Current	39,047,893	48%
Prepayments	(236,119)	0%
Total Arrears	<u><u>41,542,190</u></u>	

STATUTORY MATTERS

Section 104 Local Government Act 2009

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our organisation is innovative, efficient and financially sustainable.

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

1. *Ensure Council's financial position is effectively managed and sustainable.*

3. *Develop and implement business improvement systems and long term asset management plans that support innovation and sustainability of service delivery.*
6. *Maximise commercial benefits to Council's business units and assets.*

BUDGET REFERENCE

All

CONSULTATION

Julie Moller - Senior Management Accountant (Author)

Matthew McGoldrick - Chief Financial Officer

Graham Jarvis - Director Corporate Services

Mel Humphries - Finance Team Leader

Paula Taylor - Senior Payroll Officer

Amanda Ayers - Rates Team Leader

ATTACHMENTS

Appendix Item 1 - Monthly Finance Report January 2015

Appendix Item 2 - Program Performance Report - January 2015

10. Office of the Mayor & CEO
10.3 DELEGATIONS - LAND REGULATION 2009

RECOMMENDATION

That under Section 257 of the Local Government Act 2009, Council resolves to delegate the exercise of the powers contained in Schedule 1 of the Instrument of Delegation, to the Chief Executive Officer. These powers must be exercised subject to any limitations contained in Schedule 2 of the Instrument of Delegation.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

MacDonnell's Law are engaged by Council to provide Legislative updates and applicable amendments required in respect of the Delegations Register.

REPORT

As part of their delegation service, MacDonnell's Law have recently provided an update to the delegable powers in the *Land Regulation 2009*. This Regulation did not previously contain any delegable powers and thus Council has not previously delegated powers to the Chief Executive Officer under this Regulation.

It is recommended that the powers in the attached Instrument of Delegation be delegated to the Chief Executive Officer.

STATUTORY MATTERS

Section 257 of the *Local Government Act 2009* provides that a Local Government may, by resolution, delegate a power to the Chief Executive Officer.

Section 259 of the *Local Government Act 2009* provides that a Chief Executive Officer may delegate the powers of the Chief Executive Officer (including powers delegated by resolution to the Chief Executive Officer) to an appropriately qualified employee or Contractor of the Council.

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: *Our organisation is innovative, efficient and financially sustainable.*

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

- 2. Drive a positive, proactive and responsive customer service culture across the organisation.**

3. *Develop and implement business improvement systems and long term asset management plans that support innovation and sustainability of service delivery.*

BUDGET REFERENCE

Legal Subscription

CONSULTATION

Billie Davis – Administration Support Office of the Mayor and CEO (Author)
Kirsten Lesina – Governance & Legal Officer

ATTACHMENTS

Instrument of Delegation – Land Regulation 2009

INSTRUMENT OF DELEGATION

Whitsunday Regional Council *Land Regulation 2009*

Under section 257 of the *Local Government Act 2009*, **Whitsunday Regional Council** resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

Land Regulation 2009 ("LANR")**Part 6 - General**

Entity power given to	Section of LANR	Description
Manager of a declared beach	49F	Power to form a reasonable belief that the closure of the declared beach area is necessary.
Manager of a declared beach	49F(2)	Power to authorise a person to access a closed beach area.

Limitations to the Exercise of Power

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, in exercising delegated power in relation to that matter, the delegate will only commit Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge, adversely affects, or is likely to adversely affect, Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable effect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme, and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any delegated power which cannot lawfully be the subject of delegation by Council.

10. Office of the Mayor & CEO
10.4 DELEGATIONS - RESIDENTIAL TENANCIES AND ROOMING
ACCOMMODATION REGULATION 2009

RECOMMENDATION

That under Section 257 of the Local Government Act 2009, Council resolves to delegate the exercise of the powers contained in Schedule 1 of the Instrument of Delegation, to the Chief Executive Officer. These powers must be exercised subject to any limitations contained in Schedule 2 of the Instrument of Delegation.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

MacDonnell's Law are engaged by Council to provide Legislative updates and applicable amendments required in respect of the Delegations Register.

REPORT

MacDonnell's Law have recently provided an update to the Instrument of Delegation for the *Residential Tenancies and Rooming Accommodation Regulation 2009*. The new sections of the Regulation all relate to community housing and, as Council is not a community housing provider, it is recommended that these new powers not be delegated to the Chief Executive Officer as they are unnecessary.

It is recommended that Council adopt the Instrument of Delegation attached, noting that this Instrument does not include the new delegable powers in relation to community housing.

STATUTORY MATTERS

Section 257 of the *Local Government Act 2009* provides that a Local Government may, by resolution, delegate a power to the Chief Executive Officer.

Section 259 of the *Local Government Act 2009* provides that a Chief Executive Officer may delegate the powers of the Chief Executive Officer (including powers delegated by resolution to the Chief Executive Officer) to an appropriately qualified employee or Contractor of the Council.

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: *Our organisation is innovative, efficient and financially sustainable.*

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

2. **Drive a positive, proactive and responsive customer service culture across the organisation.**

3. *Develop and implement business improvement systems and long term asset management plans that support innovation and sustainability of service delivery.*

BUDGET REFERENCE

Legal Subscription

CONSULTATION

Billie Davis – Administration Support Office of the Mayor and CEO (Author)
Kirsten Lesina – Governance & Legal Officer

ATTACHMENTS

Instrument of Delegation – Residential Tenancies and Rooming Accommodation Regulation 2009

INSTRUMENT OF DELEGATION

Whitsunday Regional Council ***Residential Tenancies and Rooming Accommodation Regulation 2009***

Under section 257 of the *Local Government Act 2009*, **Whitsunday Regional Council** resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2.

All prior resolutions delegating the same powers to the Chief Executive Officer are repealed.

**Residential Tenancies and Rooming Accommodation Regulation 2009
("RTRR")**

SCHEDULE 1 – GENERAL TENANCY AGREEMENTS**Part 2 - Standard Terms****Division 1 – Preliminary**

Entity power given to	Section of RTRR	Description
Lessor	2(3)	Power to agree on other terms of a general tenancy agreement (<i>special terms</i>).

Division 2 – Period of tenancy

Entity power given to	Section of RTRR	Description
Lessor	5(1)	Power to prepare, in the approved form, and to sign and give to the tenant, one copy of a condition report for the premises.
Lessor	6(1)(b)(v)	Power to enter into a written agreement with the tenant to end a fixed term agreement.

Division 3 – Rent

Entity power given to	Section of RTRR	Description
Lessor	8(3)(b)(i)	Power to give the tenant a notice proposing a way to pay rent.
Lessor	8(3)(ii)	Power to agree a proposal to pay rent.
Lessor	8(5)	Power to give a notice to the tenant stating a different place for payment of rent.
Lessor	10(1)	Power to, if the lessor proposes to increase the rent, give notice of the proposal to the tenant.

Division 4 – Rental bond

Entity power given to	Section of RTRR	Description
Lessor	13(2)	Power to give the authority a notice about the bond.

Division 6 – Rights and obligations concerning the premises during tenancy**Subdivision 1 – Occupation and use of premises**

Entity power given to	Section of RTRR	Description
Lessor	20	Power to enter premises during the tenancy only if the obligations under section 192 to 199 have been complied with.
Lessor	22(1)	Power to give the tenant a copy of any body corporate by-laws in accordance with that subsection.

Subdivision 3 – The dwelling

Entity power given to	Section of RTRR	Description
Lessor	27(2)	Power to agree in writing to the tenant to attach a fixture or make a structural change.
Lessor	29(1)(a)	Power to agree to change the locks with the tenant.
Lessor	31(1)(b)	Power to give a notice to the tenant of the lessor's nominate repairer for emergency repairs.

Division 7 – Restrictions on transfer or subletting by tenant

Entity power given to	Section of RTRR	Description
Lessor	34(1)	Power to agree in writing to the transfer or subletting of a tenant's interests under an agreement.

Division 8 – When agreement ends

Entity power given to	Section of RTRR	Description
Lessor	36(1)(a)	Power to agree to end an agreement with the tenant.
Lessor	36(1)(b)	Power to give a notice to leave the premises to the tenant.
Lessor	39(1)	Power to ask the tenant in writing to state the tenant's new residential address.
Lessor	40(2)(a)	Power to sign a condition report on behalf of the lessor.

Division 9 – Miscellaneous

Entity power given to	Section of RTRR	Description
Lessor	44(4)	Power to withdraw the lessor's consent to notices being given by facsimile or email to the lessor.
Lessor	44(6)	Power to give a notice to the other party of a new address for service, facsimile number or email address of the lessor.

SCHEDULE 2 – MOVEABLE DWELLING TENANCY AGREEMENT

Part 2 - Standard Terms

Division 1 – Preliminary

Entity power given to	Section of RTRR	Description
Lessor	2(3)	Power to agree with the tenant on other terms of a moveable dwelling tenancy agreement (<i>special terms</i>).

Division 2 – Period of tenancy

Entity power given to	Section of RTRR	Description
Lessor	5(1)	Power to prepare, sign and give to the tenant, a copy of a condition report for the premises.
Lessor	6(1)(b)(v)	Power to agree with the tenant to end a fixed term agreement.

Division 3 – Rent

Entity power given to	Section of RTRR	Description
Lessor	8(3)(b)(i)	Power to give a notice to the tenant proposing a way for payment of rent.
Lessor	8(3)(b)(ii)	Power to agree to a proposal to pay rent in writing.
Lessor	8(5)	Power to give a notice to the tenant stating a different place for payment of rent.
Lessor	10	Power to give a notice of proposal to increase rent to the tenant.

Division 4 – Rental bond

Entity power given to	Section of RTRR	Description
Lessor	13(2)	Power to give to the authority, a notice about a rental bond.
Lessor	14(1)(a)	Power to give a notice to the tenant to increase a rental bond.

Division 5 – Outgoings

Entity power given to	Section of RTRR	Description
Lessor	17(4)	Power to give the tenant a written statement showing: (a) each service for which an amount of rent is attributable; and (b) the amount attributed to the service.

Division 6 – Rights and obligations concerning the premises during tenancy

Subdivision 1 – Occupation and use of premises

Entity power given to	Section of RTRR	Description
Lessor	20(1)	The right to enter premises during a tenancy only if the obligations under sections 192 to 199 have been complied with.
Lessor	22(2)	Power to give a copy of park rules for a moveable dwelling park to the tenant.
Lessor	22(3)	Power to give the tenant a copy of a park rule change.

Subdivision 3 – The dwelling

Entity power given to	Section of RTRR	Description
Lessor	28(2)	Power to agree in writing to the tenant attaching a fixture or making a structural change.

Lessor	30(1)(a)	Power to agree with the tenant to change a lock.
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Subdivision 4 – Damage and repairs

Entity power given to	Section of RTRR	Description
Lessor	32(1)(b)	Power to give a notice to the tenant of the lessor's nominated repairer for emergency repairs.

Division 7 – Restrictions on transfer or subletting by tenant

Entity power given to	Section of RTRR	Description
Lessor	35(1)(a)	Power to agree in writing to the transfer or subletting of a tenant's interests under an agreement.
Lessor	36(2)	Power to agree to the transfer or subletting of a tenant's interest under an agreement.

Division 8 – Relocation

Entity power given to	Section of RTRR	Description
Lessor	38(1)	Power to give a notice (notice to relocate) to the tenant requiring the tenant to relocate the moveable dwelling to another site in the moveable dwelling park.

Division 9 – When agreement ends

Entity power given to	Section of RTRR	Description
Lessor	42(1)(a)	Power to agree in writing with the tenant that an agreement ends.
Lessor	42(1)(b)	Power to give a notice to the lessee to leave the premises.
Lessor	45(1)	Power to ask the tenant in writing to state the tenant's new residential address.
Lessor	46(2)(a)	Power to sign a condition report for premises.

Division 10 – Miscellaneous

Entity power given to	Section of RTRR	Description
Lessor	50(4)	Power to withdraw the lessor's consent to notices being given to them via facsimile or email by giving notice to the other party.
Lessor	50(6)	Power to give a notice to the other party of the lessor's new address for service, facsimile number or email address.

SCHEDULE 3A – REPLACEMENT TERMS FOR COMMUNITY HOUSING PROVIDER TENANCY AGREEMENTS

Part 2 - Replacement terms

Division 3 – Rent

Entity power given to	Section of RTRR	Description
Lessor	7(3)	Power to form a reasonable belief that the housing service information given by the tenant is false or misleading in a material particular or the housing service information given by the tenant has changed.
Lessor	7(4)	Power to change the amount payable under the agreement.
Lessor	7(5)	Power to give the tenant a written notice stating the new amount and when it takes effect.
Lessor	8(4)	Power to give a notice to the tenant stating a different place for payment.
Lessor	9	In certain circumstances, power to require a tenant to pay rent in advance.

Division 4 – Rental bond

Entity power given to	Section of RTRR	Description
Lessor	10(1)	Power to give a tenant notice stating the rental bond amount under an agreement and whether the bond is to be paid by instalments.
Lessor	11(1)(a)	Power to give notice to the tenant to increase the bond.

Division 5 – Outgoings

Entity power given to	Section of RTRR	Description
Lessor	13(2)	Power to give the tenant written notice stating the matters set out in section 13(2)(a) to (c).
Lessor	14(6)	Power to give the tenant written notice stating that the tenant must pay for water consumption charges in relation to the premises.

Division 6 – Rights and obligations concerning the premises during tenancy

Subdivision 1 – Occupation and use of premises

Entity power given to	Section of RTRR	Description
Lessor	17	Power to enter the premises in certain circumstances.

Subdivision 3 – The dwelling

Entity power given to	Section of RTRR	Description
Lessor	25	Power to agree to a fixture's attachment or structural change.
Lessor	24(5)(a)	Power to take action for a breach of a term in this agreement.
Lessor	24(5)(b)	Power to waive the breach (that is, not take action for the breach) and treat the fixture or change as an improvement to the premises (that is, treat it as not

		belonging to the tenant and not having to pay the tenant for it).
Lessor	25(4)	Power to request the tenant to give the lessor a key for a lock.
Lessor	26(1)	Power to agree to change the locks.
Lessor	28(1)	Power to nominate a repair for emergency repairs.

Division 7 – Restrictions on transfer or subletting by tenant

Entity power given to	Section of RTRR	Description
Lessor	31	Power to agree in writing to the transfer of the tenant's interest or to the tenant subletting the premises under this agreement.

Division 8 – When agreement ends

Entity power given to	Section of RTRR	Description
Lessor	33(1)(a)	Power to agree in writing to end the agreement.
Lessor	33(1)(b)	Power to give a notice to the tenant to leave the premises.
Lessor	36(1)	Power to ask the tenant in writing to state the tenant's new residential address.
Lessor	37(2)(b)	Power to agree with the report or show parts of the report the lessor disagrees with by making a copy in an appropriate way.
Lessor	41(4)	Power to consent and withdraw a consent to notices being given by fax or email.
Lessor	41(6)	Power to give notice that the lessor withdraws it's consent to the notices being given by fax or email.
Lessor	42(3)	Power to give written authority to sublease the premises or allow the premises to be used as a place of residence by anyone other than the tenant, the tenant's family or other persons approved by the lessor.
Lessor	42(7)	Power to issue a notice to leave or ending of housing assistance.
Lessor	43(2)	Power to give notice to the tenant stating the matters set out in section 43(2)(a) to (c).
Lessor	45(1)	Power to agree in writing, to the tenant installing or placing upon the premises, any type of swimming pool.

SCHEDULE 4 – ROOMING ACCOMMODATION AGREEMENTS

Part 2 - Standard Terms

Division 1 – Preliminary

Entity power given to	Section of RTRR	Description
Provider	2(4)	Power to agree with a resident on other terms of a rooming accommodation agreement (<i>special terms</i>).

Division 2 – Period of rooming accommodation agreement

Entity power given to	Section of RTRR	Description
Provider	4(2)	Power to prepare, sign and give a resident a copy of a condition report.

Division 3 – Rent

Entity power given to	Section of RTRR	Description
Provider	6(3)(b)(i) and (ii)	Power to agree with the resident, a way to pay rent.
Provider	6(5)	Power to give a notice to the resident stating a different place for payment of rent.
Provider	8(1)	Power to give notice to the resident of a proposal to increase rent.
Provider	9(2)	Power to agree with the resident, decrease in amount of rent payable.
Provider	10(2)	Power to agree with the resident to reduce rent for the period of an absence.

Division 4 – Rental bond

Entity power given to	Section of RTRR	Description
Provider	11(2)	Power to give a notice to an authority a notice about a rental bond.
Provider	21(2)	Power to, in writing, agree to the resident attaching a fixture or making a structural change.
Provider	22	Power to enter a resident's room only if the obligations under sections 257 to 262 have been complied with.

Division 7 – When agreement ends

Entity power given to	Section of RTRR	Description
Provider	23(1)(a)	Power to agree in writing with a resident that an agreement ends.
Provider	23(1)(b)	Power to give a notice to leave rental premises to the resident.

Division 9 – Miscellaneous

Entity power given to	Section of RTRR	Description
Provider	29(4)	Power to withdraw consent to the provider being given notices by facsimile or email.
Provider	29(6)	Power to change the provider's address for service, facsimile number or email by notice to the other party.

Limitations to the Exercise of Power

1. Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, in exercising delegated power in relation to that matter, the delegate will only commit Council to reasonably foreseeable expenditure up to the amount allocated.
2. The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge, adversely affects, or is likely to adversely affect, Council's relations with the public at large.
3. The delegate will not exercise any delegated power contrary to a resolution or other decision of Council (including a policy decision relating to the matter).
4. The delegate will not exercise any delegated power in a manner, or which has the foreseeable effect, of being contrary to an adopted Council policy or procedure.
5. The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme, and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6. The delegate will not exercise any delegated power which cannot lawfully be the subject of delegation by Council.

10. Office of the Mayor & CEO

10.5 DIVISIONAL BOUNDARIES AND ELECTORAL NUMBERS

To be provided by the Chief Executive Officer.

10. Office of the Mayor & CEO
10.6 CONDUCT OF LOCAL ELECTIONS FOR 2016
-

RECOMMENDATION

That Council authorises the Chief Executive Officer to advise the Electoral Commission of Queensland, and the newly appointed Deputy Premier, Minister for Transport, Infrastructure, Local Government, Planning and Trade, that the 2016 Local Government Elections be conducted by a normal electoral process and that Council's preference is to remain with divided areas.

Furthermore that the Chief Executive Officer advises Council, that the Chief Executive Officer will not be undertaking the role of returning officer for the quadrennial election and will be advising the Director General of the Department of Local Government Community Recovery and Resilience that the role will be deferred to the Electoral Commission of Queensland for the appointment of a returning officer.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February, 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

Correspondence was received on the 24 September 2015 from the former Hon David Crisafulli MP, Minister for Local Government Community, Recovery & Resilience advising the deadline to apply for a divided or undivided local government election is 1 March, 2015.

Council resolved on the 8 October, 2015 to;

10.20 2014/10/08.21 CONDUCT OF LOCAL ELECTIONS FOR 2016

Moved by: A WILLCOX
Seconded by: J CLIFFORD

That Council receive the correspondence from the Minister for Local Government, Community Recovery and Resilience and further discuss the requirements of Section 16 of the Local Government Act 2009 as a result of recent amendments by the State Government to the Local Government Electoral Act 2011 at the next available briefing session.

MEETING DETAILS:

The motion was Carried 7/0

As requested by resolution, the Councillors were briefed at the Councillor Briefing Session dated 17 February, 2015 by Acting Chief Executive Officer, Matthew McGoldrick.

REPORT

Whitsunday Regional Council has conducted quadrennial local government elections previously by postal ballots. Data provided by the Electoral Commission of Queensland (ECQ) for the 2012 election indicates there were 18,721 enrolled voters. Unfortunately only 71% of voters submitted postal votes with merely 13,412 ballot forms received by the returning officer.

While postal votes are becoming increasingly popular, as voters can cast their vote during their own time and at their convenience, historical trends demonstrate that this option does not capture a tolerable number of votes.

Pursuant to the *Local Government Electoral Act 2011, Part 4, Subdivision 2, Section 67* ways to which cast votes are;

- (1) In an election, other than a postal ballot election, an elector may –
 - (a) cast their vote at an ordinary or mobile polling booth on polling day (an **ordinary vote**); or
 - (b) cast their vote at an early polling booth before polling day (a **pre-poll vote**); or
 - (c) cast their vote using posted voting papers (a **postal vote**).

By conducting a normal election process, members of the electorate have more options available to submit their ballot papers.

Council also has the option of changing from divided to undivided for the 2016 elections. An extract of the *Local Government Act 2009, Chapter 2, Part 1, Section 8* states;

- (3) A local government area may be divided into areas called **divisions**.

To ensure a greater percentage of votes are received, and to retain current elected representation, it is recommended that the 2016 local elections be conducted by a normal electoral process and that Council remains with divided areas called divisions.

STATUTORY MATTERS

Local Government Electoral Act 2011
Local Government Act 2009

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our Leadership engages with the community and provides open, accountable and transparent local government.

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

1. ***Provide open, accountable and transparent leadership that ensures community confidence in Council and achieves positive outcomes for the Whitsunday Region.***

BUDGET REFERENCE

N/A

CONSULTATION

Matthew McGoldrick – Chief Financial Officer (Author)
Scott Waters – Chief Executive Officer

Councillors

ATTACHMENTS

Appendix Item 1 – Correspondence from the former Hon David Crisafulli MP, Minister for Local Government Community, Recovery and Resilience

10. Office of the Mayor & CEO

10.7 WATER AND WASTE - WATER AND SEWER ADVISORY COMMITTEE

RECOMMENDATION

That Council advertise for suitably qualified individuals to be a member of the Whitsunday Regional Water and Waste Water Capital Advisory Committee.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

The steps required to be taken by Council to commence the commercialisation of Water, Waste Water and Waste is progressing well.

To date Council have:

- made the rates changes,
- set the systems up to collect consumption revenue based on a user charges structure,
- have a system in place to track the user pays charging,
- achieved an agreement with the Whitsunday ROC Councils to work collaboratively,
- segregation of the staff from the remainder of Council is also being progressed,
- moved the waste function and staff into the Water and Waste Water,
- reported monthly on the activities of Water and Waste Water, and
- progressed a direction on the issue of Council's waste streams.

These are some of the strategic activities of Water and Waste that should be undertaken as part of Commercialisation all the while day to day activities continue and a significant review of the asset management system is being undertaken.

The resolution of Council from the meeting of the 11th June, 2014 is as follows:

That Council accept the recommendations of the Public Benefit Assessment and implement the recommendations of the assessment as follows:

- that the level of reform to be applied to the water and sewerage business activity is commercialisation;
- that a Full Commercialised Business Unit (FCBU) would provide the greatest benefits to Council by providing a process to combine commercial and political oversight and as such will be the option chosen by Council;
- that Council allies full commercialisation through the establishment of an Advisory Board to oversight this activity and advise Council;
- that Council applies Full Commercialisation because this will provide most of the benefits of Corporatisation without the risks, loss of control or costs. Also the Water and Sewerage business is already nearly a Commercial Business Unit, so the extra costs of full commercialisation are relatively

small and significantly outweighed by the potential benefits. The major benefits from applying FCBU are:

- Management of Community Service Obligations (CSO)
- Risk Management,
- Improved capital planning, delivery and scrutiny, and
- Commercial acumen and scrutiny, and

that Council

- a. Commence implementing Full Cost Pricing (FCP) from 1 July 2014 over a 5 year phase in period and within this timeframe ensure that reviews of asset values, asset subsidisation and asset optimisation are carried out,
- b. Commercialise the Water and Sewerage Business Activity from 1 July 2015; and
- c. Alter the appointments to the Water and Sewer Advisory Committee in accordance with the report and that this Committee commence operation from 1 July 2015, or earlier as required.

REPORT

Council adopted the commercialisation recommendation in June 2014 with the view that the Water and Waste Water Operations of Council become a Commercialised Business Unit (CBU) of Council from 1st July 2015. Included in the resolution was a direction to start up a management committee of the CBU. This committee could have a narrow technical focus or could have a broader operational focus. The Mackay Water Committee is a technical committee that oversees the preparation of the Capital Budget bids put before Council. The technical committee have the knowledge and experience to determine whether the projects put forward need to be done in the sequence presented, need to be re-sequenced, could be done differently or could be put off indefinitely.

A draft advertisement for the Advisory Committee is attached. Terms of Reference for the committee would need to be developed. This would include frequency of meetings, chair, voting, recommendation process to Council.

STATUTORY MATTERS

Local Government Act Sections 44-46

CORPORATE PLAN REFERENCE

Place

Objective: Our infrastructure supports our region's current and future needs.

OPERATIONAL PLAN REFERENCE

Place

Strategies

2. *Develop and maintain effective water and waste water infrastructure, networks and facilities.*

3. *Develop integrated asset management plans to effectively manage and maintain road, water and waste water infrastructure and ensure assets meet the demands of a growing population.*
4. *Deliver effective customer focused water services that protect the public health.*
5. *Develop a planned approach to securing the Whitsunday Region's water supply.*

BUDGET REFERENCE

Water and Waste Water Budget

CONSULTATION

Matthew McGoldrick – Chief Financial Officer (Author)

Scott Waters – Chief Executive Officer

Andrew McGregor – Executive Manager Water & Sewerage

ATTACHMENTS

Appendix Item 1 - Advertisement for the Water and Waste Water Advisory Committee

10. Office of the Mayor & CEO
- 10.8 AVIATION LAW ASSOCIATION FOR AUSTRALIA AND NEW ZEALAND NATIONAL CONFERENCE

RECOMMENDATION

That Council receives the advice from the Aviation Law Association of Australia and New Zealand that the Chief Executive Officer has been invited to deliver a joint presentation with Cairns International Airport and be a guest speaker at the association's national conference, which is being held in Cairns on 5 – 7 August 2015.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

Aviation Law Association for Australia and New Zealand (ALAANZ) conducts an annual national conference to discuss the law affecting the aviation industry, the exchange of information about aviation laws and general aviation matters.

ALAANZ has some 350 members in Australia, New Zealand and Overseas with nationwide branches in Queensland, New South Wales, Victoria, ACT and New Zealand.

REPORT

ALAANZ is hosting their annual national conference in Cairns from Wednesday 5 August to Friday 7 August, 2015.

During the 2015 national conference, a section is being conducted on Airport activities. In recognition of the significant improvements Council has achieved with our local facility, ALAANZ is proposing to instigate a joint presentation from Cairns International Airport together with Whitsunday Coast Airport.

As a result of the joint presentation, Council's Chief Executive Officer (CEO) has been invited to participate as a guest speaker to promote the business activities of the Whitsunday Coast Airport. It should be noted that ALAANZ is sponsoring the CEO to be a guest speaker, therefore there is no registration cost for the event as this complimentary.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

Prosperity

Objective: Our infrastructure enables economic development and facilitates investment opportunities.

OPERATIONAL PLAN REFERENCE

Prosperity

Strategies

2. ***Develop the Whitsunday Coast Airport as a significant transport and exports hub and regional economic driver.***
3. ***Partner with government, industry, business and community to create economic opportunities through encouraging and attracting investment to the Whitsunday Region.***

BUDGET REFERENCE

N/A

CONSULTATION

Scott Waters - Chief Executive Officer (Author)

ATTACHMENTS

Appendix Item 1 - Email from Committee Member, Robert Phillips

10. Office of the Mayor & CEO
- 10.9 ADVISORY - NORTH QUEENSLAND SPORTS FOUNDATION BOARD MEETING

RECOMMENDATION

That Council receive the report from Mr Alf Pearce and also the Minutes from the North Queensland Sports Foundation Board Meeting held on Friday 30 January 2015.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February by Council's Office of the Mayor and CEO Department.

BACKGROUND

The North Queensland Sports Foundation Board Meeting was held in Townsville on Friday 30 January 2015. Mr Alf Pearce attended the Board Meeting as Whitsunday Regional Council's representative.

REPORT

A copy of Mr Pearce's Report and Minutes from the North Queensland Sports Foundation Board are attached for Councillors' information.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our leadership partners with government, industry, business and community to deliver positive outcomes.

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

1. *Build and maintain strong, collaborative and cooperative relationships across all levels of government, business, industry and the community.*
3. *Partner with government, business, industry and the community to promote the Whitsunday Region at both a national and international level.*

BUDGET REFERENCE

Budget Cost Code
W1554.1688

CONSULTATION

Tammy McDonald (Author)
Mayor Jennifer Whitney

ATTACHMENTS

Appendix Item 1 - Report from Mr Alf Pearce
Appendix Item 2 - Minutes from NQSF Board - General Meeting

10. Office of the Mayor & CEO
10.10 ADVISORY - AUSTRALIA DAY
-

RECOMMENDATION

That Council receive the correspondence from Mr Gordon Wilson regarding recognition as Sports Administrator at the recent Australia Day Awards.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Office of the Mayor and CEO Department.

BACKGROUND

Correspondence was received on the 11th February 2015 from Gordon Wilson regarding recognition of his award for Sports Administrator on Australia Day 2015.

REPORT

Gordon Wilson received an Australia Day Award for his contribution to Sport in the Whitsunday Region. Mr Wilson would like to thank Whitsunday Regional Council for his nomination and to recognise sports club volunteers in this regional area who are a relatively small band of very dedicated people who put everything into the sport they support. Sport is essential in any community but because of geographic's is also very time consuming in regard to travelling to the events; thus making it difficult to attract people into sport.

Mr Wilson asks that Whitsunday Regional Council continue to support and promote sporting activities within our communities to ensure the wellbeing and growth of our society.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

People

Objective: Our region is active, healthy, safe and resilient.

OPERATIONAL PLAN REFERENCE

People

Strategies

4. Promote healthy and balanced lifestyles and encourage physical activity.

BUDGET REFERENCE

N/A

CONSULTATION

Lisa Gouldstone - Mayoral Support Officer (Author)
Mayor Jennifer Whitney

ATTACHMENTS

Appendix Item 1 - Letter from Mr Gordon Wilson 06/02/15

11. Corporate Services

No agenda items for this section.

12. Planning and Community Services

12.1 20140651 - DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - COMMERCIAL COMPLEX AND THIRTY THREE (33) ACCOMMODATION UNITS - 277 SHUTE HARBOUR ROAD AIRLIE BEACH - ALGONA DEVELOPMENTS PTY LTD AS TTE

RECOMMENDATION

That in relation to the application for Development Permit for Material Change of Use – Commercial Premises and Thirty- Three (33) Accommodation Units, made by Planz Town Planning, on Lot 1 on A85911 and located at 277 Shute Harbour Road, Airlie Beach, Council resolves to approve the application subject to conditions outlined in Appendix A of this report.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Department.

Council has received this Development Application under the *Sustainable Planning Act 2009* as detailed below.

SUMMARY OF APPLICATION

Applicant	Algona Developments Pty Ltd As TTE C/- Planz Town Planning
Landowner	Algona Developments Pty Ltd As TTE
Property Address:	277 Shute Harbour Road, Airlie Beach
Real Property Description:	Lot 1 A85911
Area of Site:	809 square metres
Planning Scheme Zone:	Commercial Zone, Whitsunday Shire Planning Scheme 2009
Existing Use:	Commercial Complex
Proposed Use:	Commercial Complex and Accommodation Units
Existing Approvals:	Commercial Complex
Approval Sought:	Development Permit for Material Change of Use for a Commercial Complex and Thirty- Three (33) Accommodation Units
Application Progress:	
Application Lodged:	23/09/2014

Last Receipt of Information from Applicant:	03/2/2015
Original Statutory Determination Date:	02/03/2015
First Extension of Time:	Not Applicable

PROPOSAL

Council is in receipt of a Material Change of Use (Code Assessable) application for a Development Permit for a Commercial Complex and Thirty-Three (33) Accommodation Units at premises located at 277 Shute Harbour Road, Airlie Beach, also described as Lot 1 A85911.

Pursuant to the *Whitsunday Shire Planning Scheme 2009*, the subject site is located within the Commercial Zone triggering Code Assessment. The proposed development has been assessed against the relevant Probable Solutions listed within the Commercial Zone Code and all applicable Codes of the *Whitsunday Shire Planning Scheme 2009*.

The proposal seeks approval for the establishment of a Queensland style three (3) storey mixed use development with commercial premises on the ground floor and thirty – three (33) accommodation units located on the first and second floor. This represents a density calculated at 1.5 persons/ unit for per bedroom. The population density is fifty (50) people on 809 square metres. The proposed development provides a site cover of 86.5% and a total Gross Floor Area (GFA) of 1,259 square metres.

The development comprises of the following:

Ground Floor

- Café/ Restaurant/ Bar – 165 square metres
- General retail – 237 square metres
- Accommodation Reception including lift access
- Refuse, ablutions, plant and stair access
- A covered walkway to the street frontage and a wraparound balcony to the rear of the building

First Floor

- Twenty (20) x one (1) Bedroom Units
- Access via lift and stairs

Second Floor

- Thirteen (13) x one (1) Bedroom Units
- Bar / Lounge and associated kitchen and back of house amenities
- Communal Kitchen and lounge area and a communal deck
- Access via lift and stairs

The proposed building position on site is proposed at a maximum building height of three (3) storeys or an actual building height of approximately 13.05 metres above mean natural ground level (approximately 4.25 m AHD) or 12.8 metres above ground floor level (4.5 metre AHD). The proposed building is setback three (3) metres from the front boundary (southern boundary).

Architectural Appearance

Architecturally the development presents a modern appearance incorporating a variety of materials and colours throughout the building facades. On the upper levels, all units feature private balconies which break up with the building façade, providing visual articulation. The materials proposed include rendered masonry, weatherboard cladding, large frame glass sliding doors, large glass fold up panels, external balcony spaces, external screening, and vertical balustrade. A range of colours are used, largely in natural tones consistent with the surrounding area. Structural elements at ground level, give a sense of entry and grounding for the building to the street side.

Open Space and Landscaping

The proposed development is centrally located within the Airlie Beach centre district and orientated with an outlook towards the water. The communal open spaces are embellished with a bar and lounge and a communal kitchen and deck. In addition to communal open space provided on site, each unit features a private open space in the form of balconies.

Landscaping is proposed throughout the development including the frontage of the site, and along the northern and western boundary to the interface to the adjoining public car park. The landscaping proposed includes deep planting around the perimeter of the site with the remaining areas proposed within planters due to the existing infrastructure located along the frontage of the existing building as part of the main street revitalisation project.

Car Parking and Access

Vehicle and pedestrian access to the site will currently be gained via Shute Harbour Road through separate access points. In accordance with the *Whitsunday Shire Planning Scheme 2009*, sixty (60) car parking spaces are required for the proposed development. The applicant has stated that typically a 30% cross utilisation figure applies for mixed commercial / residential uses and this would further reduce the demand for parking by eighteen (18) car parking spaces reducing the required number of spaces to forty-two (42). In terms of credits, the subject site effectively has credit for one (1) car parking space per 25 square metres of GFA which is thirty (30) car parking spaces. Therefore, the subject site has a shortfall of ten (10) car parking spaces with cross utilisation or (30) car parking spaces with no cross utilisation. Whilst it is noted that the applicant is proposing zero car parking spaces, the proposed development provides an integrated method to the overall development within Airlie Beach supporting the approach of not providing car parking spaces on the subject site.

The proposed development addresses a number of safety constraints identified in the Airlie Beach Access and Movement Plan including creating active edges, surveillance opportunities and reducing conflict between vehicles and pedestrians. Refer to Section 4 - Specific Outcomes of Zone and other Codes for discussion of the developments compliance with the General Development Code.

Floor Levels - Flooding

Due to the flooding constraints of the subject site, there are variations in grade between the road, footpath, site and parking located at the rear of the building. The existing footpath is RL3.18 and the proposed floor level is RL4.15, the existing road and car parking areas are below RL9.0. As part of on-street works recently undertaken as part of the main street revitalisation project no drainage upgrades occurred adjacent to the subject site. The development proposal includes raising the existing floor level of the building in response to localised drainage issues to overall improve flood immunity for the proposed development. The proposed new ground floor level will be consistent with Council's requirement for flood immunity.

Waste

The development is proposed to be serviced by bulk waste bins that will be managed by the appointed building manager. Refuse storage areas are provided within an allocated area at the rear of the building for direct and easy access.

In summary, the proposal is considered to generally comply with the applicable codes, and ensures an appropriate outcome can be achieved for the site. Where, required, conditions have been included in the officer's recommendation to ensure compliance with the relevant probable solutions. Based on the information submitted and the detailed assessment given within this report, there are sufficient ground to conclude the proposal meets the applicable codes. Therefore, it is recommended that the proposed development be approved, subject to the imposition of reasonable and relevant conditions.

SUBJECT SITE AND ADJOINING LAND USES

Characteristics of Subject Site

The subject site is located at 277 Shute Harbour Road, Airlie Beach and forms a rectangular shaped allotment having a total site area of 809 square metres. The site features a frontage to Shute Harbour Road along the sites southern boundary measuring approximately forty (40) metres. The northern boundary of the site borders an existing public car parking area and also measures a length of approximately forty (40) metres, while the eastern boundary of the site fronts Airlie Creek. No significant vegetation is located within the boundaries of the subject site. The subject site is improved by an existing Commercial Complex, which includes a retail outlet, takeaway food premises and a café land use. The subject site is serviced by telecommunications and Council's water and sewer infrastructure.

Characteristics of Surrounding Environment

The subject site is located in a predominately commercial area featuring a range of mixed development. The scale and intensity of development in the surrounding area varies with a distinct intensification of development along both the northern and southern side of Shute Harbour Road known as the 'main street' in Airlie Beach. In the immediate vicinity of the subject site, development is generally of a low to medium rise profile and features mainly commercial development.

More specifically, the surrounding area is described as follows:

- To the east – Airlie Creek and Council Parkland zoned Open Space;
- To the west – Commercial Development generally of a low rise nature consisting of two (2) storeys zoned Commercial;
- To the north – Public car parking area, Council Parkland and Airlie Beach Lagoon zoned Open Space;
- To the south – Shute Harbour Road (Main Street), Commercial Development generally of a low rise nature ranging from one (1) to three (3) storeys zoned Commercial.

STATE PLANNING MATTERS

This section provides an overview of the legislative context of the application under the provisions of the *Sustainable Planning Act 2009*.

The proposed development is not prohibited. This has been established by considering all relevant instruments which can provide prohibitions under the *Sustainable Planning Act 2009* including:

- Schedule 1 of the *Sustainable Planning Act 2009*;
- State Planning Regulatory Provisions (Section 21);

- Local Government Planning Scheme, being the Whitsunday Shire Planning Scheme 2009.

1. Assessable Development

The development proposed by this application includes development that is made assessable, in accordance with the *Sustainable Planning Act 2009*. It is noted, that the proposed development by this application does not include any other assessable development pursuant to Schedule 3 of the *Sustainable Planning Regulations 2009*. The subject application is subject to Code Assessment as triggered under the Whitsunday Shire Planning Scheme 2009.

2. Referral Agencies & Response to Application

The application was referred to the State Assessment Referral Agency (SARA) as a Concurrence Agency. A response dated 4 December 2014, advised no objection, subject to the imposition of Conditions of Approved as included as Attachment 3 to this report.

MATERIAL CHANGE OF USE				
COASTAL MANAGEMENT DISTRICTS				
√	Making a material change of use, if carrying out the change of use will involve - (a) operational work, other than excluded work, carried out completely or partly in a coastal management district; or (b) building work, carried out completely or partly in a coastal management district, that is- (i) the construction of new premises with a GFA of at least 1000m ² ; or (ii) the enlargement of the GFA of existing premises by more than 1000m ²	The Chief Executive – as a concurrence agency	Concurrence	MyDAS electronic lodgement: www.disdip.qld.gov.au/MyDAS Standard post lodgement: DSDIP SARA - Mackay Isaac Whitsunday Regional Office PO Box 710 Mackay QLD 4740 Email lodgement: MIWSARA@dsdip.qld.gov.au

3. Statutory Planning Assessment

The applicability of the current State Planning Regulatory Provisions to the proposed development is addressed in the table below. This table confirms there are no regulatory provisions applicable to the proposed development.

Coastal Protection State Planning Regulatory Provision	The proposed development is located within the Coastal Management District; Refer to section 3.2 State Planning Policies for discussion of the developments compliance
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	with the Coastal Protection State Planning Regulatory Provision.
Yeerongpilly Transit Orientate Development State Planning Regulatory Provisions	The proposed development is not located within the area to which these regulatory provisions apply.
State Planning Regulatory Provision (adopted charges)	The proposed development is relevant to the calculation of any applicable infrastructure charges for the proposal, in conjunction with the Whitsunday Regional Council's Adopted Infrastructure Charges Resolution. Refer to Section 5. Infrastructure Charges Notice.
Off-road motorcycling facility on State-owned land at Wyaralong	The proposed development is not located within the area to where these regulatory provisions apply.
State Planning Regulatory Provision (Adult Stores)	The proposed development is not an Adult Store and therefore these regulatory provisions are not applicable to this application.
South East Queensland Koala Conservation State Planning Regulatory Provisions	The subject site is not located in South East Queensland and therefore these regulatory provisions are not applicable to this application.
South East Queensland Regional Plan 2009-2031 State Planning Regulatory Provisions	The subject site is not located in South East Queensland and therefore these regulatory provisions are not applicable to this application.

3.1 Mackay Isaac and Whitsunday Regional Plan - February, 2012

The site is within the area of the Mackay, Isaac Whitsunday Regional Plan. The assessment of the proposed development against the Regional Plan is relevant to aspects which are not appropriately included within the current Planning Scheme pursuant to Section 314(2) of the *Sustainable Planning Act 2009*. The Planning Scheme predates the Regional Plan and so does not yet appropriately reflects the Regional Plan for the purposes of section 314(2). The provisions in the Regional Plan which relevant to this application are;

- The Regional Framework, and supporting strategic directions and regional narratives; and;
- Desired Environmental Outcomes and associated policies.

The proposed development is a significant infrastructure project which represents a substantial investment in the future of the region. The below table outlines various methods the proposed development will contribute to achieving of several components from the Regional Plan.

Regional Vision;	The vision described from the Regional Plan refers to responsible management of the region's abundant resources to benefit residents and future generations, and to achieving its potential with a range of
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	<p>industries, employment and learning opportunities. The proposed development will make a significant contribution to the elements of the Regional vision.</p> <p>The proposal seeks to benefit the existing community through ongoing employment and support for the regional industry and economy, but also future generations. The proposed development is sensitive to surrounding land uses of the area and offers the opportunity for increasing the diversity of tourism and commercial activities in the region.</p> <p>The subject site is currently improved by a Commercial Complex. Over the years there have been a number of emerging commercial uses granted within the immediate surrounding area. As time has passed, commercial development has been supported by Council where the site has had the ability to appropriately accommodate the development. The proposed development is of a scale appropriate to the area and promotes economic growth in the region via local employment opportunities available during the operation of the use.</p>
<p>Strategic Directions;</p>	<p>The proposal supports the strategic directions of the regional plan by;</p> <ul style="list-style-type: none"> • Providing infrastructure services; • Establishes living arrangements that supports diversity, choice, and affordability for a wide range of regional workers; • Promotes further growth in employment, and the provision of services; • Establishes a strong economic development for which economic benefits can be filled within the entire region.
<p>Regional Narratives;</p>	<p>The proposed development is sensitive to surrounding land uses of the area and offers the opportunity for increasing the diversity of tourism and commercial activities in the region. The proposed development is of a built form design similar and appropriate to the area and promotes economic growth in the region via local employment opportunities available during</p>

	<p>the operation of the use. The development provides for infill which is consistent with adjoining uses.</p> <p>The proposal seeks to secure a viable future for the subject site, by establishing a development that provides a long term commercial and accommodation use. This will ensure it can continue to play a key role in supporting the local economy.</p>
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3.2 State Planning Policies – July, 2014

The single State Planning Policy (SPP) came into effect on 3 December 2013, which consolidates the former multiple SPP's into one document. Part E of the SPP contains Interim Development Assessment Provisions, where are applicable to the assessment of development applications where the state interests have not already been appropriately reflected within the relevant Planning Scheme. The following State Interests are identified for the site under the State Planning Policy:

- Coastal Environment
- Water Quality
- Natural Hazards (Flood)

The proposed development avoids any impacts on the coastal processes and coastal resources, and of the area including any scenic amenity. It is important to note that the intent is to also maintain and/or enhance the general public access to, or along the foreshore.

Having consideration of the proposed design and management of the development, the applicable state interests are considered to be adequately addressed. Furthermore, as discussed in the report, the State Government through their State Agency Referral Agency (SARA) have provided their assessment of the proposed development whereby conditions of approval have been issued.

LOCAL PLANNING MATTERS

1. Desired Environmental Outcomes

An assessment of the proposed development against the higher order provisions of the Whitsunday Shire Planning Scheme 2009 has been completed.

Natural Environment

The Shire's unique natural open space, climatic, rural and scenic attributes are maintained and protected as follows:

“important ecological corridors, linkages and buffers are established and maintained;

land use and the built environment are sensitive and responsive to the environment, and are located, designed and operated having due regard to any potential for adverse effects on the environment.”

Living and Working Environment

Functional, efficient, attractive and safe local community areas that:

“Offer the highest possible standard of amenity and quality of living/working environment;

are protected as far as possible from natural hazards such as flooding, storm surge, erosion or inundation by the sea, bushfire and landslide;

have safe, convenient and affordable access to necessary and appropriate community and physical infrastructure; and

are designed to promote the use of non- motorised and public transportation

use and incorporate water sensitive urban design principles to maintain natural water infiltration and flows and protection.”

Transport and Accessibility

An efficient, safe, convenient and attractive transport network, which:

“maximises safety for all users, including pedestrians, cyclists and motorists;

maximises the viability of public transport systems, and opportunities for the utilisation of public transport as the preferred mode;

ensures that movement networks internal to neighbourhoods facilitate a high level of alternative vehicular and pedestrian accessibility and relieve pressure on Shute Harbour Road; and

ensures that new development provides for enhanced and efficient use of pedestrian walkways, bikeways and use of public transport.”

Community and Cultural Development

Community, recreational and cultural services and facilities are provided and maintained so that:

“attractive, comfortable, safe and convenient places are available for people to gather, meet and interact; and

the diverse and changing needs of the whole community (including residents and visitors) are catered for.”

Urban Design and Character

A high quality built environment characterised by development which:

“responds to and protects other landscape elements, views and vistas;

is of a bulk, scale and density consistent with the character and context of the area, and of associated development;

respects the natural environmental characteristics and capacities of the locality in which they are situated; and

reflects the dominant use and related character of the area.”

The proposed development is considered to comply with the Desired Environmental Outcomes (DEOs) for the following reasons:

- The proposed development will not impact on the surrounding landscape character of the area;
- The proposed commercial and short term accommodation land use will not significantly alter the existing streetscape and will create development that is in keeping with the surrounding built environment;
- The proposed development application is not seeking to remove significant vegetation;
- The character of the area includes a range of commercial uses. There are a number of emerging commercial developments within the immediate surrounding area.

The proposed development is sensitive to surrounding land uses of the area and offers the opportunity for increasing the diversity of commercial and tourist activities in the region. The proposed development is of a scale appropriate to the area and promotes economic growth in the region via local employment opportunities available during the operation of the use. The proposed development ensures pedestrian connectivity and safety.

The proposal integrates into the surrounding landscape and character of the existing built form in this locality. The proposed development does not degrade any significant environmental features nor creates potentially hazardous or dangerous conditions.

Therefore, the proposal is considered to comply with the objectives of the Desired Environmental Outcomes (DEOs) for Whitsunday Shire Planning Scheme 2009.

2. Overall Outcomes of Zone Code

Pursuant to the Planning Scheme, the proposed land use is defined as Commercial Complex and Accommodation Units:

Retail / Commercial Complex

“includes uses such as shop, office, refreshment premises, showrooms, medical centre, in a single complex or separate buildings and on one or more contiguous lots.”

Accommodation Units

“means any premises comprising an integrated development of dwelling units and/or rooming units for short term accommodation and/or visitors. The term includes boarding houses, guesthouses, holiday apartments, backpacker's accommodation, hostels, unlicensed hotels, unlicensed residential clubs, serviced rooms, student accommodation, or any similar use. The term does not include any uses specifically defined herein.”

Commercial Zone Code

The subject site is located within the Commercial Zone of the *Whitsunday Shire Planning Scheme 2009*.

The overall outcomes are the purpose of the Commercial Zone Code. The overall outcomes sought for the Commercial Zone are the following;

- (a) *Proserpine, Cannon Valley, Cannonvale and Airlie Beach town centres are the main business and community centres in the Shire, accommodating higher order services and the widest range of employment opportunities;*
- (b) *Airlie Beach is the key mainland tourism centre, as a destination in its own right and a gateway to the Whitsunday Islands;*
- (c) *other local centres in Proserpine, Cannon Valley, Cannonvale and Jubilee Pocket provide a focal point for their immediate neighbourhoods and incorporate lower order special uses and convenience retail and commercial activities;*
- (d) *Shute Harbour is a key service centre, embarkation point and gateway to the Whitsunday Islands;*
- (e) *commercial zoned land at Shute Harbour and Abel Point accommodates marine-based or tourist/recreation-related commercial activities to support the marine transit facilities;*
- (f) *uses contribute to the vitality and experience of Airlie Beach and Shute Harbour as tourist destinations and of the other centres as community focal points;*

- (g) residential uses predominantly occur above ground floor commercial uses, and in Airlie Beach, a wide range of visitor accommodation is available;
- (h) centres have built form that is compact and of a scale and design consistent with the character and context of the locality, and contributes to a sense of identity;
- (i) the character of Airlie Beach, which includes its tropical flavour, pedestrian scale, compact form, orientation towards the street, unifying awning treatments, building heights and landscape elements, is maintained;
- (j) in Airlie Beach, the height of development is a maximum of three storeys to the street, and on the southern side of Shute Harbour Road, and where set back from street and public access areas, up to five storeys high;
- (k) in Shute Harbour, development is low rise towards the foreshore and wharf, and higher towards the hillsides;
- (l) centres provide attractive, comfortable, safe and convenient public spaces;
- (m) commercial and community activities are consolidated within the zone boundaries and designed and buffered to avoid conflicts with surrounding uses;
- (n) servicing and vehicle access and parking occur in locations that do not detract from the attractiveness of the street and foreshore areas.
- (o) activities along Shute Harbour Road, the main street of Proserpine or the Bruce Highway create an attractive and active streetscape;
- (p) centres are integrated with adjacent special uses, foreshore areas and open space networks;
- (q) in the Town of Whitsunday, views are provided to the forested hills behind, and where possible, to the foreshore and ocean;
- (r) centres are designed to be conveniently accessible from surrounding residential areas, particularly by public and non-motorised forms of transport;
- (s) significant environmental, cultural and landscape values and features are maintained and protected against adverse impacts;
- (t) the safety and efficiency of air, road, rail and sea transport facilities and other infrastructure is protected, and the amenity and safety of development is not adversely affected by proximity to such infrastructure;
- (u) in the Town of Whitsunday, the role of Shute Harbour Road as a significant social and cultural link and a unifying landscape feature is protected and enhanced; and
- (v) Non-commercial uses are integrated in buildings with commercial uses to maintain a dominantly commercial character when viewed from the street.

Council officers have undertaken a thorough assessment of the development proposal and it has been determined that an appropriate outcome will be achieved for the site that will not compromise the intent of the Commercial Zone.

From a land use perspective, the proposed uses for the site for the purpose of a Commercial Complex and Accommodation Units is desirable within the Commercial Zone. The table of development for the Commercial Zone lists a Commercial Complex as Self Assessable and Accommodation Units as Code Assessable. The unique opportunity will not result in a change to the overall character of the area, as it will remain as an area predominantly

characterised by commercial activities. Therefore, the proposed land use is consistent with the intended development outcome of the Commercial Zone.

The creation of the development will integrate into the existing commercial land uses within the immediate surrounding area. With regard to built form, the Commercial Zone seeks to establish a variety of mixed uses that relate well to each other whilst also achieving a high standard of commercial amenity. In this regard, the proposed development is considered to provide a modern design with visual interest created through the articulation of the building facades with recesses, balconies, timber battens and mixture of materials and finishes. The units within the building are generally orientate with aspects towards the creek, frontage and rear with limited ability to overlook which reduces impacts on privacy.

The proposed development seeks to maintain the retention of significant views and natural features. The proposal will be conditioned to ensure the impact of the development on the local environment is minimised and mitigated where possible.

The proposed building height is three (3) storeys with a total building height of 13.05 metres above natural ground level. The proposal requires the building to be raised by a minimum of 1.0 metre to ensure flood immunity can be achieved. As discussed further in this report.

The maximum building height allowable for the subject site without carrying out the setback stepping is two (2) storeys and eight (8) metres. The proposed building height is 9.4 metres from the natural ground level to the upper most ceiling (as defined in the building height definition of the Whitsunday Shire Planning Scheme 2009). The raising of the building to ensure flood immunity of 1.0 metre has therefore elevated the building over the 8.0 metre building height, and is therefore seeking a relaxation for 0.4 metre and one (1) storey.

The proposed height, scale and setbacks of the development provide a more appropriate relationship to existing and expected developments in the surrounding area. The built form design has ensured an outcome that is aesthetically pleasing and includes effective landscape treatments. As such, the proposal is complimentary to the existing character and sensitive to the surrounding environment.

Based on the above, Council officers are satisfied that the proposal will have no detrimental impact on the existing amenity. The proposal is considered complimentary to the existing character and is sensitive to the surrounding environment. As such, Council officers are satisfied that the development complies with the intent of the Commercial Zone Code.

4. Specific Outcomes of Zone and other Codes

Multiple Dwelling Units and Accommodation Units Code

The proposal seeks approval for the establishment of a Queensland style three (3) storey mixed use development with commercial premises on the ground floor and thirty – three (33) accommodation units located on the first and second floor. This represents a density calculated at 1.5 persons/ unit for per bedroom. The population density is fifty (50) people on 809 square metres. The proposed development provides a site cover of 86.5% and a total Gross Floor Area (GFA) of 1,259 square metres.

As previously discussed, the predominate or prevailing character is low rise and generally of a one (1) to three (3) storey nature largely due to the existence of older development in the area. The redevelopment of the subject site will establish a new character which is reflected in newer developments in the area which are built to varying heights and characteristics.

The proposed density of the development is adequately accommodated on site having regard to infrastructure capacity and the design outcome for the subject site. It is not considered that the density proposed results in a development outcome of excessive bulk or site cover. With consideration of the positive design elements of the proposed development and mitigation of impacts to surrounding properties, it is considered that the development will not conflict with the Multiple Dwelling Units and Accommodation Units Code providing a

development at a scale that is generally consistent with the character of new developments in the area.

Advertising Signage Code

The applicant has not proposed any advertising devices to be placed on the subject site. The applicant is required to comply with the Advertising Signage Code or no advertising device is to be erected on the premises without the necessary development permit for Operational Work (Advertising Device).

General Development Code

Council officers have reviewed the proposal and raise no concern with the proposed car parking arrangement. Due to the site configuration, location and size of the subject site, providing zero car parking spaces is considered conducive in servicing the development.

The development application was lodged in September 2014, since the application was lodged Shute Harbour Road has ceased to be a State Controlled Road and has become a Local Government controlled road, Council has made the Draft Whitsunday Shire Planning Scheme 2014 available for public viewing; and Council has realised the Airlie Beach Structure Plan and the Airlie Beach Access and Movement Plan.

As part of the Information Response to Council, the applicant provided a Traffic Assessment Report, the following comments were provided;

Based on the current planning scheme 60 parking spaces are required. In the draft scheme the parking rates for the licenced area is less than half at 9 spaces, however the rate for accommodation doubled. The draft scheme requires 62 spaces for this development, however the draft scheme also seeks to reduce the amount and size of the car parking area through shared or multiple use of car parking, particularly (car parking areas which would otherwise not be occupied (e.g. weekends) and when car parking service two or more land uses with varying peak usage times. It is accepted that typically a 30% cross utilisation figure applies for mixed commercial / residential uses and this would further reduce the demand for parking by 18 spaces – reducing the required number of spaces to 42 spaces (current) 44 spaces (draft). The current commercial development on Lot 1 on plan A85911 (809m²) has approx. 90% site cover. This site effectively has credit for a space per 25m² of GFA which is 30 parking spaces. Thus the site would have a shortfall of 10 spaces with cross-utilisation.

It is acknowledged that it is unusual for a site not to provide parking and the following outlines the Historical, Topography / Gradient and Planning elements that support the application as proposed.

Officers Comments:

Furthermore, there are sufficient planning grounds to reduce the number of vehicles located in on Shute Harbour Road as supported by the Airlie Beach Access and Movement Plan. The Airlie Beach Access & Movement Plan identifies this area as the main retail and entertainment destination street and provides that development in Airlie Beach is conscientious of flooding / storm surge and climatic risks that may impact people and property. The proposal improves flood immunity of people and property (shops) on site.

The Airlie Beach Access & Movement Plan strategies for this area include;

- The proposed building design supports the creation of a main street retail & entertainment destination by having an active street frontage – without the interruption by vehicle crossovers, and without the provision of ground floor car parking;
- Prioritising vehicle through-route & destination traffic, bus, loading, pedestrian & bicycle use;

- Reduced the speed limit to 30 km/hour;
- Implementing a taxi zone adjacent to the subject site and Airlie Creek and by improving pedestrian way finding signage;
- The proposed building design addresses a number of safety constraints identified in the Access & Movement Plan;
- Blank edges to built form creates passive surveillance concerns on Shute Harbour Road (Main Street) environment;
- Confusion between vehicles and pedestrians over right-of-way at crossing points along Shute Harbour Road (Main Street); and
- Interface and connectivity improvements between the public car parking and Shute Harbour Road (Main Street).

The applicant provided the following comments in relation to the Access and Movement Plan and the Draft Whitsunday Shire Planning Scheme 2014;

The Access & Movement Plan identifies over 1,200 public spaces within a 500 metre: six (6) minute walk of Airlie Central Main Street there are;

- 433 pay & display car parks (12-24 hours)
- 72 temporary free car parks
- 44 free for 4 hour car parks
- 100 on-street free for 1 hour car parks
- 6 on-street disabled car parks
- 8 free for 15 minute car parks
- 120 no-limit car parks (off main-street)
- 179 future car parks at Port of Airlie
- 255 car parks at Abel Point Marina

The Access & Movement Plan also identifies that any new surface car parking to service main street uses must occur behind main street, maintain current number of vehicle crossovers. The design addresses a number of Key Desired Outcomes in the Airlie Beach Structure Plan including the following for the main street precinct;

- *Improving the commercial, mixed uses, lagoon integration;*
- *Increased short-term accommodation options (serviced hotels);*
- *Diversifying tourism economy through local businesses;*
- *A balanced retail tenancy mix addressing needs of both locals and tourists and day / night economy;*
- *Facilitate new investment by landlords;*
- *Attract new investment and development;*
- *Resilience from Airlie Creek flood; and*
- *Pedestrian and traffic conflicts managed.*

The Draft Whitsunday Shire Planning Scheme 2014 includes the subject site in a Local Area Plan which seeks to provide a development framework that facilitates growth to sustain and

strengthen the economy, while retaining valuable community and natural assets. The purpose of the Local Plan is achieved by the design including;

- a) development encourages public transport accessibility use and also provides for pedestrian, bicycle and vehicular movement networks that maximise connectivity, permeability and ease of movement throughout the local planning area;*
- b) uses contribute to the vitality and experience of Airlie Beach as a tourist destination, residential community and a cultural focal point;*
- c) the character of Airlie Beach, which includes its vital, small town scale, tropical climate, pedestrian neighbourhoods, compact main street form, blue views to the sea and green views to Airlie Hill, visually penetrable buildings and heights and lush landscape elements, is maintained;*
- d) development incorporates a high standard of architecture, urban design and landscaping that creates attractive and functional buildings, streets and places;*
- e) development provides an active and articulated streetscape allowing for casual surveillance and pedestrian access from the street, with demonstrated connectivity to surrounding land uses;*
- f) development is located, designed and operated in a manner that does not unreasonably impact on the amenity of surrounding premises, having regard to matters such as traffic, noise, lighting, waste, fumes, odours, hours of operation, privacy, overlooking and public health and safety;*
- g) development is not located to encroach or impact on Airlie Creek catchment and flow and where appropriate supports the improvement of its function and quality;*
- h) development minimises risks and potential impacts associated with natural hazards on life, property, community, economic activity and the environment.*

Officers Comments:

As previously discussed, in accordance with the *Whitsunday Shire Planning Scheme 2009*, sixty (60) car parking spaces are required for the proposed development. The applicant has provided information to support the application which indicates typically a 30% cross utilisation figure applies for mixed commercial / residential uses and this would further reduce the demand for parking by eighteen (18) car parking spaces reducing the required number of spaces to forty-two (42). In terms of credits, the subject site effectively has credit for one (1) car parking space per 25 square metres of GFA which is thirty (30) car parking spaces. Therefore, the subject site has a shortfall of ten (10) car parking spaces with cross utilisation or 30 car parking spaces with no cross utilisation. Whilst it is noted that the applicant is proposing zero car parking spaces, the proposed development does provide an integrated method to the overall development within Airlie Beach.

It is noted, that the Draft *Whitsunday Shire Planning Scheme 2014* includes a Transport and Parking Code which aims to ensure that transport infrastructure including pathways, public transport infrastructure, roads, parking and service areas, are provided in a manner which meets the needs of the development, whilst promoting active and public transport use and preserving the character and amenity of the Whitsunday region. The proposed development is made up of a Commercial Complex and thirty – three (33) one (1) bedroom units which will likely consist of tourists and visitors most of which will made use of the public transport facilities surrounding the development. This demographic of residents will likely have visitors outside the restricted parking hours of which it is likely majority of the visitors to the subject site will access the site via the surrounding public transport. In terms of access, the existing building has been on the site for over thirty (30) years. At the time of the original development, a formal process to secure access from the rear (current car parking area) was not a priority or sought by Council, State or the landowner. From date, policy changes

have resulted in a situation where tenure and policy issues are challenging and unreasonable to resolve. It is assumed that the reasons access was not required from Shute Harbour Road was the desire to minimise the number of crossovers across the footpath particularly where there was an existing access, and given the change in grade from Shute Harbour Road to the building.

The existing premises relies on access through Lot 331 owned by State (DNRM) this land includes a carpark with over one hundred (100) car parking spaces. The land includes an Easement A SP23050 for Council services. Council and the landowner are now in a situation whereby the obvious and logistical access to the site cannot readily or reasonably be relied upon, due to historical events.

Based on the above, the assessment officer raised no concerns and agrees that the proposed development complies with the abovementioned Code and consider the development to satisfy the relevant requirements.

5. Adopted Infrastructure Charges Resolution

The following is a breakdown on the Infrastructure Charges for the development:

DEMAND - Adopted Infrastructure Charge

<i>Applicable Infrastructure Network</i>	<i>Adopted Infrastructure Charge Category</i>	<i>Adopted Infrastructure Charge Rate</i>	<i>Stage</i>	<i>Number of Demand Units</i>	<i>Total Adopted Infrastructure Charge</i>
Water Supply	Accommodation (short term)	\$10,000		33	\$330,000.00
Sewerage					
Stormwater					
Transport					
Recreation Facilities					
Water Supply	Commercial (Retail)	\$180.00 per m2 of GFA		635m2	\$114,300.00
Sewerage					
Stormwater					
Transport					
Recreation Facilities					

CREDITS - Adopted Infrastructure Charge

<i>Applicable Infrastructure Network</i>	<i>Adopted Infrastructure Charge Category</i>	<i>Adopted Infrastructure Charge Rate</i>	<i>Stage</i>	<i>Number of Demand Units</i>	<i>Total Adopted Infrastructure Charge</i>
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Water Supply	Commercial (Retail)	\$180.00 per m2 of GFA		635m2	\$114,300.00
Sewerage					
Stormwater					
Transport					
Recreation Facilities					

When the charge is Payable:

Prior to the commencement of the use

The proposed development is within Council's Priority Infrastructure Area and therefore an Infrastructure Charges Notice will be issued.

Demand	Minus Credits	Total Infrastructure Charge
\$330,000.00	\$114,300.00	\$215,700.00

6. Draft Whitsunday Regional Council Planning Scheme – November, 2014

Pursuant to the Draft Whitsunday Shire Planning Scheme 2014, the subject site is located within the Airlie Beach Local Plan - District Centre Zone. The proposed land uses are consistent with the Strategic Framework and Intent of the Airlie Beach Local Plan – District Centre Zone. The subject site has been identified as having local character and amenity values that need to be protected, which has been achieved through the design of the proposed development. The levels of assessment remain the same and consistent with the current Whitsunday Shire Planning Scheme 2009.

At this point in time, it is considered too premature to place any significant weight on the draft provision within the new Planning Scheme. Therefore, it is considered that minimal weight should be given to the Draft Whitsunday Shire Planning Scheme 2014 when determining this application. The proposed development is able to meet the intent of the Airlie Beach Local Plan - District Centre Zone, clearly demonstrating that the proposed land uses is envisaged on the subject site.

PUBLIC NOTIFICATION, SUBMISSIONS AND REPRESENTATIONS

As the proposal is subject to Code Assessment, Public Notification will not be required under the *Sustainable Planning Act (SPA) 2009*.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

Place

Objective: *Our infrastructure supports our region's current and future needs.*

Prosperity

Objective: *Our infrastructure enables economic development and facilitates investment opportunities.*

OPERATIONAL PLAN REFERENCE

Place

Strategies

1. *Develop and maintain effective roads and drainage infrastructure, networks and facilities.*
2. *Develop and maintain effective water and waste water infrastructure, networks and facilities.*
3. *Develop integrated asset management plans to effectively manage and maintain road, water and waste water infrastructure and ensure assets meet the demands of a growing population.*
4. *Deliver effective customer focused water services that protect the public health.*
5. *Develop a planned approach to securing the Whitsunday Region's water supply.*
6. *Partner with Federal and State Governments to enhance the Whitsunday Region's capacity for ongoing development and infrastructure maintenance.*
7. *Engage with Federal and State Governments regarding regional and national water security issues.*

BUDGET REFERENCE

N/A

CONSULTATION

Bianca Clarke – Senior Town Planner (Author)

ATTACHMENTS

Appendix Item 1 - Locality Plan

Appendix Item 2 - Proposal Plan

Appendix Item 3 - State Agency Referral Agency (SARA) Response

Appendix A - Conditions of Approval

12. Planning and Community Services

12.2 20150060 - APPLICATION FOR CONVERSION TO FREEHOLD OF GRAZING HOMESTEAD PERPETUAL LEASE 5/2122 DESCRIBED AS LOT 31 ON SP108590

RECOMMENDATION

That the Department of Natural Resources and Mines be advised that Council has no objection to the Grazing Homestead Perpetual Lease 5/2122 described as Lot 31 on SP108590, being converted to freehold provided the use of the land is for grazing purposes.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

In accordance with s16 of the *Land Act 1994*, before land is allocated under this Act, the Chief Executive of the State Department of Natural Resources and Mines must evaluate the land to assess the most appropriate tenure and use for the land.

In accordance with Departmental Guideline - Land Allocation: Deciding Most Appropriate Use, Tenure and Management (PUX/901/101), an assessment of the most appropriate use of the land should give due consideration to:

- attributes of the land,
- views and rights of interested parties, and
- government policy.

“Attributes of the land” include the environmental, social and economic values of the land, and opportunities and constraints based upon land capacity (capabilities) and condition. This will require an assessment of (among other things) natural resources, environmental values, culturally valuable and sensitive areas and features, biodiversity, community needs, and the location of the land with respect to existing and future needs for public infrastructure and services.

“Views and rights of interested parties” may require a consideration of interest holders' views (including lessees, native title holders, secondary interest holders such as a grantee of an easement, holders of rights and interests under the Mineral Resources Act 1989) and consideration of the views of interested parties such as State and local government agencies and, at times, conservation groups, community groups and adjoining property owners or managers. At a minimum the consultation process will include requesting views of local government, other relevant government agencies and assessing the status of native title and indigenous cultural heritage over the land.

“Strategies and policies”, for example regional plans and local government planning schemes, need to be checked to expert advice will be largely relied upon to provide information – for example, the State will rely on the relevant local government to provide advice on whether a proposed use is consistent with its planning scheme and policies.

Land evaluation information, upon which the most appropriate use decision will be based, will be accessed from a range of sources, including planning strategies and policies, views of interested parties, departmental databases, government laws and policies, previous planning studies, and from a physical inspection of the subject land.

After the most appropriate use for the land is determined, the specific oversight that the State wishes to retain will need to be decided by the State to ensure that the tenure type which will achieve and maintain the use is allocated.

A decision to allocate tenure is a reviewable decision in terms of the *Judicial Review Act 1991* and a decision maker must be able to provide an adequate statement of reasons for a decision.

Further, allocation and other dealings under the Land Act are subject to Native Title being satisfactorily addressed - sections 7, 27 and 28 of the Land Act 1994 (Land Act) apply.

REPORT

The Department of Natural Resources and Mines has sought Council's views on an application for the conversion of a Grazing Homestead Perpetual Lease 5/2122 described as Lot 31 on SP108590.

Lot 31 on SP108590 is zoned Rural under the *2009 Whitsunday Shire Planning Scheme* and is approximately 12200.0000 hectares. The property is identified on the Natural Features & Resources Overlay – Special Management Areas – Bushfire Hazard.

In order to provide a response to the Department in relation to the "views and rights of interested parties", council officers have undertaken a review as to whether or not the proposed conversion of GPL 5/2112 will adversely impact on Council interests.

The conversion of GPL 5/2112 does not adversely impact on existing or future Council owned or controlled infrastructure, being:

- urban and rural residential water cycle management infrastructure, including infrastructure for water supply, and sewerage;
- transport infrastructure, including constructed roads and footpaths;
- public parks infrastructure;
- community facilities, including community halls or public libraries.

It is noted that the proposed area subject to GPL 5/2112 does not contain any Council owned or controlled infrastructure and there are no plans to locate Council owned or controlled infrastructure within the area subject to GPL 5/2112.

The conversion of GPL 5/2112 does not adversely impact on valuable features, as stated in the planning scheme, such as:

- resources or areas that are of ecological significance;
- areas contributing significantly to amenity;
- areas or places of cultural heritage significance;
- resources or areas of economic value.

The proposed conversion of GPL 5/2112 does not adversely impact on land use intent of the area, being rural nor the ability for the site to continue the current farming practices which is a consistent and suitable use given the overlays over the site.

Planning Assessment have reviewed and do not object to the proposed renewal of GPL 5/2112.

STATUTORY MATTERS

Land Act 1994

CORPORATE PLAN REFERENCE

Objective:

Place – Our natural environment is valued and sustainable.

Place – Our region is accessible and connected.

Place – Our infrastructure supports our region's current and future needs.

OPERATIONAL PLAN REFERENCE

Place Strategies

- 1. Develop and implement an efficient, effective and accountable framework for managing the growth and development of the Whitsunday Region.***
- 2. Develop and implement strategies to preserve the unique character of our communities and heritage places.***
- 3. Advocate the Whitsunday Region's planning and growth needs to Federal and State Governments.***

BUDGET REFERENCE

N/A

CONSULTATION

Emma Lekic – Technical Officer Planning Assessment (Author)

Kellianne Wynne – Manager – Development Assessment

ATTACHMENTS

Appendix Item 1 – Locality Plan

Appendix Item 2 – Smart Map 31SP108590

12. Planning and Community Services

12.3 20140824 - DEVELOPMENT PERMIT FOR RECONFIGURATION OF A LOT - ONE (1) LOT INTO TWO (2) LOTS - 501 SUGARLOAF ROAD RIORDANVALE - MCSHARER

RECOMMENDATION

That in relation to the application for Development Permit for a Reconfiguration of a Lot - One (1) Lot into Two (2) Lots, made by J A McSharer & M M McSharer, on Lot 8 RP 747088 and located at 501 Sugarloaf Road Riordanvale, Council resolves to approve the application subject to the conditions outlined in Appendix A.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Department.

Council has received this Development Application under the *Sustainable Planning Act 2009* as detailed below.

SUMMARY OF APPLICATION

Applicant	J A McSharer & M M McSharer
Landowner	J A McSharer
Property Address:	501 Sugarloaf Road, Riordanvale
Real Property Description:	Lot 8 RP 747088
Area of Site:	Two (2) hectares
Planning Scheme Zone:	Rural Residential, <i>Whitsunday Shire Planning Scheme 2009</i>
Existing Use:	A dwelling house and a shed
Proposed Use:	Reconfiguration of a Lot – One (1) Lot into Two (2) Lots
Existing Approvals:	N/A
Approval Sought:	Development Permit for Reconfiguration of a Lot - One (1) Lot into Two (2) Lots
Application Progress:	
Application Lodged:	26/11/2014
Submission Period Commenced:	19/01/2015
Submission Period End:	05/02/2015

Last Receipt of Information from Applicant:	11/02/2015
Original Statutory Determination Date:	10/03/2015

PROPOSAL

The proposal is for a development permit for a reconfiguration of a lot – one (1) lot into two (2) lots. The site is two (2) hectares and located in the rural residential zone under the *Whitsunday Shire Planning Scheme 2009*. The proposal seeks to create proposed lot 10 at 1.3 hectares in size and proposed lot 9 at 7,000 square metres in size. The intent of the proposal is to section the property and locate the existing dwelling house and shed in proposed lot 10.

Existing access crossovers from Sugarloaf Road exist for proposed lot 9 and lot 10. A new internal driveway is proposed to be constructed to a gravel standard from Sugarloaf Road through the battle-axe section of proposed lot 10.

The site is serviced by potable water supply and an on-site effluent disposal report has been provided for proposed lot 9. Telecommunications and electricity are available at the frontage of site.

SUBJECT SITE AND ADJOINING LAND USES

The site is surrounded by the following uses:

- To the east – Rural residential node of allotments;
- To the west- Rural residential uses;
- To the north – Rural residential uses; and
- To the south – Rural residential uses.

STATE PLANNING MATTERS

1. State Assessment and Referral Agency (SARA)

The application does not trigger any State Referral Agencies.

2. State Planning Policy – July, 2014

The State Planning Policy includes interim development assessment requirements to ensure the state interests are appropriately considered by local government when assessing development applications where the local government Planning Schemes has not yet appropriately integrated the state interests in the State Planning Policy.

State Interest – Biodiversity

- 1) Remanent vegetation
- 2) Wildlife habitat

The site contains a small amount of remnant vegetation and essential habitat cover, this mapping is contained within proposed lot 10 including the existing dwelling house and shed. The proposed reconfiguration does not result in any additional exempt clearing opportunities.

State Interest – Water Quality

- 1) Climatic regions (stormwater management design objectives)

Developed flows from roof and allotment drainage can be managed on the subject site and are to be constructed to achieve compliance with the requirements of Council's Development Manual and the Queensland Urban Drainage Manual.

State Interest – Natural Resources, Risk and Resilience

1) Bushfire Impacts

The site has scattered trees and is predominantly covered by grass. The threat of bushfire can be mitigated through appropriate bushfire breaks, siting and design of buildings that can be considered at any future building works application stage.

3. Mackay Isaac and Whitsunday Regional Plan - February, 2012

The Mackay Isaac and Whitsunday Regional Plan was established to provide the vision and direction for the region to 2031. The plan provides certainty about where the region is heading in the future and provides the framework to respond to the challenges and opportunities which may arise.

Regional Framework:- Desired Regional Outcomes:

Strategic directions – Regional Landscapes

The site is located within the Rural Living Area under the Regional Plan. The site is situated in a rural residential node and promotes the growth of settlement patterns that don't encourage urban encroachment and ensures no fragmentation or loss of good quality agricultural land for agri-business activities.

Strategic direction – Managing Growth

Rural residential land plays a significant role in the region to accommodate growth demands and offer alternative lifestyle choices including affordable range of housing and opportunities for small scale hobby farming. The proposed type of rural residential subdivision occurs on land determined to be an efficient use of the land and suitable use of supporting infrastructure services.

LOCAL PLANNING MATTERS

1. Desired Environmental Outcomes

Natural Environment

The Shire's unique natural open space, climatic, rural and scenic attributes are maintained and protected as follows:

- land use and the built environment are sensitive and responsive to the environment, and are located, designed and operated having due regard to any potential for adverse effects on the environment;

The proposed subdivision does not create any adverse impacts on the environment or ecological features of concern. The reconfiguration seeks to maintain the retention of significant views and natural features.

Living and Working Environment

Functional, efficient, attractive and safe local community areas that:

- maintain a settlement pattern for the shire that is contained within or which consolidates existing urban areas and does not promote increased dispersed settlement outside such areas;
- exhibit a character, identity and sense of place reflective of their location;
- offer the highest possible standard of amenity and quality of living/working environment;

- promote compatibility of land uses and provide for the effective management of land use conflicts;

The proposed subdivision does not promote an ad-hoc or dispersed rural residential settlement pattern. The proposal supports for the provision of infill development and maintains the amenity of the rural residential character of the area. Surrounding rural residential allotments have been subdivided to lot sizes between 8,000 square metres and two (2) hectares. The proposal will integrate into the existing lot configuration of the area.

2. Overall Outcomes of Zone Code

The lot is zoned Rural Residential under the *Whitsunday Shire Planning Scheme 2009*.

The overall outcomes are the purpose of the Rural Residential Zone Code. The overall outcomes sought for the Rural Residential Zone are the following:

- (a) the Rural Residential Zone identifies the rural residential nodes for the shire which can support low-density rural residential development and ensure that such development is not regarded as ad-hoc or dispersed rural residential development;
- (b) significant environmental, landscape and cultural values and features such as vegetated hillslopes are maintained and protected against adverse impacts;
- (c) the continuation of productive rural activity undertaken on adjacent rural zoned land is not compromised;
- (d) residential uses consist of low key development with residential densities no greater than one dwelling unit per hectare;
- (e) amenity of residential development not adversely affected by proximity to infrastructure such as air, road, rail and sea transport facilities;
- (f) residential uses have adequate road access to community infrastructure and services located within urban parts of the Shire;
- (g) residential neighbourhoods have a high level of internal permeability for vehicles, cyclists and pedestrians, and are well connected to local open space networks; and
- (h) uses are provided with a standard of road, potable water supply and effluent disposal facilities which maintain a semi-rural character and minimises adverse environmental impacts.

The proposed reconfiguration complies with the intent of the overall outcomes of the Rural Residential Zone. The proposal creates a minor non-compliance with achieving lot sizes consistent with a density of one (1) dwelling per hectare. The proposed lot sizes are of a sufficient size to ensure that existing infrastructure can continue to service the lots and is not considered unnecessary fragmentation. Both proposed lots will have appropriate area and elements for siting and construction of any future dwellings, ancillary outbuildings, provision of private outdoor space and convenient vehicle access and parking. It is considered that any adjoining land use conflicts are minimal due to the site being bordered by properties within the Rural Residential zone.

3. Overall Outcome of the Natural Hazards Code and Conservation areas Overlay Code

Natural Hazards Overlay Code

- Essential habitat (Proserpine Rock Wallaby)
- Medium bushfire

The rear half of the property is covered by a 100 metre buffer for essential habitat and a small portion in the top right corner of the lot exists as essential habitat. The proposed new lot is clear of these vegetation aspects.

The site is covered by the medium bushfire hazard rating, however the site is considered to be a low risk as minimal vegetation exists due to previous clearing. Mitigation of any potential bushfire impacts can be taken into account at future building application stage.

The site descends in elevation from the west to the east. Proposed Lot 9 is relatively flat with various areas suitable for the construction of a dwelling house below 10 % gradient.

Conservation Areas Overlay Code

- Aquatic habitat (stream order 1)

A low stream order slightly crosses the rear western property boundary of the site. The proposal does not promote any clearing or development works and therefore this waterway and potential riparian vegetation is retained.

4. Specific Outcomes of Codes

Reconfiguration of a Lot Code

The proposal seeks to create proposed Lot 9 at 7,000 square metres and Lot 10 at 1.3 hectares. These sizes do not meet the minimum size requirements for allotments within the Rural Residential zone. It is considered by Council officers that due to the existing site layout the proposed allotments are suitable to provide infrastructure and services provision.

The proposed subdivision does not create any adjoining land use conflicts with neighbouring properties as the bordering properties are located within an existing Rural Residential node and this does not restrict activities undertaken on the surrounding land.

5. Adopted Infrastructure Charges Resolution

The subject site is located outside of the Priority Infrastructure Area (PIA) and as such a condition will be provided for developer contributions in relation to roadwork's and community facilities.

6. Draft Whitsunday Regional Council Planning Scheme – November, 2014

Strategic Framework:

The proposal creates opportunities to encourage growth within the region and provide land for future residential housing purposes.

Strategic Intent:

The proposal allows for rural residential growth to continue to occur and to retain a high standard of amenity, character, and privacy whilst conserving significant natural features.

Proposed Zone:

- Rural Residential Zone

Applicable Overlays:

- Bushfire Hazard Overlay – (High and Very High Potential Bushfire Hazard)
- Environmental Significance Overlay - (Regulated Vegetation)
- Landslide Hazard Overlay - (> 24%)
- Waterways and wetlands Overlay - (Central Coast North – Stream Order 1)

Bushfire hazard is considered by Council Officers that it can be mitigated on site at future building application stage by assessment reports and building setbacks to minimise threats and risks of bushfire. The vegetation mapping is located within the lot that already has the existing dwelling house and shed. Any future development within this lot would need to be buffered a particular distance away from the protected area. The area mapped as landslide is situated toward the northern top right corner of the site. Future development would be

required to not be located on land identified as landslide or meet requirements of providing stability of structures through engineering assessment reports.

Level of Assessment:

The level of assessment under the draft planning scheme is Code assessable as the proposal is compliant with the minimum lot size set out in Table 9.4.6.3.2 and the overlay codes do not trigger a higher level of assessment.

Under the *Whitsunday Shire Planning Scheme 2009* the level of assessment is Impact assessable, as the proposal is inconsistent with meeting the proposed minimum lot size of two (2) hectares.

Applicable Codes:

- Rural Residential zone code
- Reconfiguration a lot code
- Excavation and filling code
- Infrastructure code
- Landscaping code
- Transport and parking code

The proposal is generally consistent with the acceptable outcomes of the above listed codes and overlays. It is noted that the main difference is that the minimum lot size within the rural residential zone is 4,000 square metres. Accordingly the current proposed lots sizes of the development application would be compliant with the new planning scheme provisions.

PUBLIC NOTIFICATION, SUBMISSIONS AND REPRESENTATIONS

The development application was placed on public notification between 19 January 2015 and 10 February 2015 in accordance with the relevant provisions of the *Sustainable Planning Act 2009*. The Notice of Compliance was received on 11 February 2015. No submissions were received during this period of Public Notification.

CONCLUSION / SUMMARY

The application has been assessed against the relevant provisions of the *Sustainable Planning Act 2009* and the *Whitsunday Shire Planning Scheme 2009*. The proposal is considered to be consistent with the Planning Scheme. The application is recommended for approval in accordance with the drawings and documents submitted, subject to reasonable and relevant conditions.

CORPORATE PLAN REFERENCE

Place

Objective: Our built environment is well planned, effectively managed and protects our region's heritage and character.

OPERATIONAL PLAN REFERENCE

Place

Strategies

- 1. Develop and implement an efficient, effective and accountable framework for managing the growth and development of the Whitsunday Region.***

2. *Develop and implement strategies to preserve the unique character of our communities and heritage places.*
3. *Advocate the Whitsunday Region's planning and growth needs to Federal and State Governments.*

BUDGET REFERENCE

N/A

CONSULTATION

Anthea Shivas – Town Planner (Author)

ATTACHMENTS

Appendix Item 1 - Locality Plan

Appendix Item 2 - Proposal Plan

Appendix A - Conditions of Approval

12. Planning and Community Services

12.4 20140365 - PRELIMINARY APPROVAL OVERRIDING THE PLANNING SCHEME FOR THIRTEEN (13) INDUSTRIAL ALLOTMENTS AT JURGENS PLACE BOWEN - JURGENS PRODUCE PTY LTD

RECOMMENDATION

That in relation to the application for Preliminary Approval Overriding the Planning Scheme and Bowen TLPI for Thirteen (13) Industrial Allotments, made by Jurgens Produce Pty Ltd, on L: 1 SP: 232114 T: A EMT D/SP232113& COV E/SP232113, L: 2 SP: 232114 T: & EMT D/SP232113 & COV F/SP232113, L: 3 SP: 232114 T: & EMT D/SP232113 & COV G/SP232113, L: 4 SP: 232114 T: & EMT D/SP232113 & COV H/SP232113, L: 5 SP: 232114 T: & EMT D/SP232113 & COV I/SP232113, L: 6 SP: 232114 T: & EMT D/SP232113 & COV J/SP232113, L: 7 SP: 232114 T: & EMT D/SP232113 & COV K/SP232113, L: 8 SP: 232114 T: & EMT C/RP885979 & COV L/SP232113, L: 9 SP: 232114 T: & EMT C/RP885979 & COV M/SP232113, L: 10 SP: 232114 T: & EMT C/RP885979 & COV N/SP232113, L: 11 SP: 232114 T: & EMT C/RP885979 & COV O/SP232113, L: 12 SP: 232114 T: & EMT C/RP885979 & COV P/SP232113, L: 13 SP: 232114 T: & EMT C/RP885979 & COV Q/SP232113 and located at Jurgens Place BOWEN, Council resolves to Approve the application subject to conditions.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Department.

Council has received this Development Application under the *Sustainable Planning Act 2009* as detailed below.

SUMMARY OF APPLICATION

Applicant	Jurgens Produce Pty Ltd as TTE
Landowner	Jurgens Produce Pty Ltd as TTE & G J Nicol & R L Nicol
Property Address:	Jurgens Place BOWEN
Real Property Description:	L: 1 SP: 232114 T: A EMT D/SP232113& COV E/SP232113, L: 2 SP: 232114 T: & EMT D/SP232113 & COV F/SP232113, L: 3 SP: 232114 T: & EMT D/SP232113 & COV G/SP232113, L: 4 SP: 232114 T: & EMT D/SP232113 & COV H/SP232113, L: 5 SP: 232114 T: & EMT D/SP232113 & COV I/SP232113, L: 6 SP: 232114 T: & EMT D/SP232113 & COV J/SP232113, L: 7 SP: 232114 T: & EMT D/SP232113 & COV K/SP232113, L: 8 SP: 232114 T: & EMT C/RP885979 & COV L/SP232113, L: 9 SP: 232114 T: & EMT C/RP885979 & COV M/SP232113, L: 10 SP: 232114 T: & EMT C/RP885979 & COV N/SP232113, L: 11 SP: 232114 T: & EMT C/RP885979 & COV O/SP232113, L: 12 SP: 232114 T: & EMT C/RP885979 & COV P/SP232113, L: 13 SP:

	232114 T: & EMT C/RP885979 & COV Q/SP232113
Area of Site:	7760, 4706, 4775, 4782, 4879, 5774, 7034, 5037, 5045, 5050, 5442
Planning Scheme Zone:	Rural, Bowen Shire Planning Scheme 2006
Existing Use:	Vacant Land
Proposed Zone:	Delta Low Impact Industry Zone
Existing Approvals:	Combined Application for Material Change of Use – Rural Service Industry and Reconfiguration of Lot - 1 Lot into 13 Lots. Approved (by Negotiated Decision Notice) on 8 October 2013.
Approval Sought:	Preliminary Approval Overriding the Planning Scheme and Bowen TLPI for Thirteen (13) Industrial Allotments
Application Progress:	
Application Lodged:	05/06/2014
Submission Period Commenced:	08/10/2014
Submission Period End:	18/11/2014
Last Receipt of Information from Applicant: (Response to Submission)	05/12/2014
Original Statutory Determination Date:	27/01/2015
First Extension of Time:	28/01/2015
Further Extension of Time:	11/02/2015

PROPOSAL

The proposal consists of the following elements:

Amend the Bowen Planning Scheme of 13 Lots from Rural Zone (Bowen Planning Scheme) to Delta Low Impact Industry Zone (as defined by the application). The Delta Low Impact Industry Zone Code is to replace the Rural Zone Code for the purposes of development assessment. The proposed Delta Low Impact Industry Zone map has been included as Attachment 1 of this report.

BACKGROUND

The applicant has previously sought development approval over the site for the reconfiguration of a lot (1 into 13) and material change of use for rural service industry.

Council issued a development approval for a combined application for Material Change of Use and Reconfiguration of a Lot on 4 December 2008, the approval was subsequently amended on 21 January 2010 and further amended on 8 October 2013.

The applicant has achieved compliance with all conditions of the original reconfiguration of a lot and all relevant infrastructure charges have been paid. The road, Jurgens Place, has been constructed, however no rural service industry use has been taken up on the site, to this date.

SUBJECT SITE AND ADJOINING LAND USES

The site is surrounded by the following uses:

- To the east – Rural Residential use in the Rural Zone.
- To the west – MCU Approval for Transport Terminal (not yet commenced) in the Rural Zone (for more information refer to Development Application 20140319); and petrol station and associated ancillary uses in the Business Zone.
- To the north – Rural Services Industry use (Farm Supplies) in the Industrial Zone; and other Rural Residential uses in the Rural Zone and Business Zone.
- To the south – Rural Residential uses in the Rural Zone.

STATE PLANNING MATTERS

1. State Assessment and Referral Agency (SARA)

The Application was referred to the following Agencies:

The Department of Transport and Main Roads pursuant to Schedule 7, Table 3, Item 1 – State Controlled Roads.

Conditions of approval issued by the State Assessment Referral Agency (SARA) have been included as Attachment 2 of this report.

2. State Planning Policy – July 2014

The State Planning Policy includes interim development assessment requirements to ensure the state interests are appropriately considered by local government when assessing development applications where the local government Planning Schemes has not yet appropriately integrated the state interests in the State Planning Policy. The proposed Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes should support, or not contradict, the State Planning Policy.

State Interest – Liveable Communities

The State Interest of Liveable Communities generally relates to the use of land for residential/urban purposes and is not applicable to this application.

The Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes do not contradict the State Interest of Liveable Communities.

State Interest – Mining and Extractive Resources

The State Interest of Mining and Extractive Resources generally relates to the protection against the impediment of mining and extractive resource management and is not applicable to this application.

The Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes do not contradict the State Interest of Mining and Extractive Resources.

State Interest – Biodiversity

The State Interest of Biodiversity generally relates to the protection of matters of local, state and national environmental significance and is not applicable to this application, as there are no matters of significance relevant to the site.

The Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes do not contradict the State Interest of Biodiversity.

State Interest – Coastal Environment

The State Interest of Coastal Environment generally relates to the protection of the coastal environment and is not applicable to this application, as the site is not located in a coastal management area.

The Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes do not contradict the State Interest of Coastal Environment.

State Interest – Water Quality

The State Interest of Water Quality has been sufficiently addressed by the Delta Low Impact Industry Zone Code Performance Outcome PO4 and Acceptable Outcomes AO4.1 to AO4.5. The recommended conditions of approval will further serve to protect the State Interest of Water Quality, refer to Appendix A.

State Interest – Emissions and Hazardous Activities

The State Interest of Emissions and Hazardous Activities has been sufficiently addressed by the Delta Low Impact Industry Zone Code Performance Outcome PO5 and PO6, and Acceptable Outcomes AO5.1 to AO5.8 and AO6.1. The recommended conditions of approval will further serve to protect the State Interest of Emissions and Hazardous Activities, refer to Appendix A.

State Interest – Natural Resources, Risk and Resilience

The State Interest of Natural Resources, Risk and Resilience has been sufficiently addressed by the Delta Low Impact Industry Zone Code Performance Outcome PO7 and Acceptable Outcomes AO7.1. The recommended conditions of approval will further serve to protect the State Interest of Natural Resources, Risk and Resilience, refer to Appendix A.

State Interest – State Transport Infrastructure

The State Interest of State Transport Infrastructure generally relates to the use of existing State roads. As the land is located between two State-controlled roads, the Bruce Highway and Bowen Developmental Road, the application meets the intent of the State Interest.

The Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes generally support the State Interest of State Transport Infrastructure.

State Interest – Strategic Airports and Aviation Facilities

The State Interest of Strategic Airports and Aviation Facilities generally relates to the protection of the airports and their associated facilities and is not applicable to this application, as the site is not located near any identified airport.

The Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes do not contradict the State Interest of Strategic Airports and Aviation Facilities.

3. Mackay Isaac and Whitsunday Regional Plan - February, 2012

The Mackay Isaac and Whitsunday Regional Plan was established to provide the vision and direction for the region to 2031. The plan provides certainty about where the region is heading in the future and provides the framework to respond to the challenges and opportunities which may arise.

Regional Framework:- Desired Regional Outcomes:

Strategic directions – Natural Resource Management

The proposed preliminary approval uses existing Rural Zone land, however it is considered that the existing allotments are of a scale not suitable for agricultural purposes. The proposed Delta Low Impact Industry Zone is considered a reasonable alternate land use that supports the surrounding agricultural land uses and promotes the planning and management of agricultural land in the region. Council Officers consider that the Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes support the Strategic Directions (Natural Resource Management) of the Regional Plan.

Strategic direction – Strong Economy

The proposed preliminary approval Delta Low Impact Industry Zone will allow for low impact industrial uses to be established in support of the primary industries in the region. Council Officers consider that the Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes support the Strategic Directions (Strong Economy) of the Regional Plan.

Strategic direction – Transport

The proposed preliminary approval integrates existing state and local transport infrastructure with the proposed land uses. It is considered that the proposed uses envisaged in the Delta Low Impact Industry Zone are appropriately located in context of the location and region. Council Officers consider that the Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes support the Strategic Directions (Transport) of the Regional Plan.

Regional Narratives – Whitsunday Regional Council: Bowen/Economy & Employment

The proposed preliminary approval is in accordance with the Regional Narrative of Bowen and is likely to stimulate further economic growth and employment within the region. Council Officers consider that the Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes support the Strategic Directions (Regional Narratives) of the Regional Plan.

LOCAL PLANNING MATTERS

1. Desired Environmental Outcomes

The preliminary approval seeks to amend the Planning Scheme and, as such, the Desired Environmental Outcomes (DEOs) for Bowen Shire are not applicable to this assessment. However, it should be considered that the Delta Low Impact Industry Zone Code Performance Outcomes and Acceptable Outcomes should not be at variance with the Bowen Shire DEOs. Further development on the site would be required to meet the proposed Zone Code and the DEOs, set out below, to warrant approval.

The Performance Outcomes and Acceptable Outcomes of the proposed Zone reinforce the Desired Environmental Outcomes of Bowen Shire and are considered appropriate for the on-going orderly development of the region.

- (1) The desired environmental outcomes for Bowen Shire are:
 - (a) Development does not adversely affect the values of the Shire's natural environment including coastal areas, wetlands, beaches, headlands, waterways, Protected Areas, undeveloped hillslopes, and areas of significant native vegetation, from any adverse effects accruing from clearing, soil degradation and pollution due to erosion and contamination, acidification, salinity, waste disposal and any modification to natural processes.
 - (b) Development does not adversely affect the quality and quantum of water available for a range of consumptive uses throughout the Shire.

- (c) Risks to safety, property and the environment are not increased by the interaction of development and natural or other hazards, including flooding, bushfire, disturbance of acid sulphate soils, storm surge, cyclonic weather events and landslide.
- (d) Development protects the economic values of natural resources including good quality agricultural land, extractive and mineral resources, vegetation and water.
- (e) Development provides a benefit to and satisfies an economic demand of residents of the area in which it is located.
- (f) Opportunities for maintaining and improving employment resulting from advancements in information technology and emerging business/industry trends are maximised.
- (g) The Shire's tourism industry is strengthened and expanded based on the sustainable use of natural, cultural and man-made assets and the orderly provision of services and facilities.
- (h) Bowen continues to function as the main business centre and administrative hub for the Shire.
- (i) Growth and community development within the Shire focussed on the existing Bowen and Collinsville urban areas to facilitate the efficient use, timely and orderly expansion and continued operation of infrastructure.
- (j) Development facilitates diverse housing choice, including affordable housing, that is responsive to the changing demographic structure of the Shire's population and promotes equity in access to goods and services.
- (k) Development promotes the efficient use and provides for the orderly expansion of the Shire's movement system, including motorised and non-motorised modes.
- (l) Development occurs in the area:
 - (i) which is suitable and compatible with the nature of the development; and
 - (ii) in which services and facilities required in respect of the development are existing, planned or provided by the development.
- (m) Development does not adversely affect:
 - (i) the community's health and safety;
 - (ii) the amenity enjoyed by people in different areas of the Shire; and
 - (iii) the safe and efficient operation of the transport, energy and other infrastructure supporting the Shire and surrounding region.
- (n) Development reflects the community's reasonable expectations and harmonises with the natural environment and does not prejudice the Shire's existing scenic amenity, particularly along the coastal plain.
- (o) The community values of places and landscapes reflecting the community's history and identity are not detrimentally affected by development.

2. Overall Outcomes of Zone Code

The preliminary approval does not require an assessment against the Overall Outcomes of the Rural Zone Code, as the nature of a preliminary approval is to vary the Planning Scheme Zone Code. Where the preliminary approval does not vary the code, the Rural Zone Code will still apply.

The proposed Delta Low Impact Industry Zone Code provides a suitable alternative to the Rural Zone Code of the Bowen Shire Planning Scheme, which will allow for the on-going orderly development of the region.

5. Adopted Infrastructure Charges Resolution

The following is a breakdown on the Infrastructure Charges for the development:

Not Applicable – Infrastructure charges cannot be applied to preliminary approvals. Infrastructure charges were issued as part of the Reconfiguration of Lot approval and have subsequently been paid. Further infrastructure charges may be applicable for each individual lot at Material Change of Use approval or Building Works stage for self-assessable development.

6. Draft Whitsunday Regional Council Planning Scheme – November, 2014

Strategic Framework:

The preliminary approval application proposes to amend the planning scheme from Rural Zone to Delta Low Impact Industry Zone. The Strategic Framework Map SFM-03 identifies the site as a future industry area. The proposed preliminary approval is consistent with the envisaged future industrial development of the area.

Strategic Intent:

The preliminary approval proposes industrial uses adjacent to existing rural uses that supplement the primary rural uses in the locality. While the majority of the Strategic Intent outlined in the Draft Planning Scheme is not applicable to the proposal, where applicable the proposal meets the Strategic Intent.

Proposed Zone:

Industry Investigation Area Zone

Applicable Overlays:

- Acid Sulfate Soils Overlay;
- Flood Overlay;
- Infrastructure Overlay; and
- Wetlands and Waterways Overlay.

Level of Assessment:

A preliminary approval is not subject to a level of assessment, pursuant to the *Sustainable Planning Act 2009*.

The preliminary approval proposes levels of assessment for future development. The level of assessment for the uses stated in the preliminary approval generally reflects the level of assessment and listed uses of the Low Impact Industry Zone of the Draft Planning Scheme. While the proposed zone identified in the Draft Planning Scheme is Industry Investigation Area Zone and not Low Impact Industry Zone, it is considered that this zone anticipates future industrial uses within the locality. It is considered that the low impact industry uses and levels of assessment proposed by the preliminary approval are in accordance with the Draft Planning Scheme.

Applicable Codes:

This is not applicable to a preliminary approval application.

PUBLIC NOTIFICATION, SUBMISSIONS AND REPRESENTATIONS

The preliminary approval application was placed on public notification between 8 October 2014 and 18 November 2014 in accordance with the relevant provisions of the *Sustainable*



Planning Act 2009. The Notice of Compliance was received on 20 November 2014. One (1) submission was received during the period of Public Notification, refer to Attachment 3.

Submission have been received and summarised in the below table:

Issue	Comment/Condition Number
1. Stormwater Drainage	The stormwater drainage issue was addressed at Reconfiguration of a Lot stage of the development. Council Officers have previously investigated the site and issued an official response to the submitter.
2. Fence Blocking Floodway	The applicants have agreed to Council imposing a condition requiring the fence to have a gap between the bottom of the fence and the ground to allow floodwaters to pass unimpeded.
3. Tree Buffer Zone	An existing covenant exists over the land requiring the owner to maintain a vegetative screen (or buffer zone). Council Officers will further reinforce the requirements of the covenant though the conditions of approval, please refer to Condition 5.1.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

Prosperity

Objective: Our infrastructure enables economic development and facilitates investment opportunities.

Prosperity

Objective: Our agriculture sector is sustainable and enjoys access to strong export and development opportunities.

OPERATIONAL PLAN REFERENCE

Prosperity

Strategies

1. ***Develop an Agriculture Strategy to facilitate the growth of the agriculture, horticulture and aquaculture sectors and identify export opportunities.***
2. ***Maintain road infrastructure that meets the needs of primary producers and industry stakeholders.***
3. ***Partner with primary producers and industry stakeholders to promote the Whitsunday Region as a suitable location for a fresh produce canning and processing plant.***

- 4. Partner with primary producers and industry stakeholders to identify opportunities and challenges facing our agriculture, horticulture and seafood sectors.**

BUDGET REFERENCE

N/A

CONSULTATION

Shane Neville - Senior Development Assessment Officer (Author)

ATTACHMENTS

Appendix Item 1 - Locality/Proposal Plan

Appendix Item 2 - State Agency Referral Agency (SARA) Response

Appendix Item 3 - Submission

Appendix A - Conditions of Approval

12. Planning and Community Services

12.5 20070899 - REQUEST FOR EXTENSION OF RELEVANT PERIOD - DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - AGED CARE ACCOMMODATION COMPRISING SEVENTY FOUR (74) RELOCATABLE HOMES, COMMUNITY CENTRE, ANCILLARY USES - 55 VALLEY DVE CANNONVALE - MJR+SONS PTY LTD

RECOMMENDATION

That in relation to the request for an extension of relevant period of the Development Permit for Material Change of Use - Aged Care Accommodation Comprising Seventy Four (74) Relocatable Homes, Community Centre and Ancillary Uses lodged by RPS on behalf of MJR & Sons Pty Ltd on land described as Lot 14 RP733748, 55 Valley Drive Cannonvale, that Council approve the request for an extension of the relevant period to the 6 February 2017 to coincide with the Operational Works lapse date.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Department.

BACKGROUND

A development application for a Development Permit for a Material Change of Use – Aged Care Accommodation Comprising Seventy Four (74) Relocatable Homes, Community Centre and Ancillary Uses on land described as Lot 14 RP733748, 55 Valley Drive, Cannonvale, was approved by Council on 6 February 2015, subject to conditions. An extension to the relevant period for two (2) years was issued on 11 January 2012 with a further extension to the relevant period for one (1) year issued on 16 April 2014.

REPORT

On the 6 February 2015 pursuant to section 383 of the *Sustainable Planning Act 2009*, Council received a request to extend the relevant period of the development permit for a Material Change of Use - Aged Care Accommodation Comprising Seventy Four (74) Relocatable Homes, Community Centre and Ancillary Uses until the 6 February 2017.

Applicant's representations

We act for MJR & Sons Pty Ltd, the applicants in this matter, regarding a development permit issued by Whitsunday Regional Council (Council) over the above mentioned property on 6 February 2008. The development permit was issued under the Integrated Planning Act 1997.

1. Approval Summary

The development permit approved the following aspect of development:

- *Development Permit for a Material Change of Use – Aged Care Accommodation Comprising Seventy Four (74) Relocatable Homes, Community Centre & Ancillary Uses*

In addition to the above, Council have since issued the following subsequent approvals:

- *An Extension to the Relevant Period for two (2) years, issued on 11 January 2012 (attached); and*
- *Extension to the Relevant Period for one (1) year, issued on 16 April 2014*

(attached)

In accordance with these subsequent approvals issued by Council, the development permit lapses on **06 February 2015**.

Consequently, the applicant seeks a further extension to the development permit of two (2) years in order to allow sufficient time for the Operational Works application to be approved, for a contractor to be formally appointed and construction to be completed. Note that a two (2) year extension will ensure both the Material Change of Use Development Permit and Operational Works (application lodged on 3 February) Development Permit will lapse at approximately the same time.

If this extension request approved, the development permit would lapse on **06 February 2017**.

2. Statutory Requirements

In accordance with Section 383 of the Sustainable Planning Act 2009 (SPA), the following documentation has been lodged in support of the request to Extend the Relevant Period for the above mentioned development permit:

- (a) The application fee of \$811, being the prescribed fee as detailed in Council's Register of Cost Recovery Fees for the year 1 July 2014 to 30 June 2015, has been deposited directly to Council using the reference number 20070899.
- (b) As MJR & Sons Pty Ltd are the registered owners of the property and are making the request, pursuant to Section 383(3)(d) of the SPA, no owner's consent is required.
- (c) This correspondence comprises MJR & Sons Pty Ltd request to extend the relevant period for the above mentioned development permit, being 20070899.

3. Assessment Requirements

As detailed in Section 388 of the SPA, in deciding the request, the assessment manager must only have regard to:

"388 Deciding request

- (1) In deciding a request under section 383, the assessment manager must only have regard to –
 - (a) the consistency of the approval, including its conditions, with the current laws and policies applying to the development, including, for example, the amount and type of infrastructure contributions, or charges payable under chapter 8 parts 2 and 3; and
 - (b) the community's current awareness of the development approval; and
 - (c) whether, if the request were refused –
 - (i) further rights to make a submission may be available for a further development application; and
 - (ii) the likely extent to which those rights may be exercised; and
 - (d) the view of any concurrence agency for the approval given under section 385."

3.1 Consistency of the Approval

Whitsunday Shire Council Planning Scheme

The originating development application was approved under the now superseded Whitsunday Shire Planning Scheme 2000 (WSPS 2000) in February of 2008. Since this time, the Whitsunday Shire Planning Scheme 2009 (WSPS 2009) has come into effect. The development permit has been granted two (2) extensions to the relevant period by Council in

January 2012 and April 2014. In lieu of undertaking a full assessment of the approval against the WSPS 2009, it is considered that as Council has approved previous extensions to this development permit, the most recent of which was in April 2014, it must have, at this point in time and in accordance with s388(1)(a) of SPA, considered the proposed development to be consistent with the WSPS 2009. Furthermore, as there have been no changes to the WSPS 2009 since April 2014, it is considered that the approval should therefore, still be considered by Council as consistent with the WSPS 2009, inclusive of infrastructure charges.

State Legislation

There have been a number of changes to State planning legislation since the original development permit was issued, specifically the introduction of the State Planning Regulatory Provisions (Adopted Charges), The Mackay, Isaac & Whitsunday Regional Plan (MIWRP) & the State Planning Policy (SPP).

All three pieces of legislation were introduced before the most recent extension to the relevant period was issued by Council in April of 2014. As there have been no changes to the mentioned legislation since this time, it is considered that the approval should therefore, still be considered by Council as consistent with these pieces of State legislation.

Draft Whitsunday Regional Council Planning Scheme

The site will be zoned 'Low-Medium Density' Residential under the Draft Whitsunday Regional Council Planning Scheme (DWRCPS). Note that this zoning is generally consistent with the intent of the current zoning of the site being for 'Residential Multiple Dwelling'. The proposed development is defined as a 'Retirement Facility' under the DWRCPS and would be code assessable in the 'Low-Medium Density' Residential zone. It is considered that the proposed development, as approved, is consistent with the development codes of the DWRCPS that are applicable to a retirement village located in the 'Low-Medium Density' Residential zone.

The site is also affected by the Bushfire Hazard Overlay within the DWRCPS. However, due to the fact that the site is located in an urban area with access to reticulated water, the risk of bushfire is considered low. It is therefore considered that the proposed development, as approved, is generally consistent with the DWRCPS.

Summary

In summary, it is considered that the development permit and its conditions remain consistent with the current laws and policies that apply to the development.

3.2 Community Current Awareness

Given the amount of time that has transpired since the approval, it is difficult to accurately gauge community awareness of the development. However, if an application were to be re-lodged under the current WSPS for 74 Multiple Dwelling Units, it would be code assessable. Likewise, if the proposed development were to wait until the DWRCPS came into effect to lodge an application for a Retirement Facility (74 Dwellings), it too would be code assessable.

Hence, the community will not have any opportunity to comment should a new application be required, either now or in the future. As a result, it is not considered that the community will ever have an awareness of the proposed development on this site. This fact is considered to satisfy this assessment requirement.

3.3 Rights to make a Submission

As mentioned above, any new application for the proposed development would be code assessable under both the WSPS and the DWRCPS. As a result, there would be no ability to make a submission against the proposed development if it were to go through the assessment process again. This fact is considered to satisfy this assessment requirement.

3.4 Views of any Concurrence Agency

There were no concurrency agencies for the original approval and hence, this assessment requirement is not relevant in this instance.

3.5 Conclusions with respect to Section 388

The above assessment of the matters the Council is required to have regard to in deciding the requests pursuant to section 388 of the SPA determines that:

- The existing development approval is generally consistent with the current laws and policies applying to the development, inclusive of infrastructure charges and the DWRCPS which demonstrates compliance with s3881(a) of the SPA; and*
- That if the application did have to be remade, any such application would remain code assessable under both the WSPS and DWRCPS. This would remove the opportunity for any submissions to be made in relation to the proposed development which is considered to satisfy s3881(b) & (c) of the SPA*

4 Additional Requirements

In addition to the statutory requirements that have been provided above, the following additional supporting information is also provided to assist Council in its assessment.

The current owner has possessed the site for less than one (1) year. Upon acquiring the site, the current owner was advised that it was ready to be developed and is hence why, during the last extension request, Council were advised that the Operational Works application was due to be lodged ASAP, with works to commence directly after approval of this application.

However, after settlement, it was discovered that the site had a number of stormwater drainage issues that needed to be resolved in a way that ensured the development remained profitable.

To overcome these issues, a holistic approach was required which involved significant amounts of engineering design and additional surveying of the site. It has been the undertaking of these works over the past twelve (12) months which has delayed the lodgement of the Operational Works application and subsequent construction of the development. It is noted that a significant investment has been made by the current owner over the past twelve (12) months into addressing the drainage issues on site.

The stormwater drainage issues have now been resolved and accordingly, the Operational Works application was lodged with Council on Tuesday 3 February. In addition, an estimate has been acquired from East Coast Civil to undertake the civil works associated with the development. The above points should be sufficient evidence to demonstrate to Council that the applicant is committed to progressing the development.

Given there is not currently a retirement village in the Airlie Beach/Cannonvale locality, it is considered that there is a real community need for this development to proceed. This, combined with the fact that if the request was refused, it is unlikely that an application for a similar development would be re-lodged (multiple dwelling units would be far more profitable), it would appear as though there is little benefit to Council in letting the development permit lapse. If the request was refused, it would be removing a required community need from the Airlie Beach/Cannonvale locality. As a result, it is considered that this fact should be given significant weight in the assessment of the request.

We encourage Council to contact the undersigned prior to a decision being made should any further information be required in order to assist Council in their assessment process.

Officer's comments

In considering a request for an extension to the relevant period, the assessment manager must have regard to Section 388 of the Sustainable Planning Act 2009 as follows:

- a) the consistency of the approval, including its conditions, with the current laws and policies applying to the development, for example the amount and type of infrastructure contributions, or charges payable;
- b) the communities current awareness of the development approval; and
- c) whether if the request were refused –
 - i. further rights to make a submission may be available for a further development application; and
 - ii. the likely extent to which those rights may be exercised; and
- d) the views of any concurrence agency for the approval given under Section 385 of the *Sustainable Planning Act 2009*.

Council officers have had regard to the relevant test under Section 388 of the *Sustainable Planning Act 2009* and consider that the applicant's request is not in conflict with the relevant requirements.

As indicated in the applicant's representations the Development Application for Operational Works has been lodged to Council signalling the intention of the developer to commence works on the site. The delay in the lodgement of the Operational Works application was the result of significant stormwater issues identified on the site and the time elapsed since the previous extension to the relevant period was the result of the time consuming engineering design works required to address the stormwater issues. As further indicated in the applicants representations a cost estimate has been acquired from a local contractor to undertake the civil works required following an Operational Works approval. The level of assessment of the original application was code assessable hence there were no submissions submitted as a result of the development application.

As a requirement of the *Sustainable Planning Act 2009* provisions of Section 388, the community's current awareness of the proposed development is required in order for an extension to be granted. The applicant has indicated the current community may not be fully aware of the proposed development on the site as considerable time has passed since the proposal was approved and the fact the development application was not required to be publicly notified as the original application was code assessable. The applicant has also indicated however that if the application were to be re-lodged under the *Whitsunday Shire Planning Scheme 2009* or the *Draft Whitsunday Regional Council Planning Scheme* the level of assessment of the application would be code assessable removing the ability for a submission to be made against the development.

The Sustainable Planning Act 2009 provision of Section 388 requires an officer to assess the developments consistency with the current conditions, laws and policies before an extension is granted. The development was conditioned for the following developer contributions;

Contributions must be paid to Council prior to the commencement of the use on site. The contributions must be paid in accordance with the Council Policy rates at the date of payment.

The following table sets out the current rates:

CONTRIBUTION	NO ET'S	CURRENT RATE*	CURRENT TOTAL*
1 Water Supply	74.0	\$2,585.00*	\$191,290.00
2 Sewerage	74.0	\$4,440.00*	\$328,560.00
3 Parkland	74.0	\$2,500.00*	\$185,000.00
4 Community Facilities	74.0	\$330.00*	\$24,420.00

5 Roadworks - Shire 74.0 \$819* \$60,606.00

* These figures vary with time and the policy rates current at the date of payment are applicable otherwise the figures must be adjusted quarterly based on the Consumer Price Index for the Brisbane area.

The site is located in the Priority Infrastructure Area. The applicable charges in accordance with the current Infrastructure Charges Resolution No. 3 (Whitsunday) rates are:

DEMAND – Adopted Infrastructure Charge

<i>Applicable Infrastructure Network</i>	<i>Adopted Infrastructure Charge Category</i>	<i>Adopted Infrastructure Charge Rate</i>	<i>Number of Demand Units</i>	<i>Total Adopted Infrastructure Charge</i>
Water Supply Sewerage Stormwater Transport Recreation Facilities	1 or 2 bedroom dwelling	\$20,000	74	\$1,480,000.00

CREDITS – Adopted Infrastructure Charge

<i>Applicable Infrastructure Network</i>	<i>Adopted Infrastructure Charge Category</i>	<i>Adopted Infrastructure Charge Rate</i>	<i>Number of Credits</i>	<i>Total Adopted Infrastructure Charge</i>
Water Supply Sewerage Stormwater Transport Recreation Facilities	3 or more bedroom dwelling	\$28,000	1	\$28,000.00

Payable: Prior to the sealing of the survey plan or commencement of the use, whichever is the sooner.	Demand	Minus Credits	Total Infrastructure Charge
	\$1,480,000.00	\$28,000.00	\$1,452,000.00

Draft Whitsunday Regional Council Planning Scheme

A review of the proposal against the Draft Whitsunday Regional Council Planning Scheme of which is currently undertaking State Interest Review has been undertaken:

Strategic Framework:

The proposal is considered to be consistent with the Strategic Intent of the Draft Whitsunday Regional Council Planning Scheme. The proposal builds on the Strategic Outcome of liveable communities by providing a life-enriching facility for the regions elderly population which is not otherwise offered in the surrounding area. It is also acknowledged the potential for the proposal to stimulate economic growth within the region through the proposals

employment generating capacities. The proposal is not considered to detract from the Strategic Outcome of ensuring safety of the community, property and infrastructure.

Strategic Intent:

The proposal is considered to be consistent with the strategic intent of the Draft Whitsunday Regional Council Planning Scheme. The proposal supports the strategic intent to ensure in 2036 and beyond; the Whitsundays is a prosperous, liveable and sustainable region where people live, work, play and invest. This is achieved through the establishment of a use otherwise not currently provided in the Airlie/Cannonvale locality. The use is located within the established urban area of Airlie which under the Draft Whitsunday Regional Council Planning Scheme is zoned low-medium density residential where the proposal is a consistent use.

Proposed Zone:

Under the Draft Whitsunday Regional Council Planning Scheme the proposal is located in the low-medium density residential zone. The proposal is considered to be consistent with the low-medium density residential zone with the level of assessment listed as 'code assessable'. In compliance with the low-medium residential zone code the operation and scale of the use is considered compatible with, and does not detract from, the intended residential character and amenity of the zone.

Applicable Overlays:

Under the Draft Whitsunday Regional Council Planning Scheme the proposal is impacted on by medium, high and very high bushfire hazard. Under the current Whitsunday Shire Planning Scheme 2009 the only applicable overlay to the proposal is medium bushfire hazard.

Level of Assessment:

Under the Draft Whitsunday Regional Council Planning Scheme the level of assessment for the proposal is code assessable. Under the current Whitsunday Regional Shire Planning Scheme 2009 the level of assessment for the proposed use in the Residential Multiple Dwelling Zone is code assessable.

Applicable Codes:

Under the Draft Whitsunday Regional Council Planning Scheme the applicable codes for the proposal are; the residential care facility and retirement facility code, community facilities zone code, infrastructure code, landscaping code, transport and parking code, bushfire hazard overlay code. The proposal is considered to be generally consistent with the applicable codes.

CONCLUSION

The applicant has requested an extension of the relevant period until 6 February 2017 - a period of two (2) years. It is recommended that Council agree to this extension given the applicant has lodged the relevant related approval, significant engineering design works were required to be conducted prior to the lodgement of the Operational Works, the application is in the process of selecting a contractor to carry out the works and the proposal is consistent with the *Whitsunday Shire Planning Scheme*.

STATUTORY MATTERS

Sections 387, 388, 389 and 390 of the *Sustainable Planning Act 2009*.

CORPORATE PLAN REFERENCE

Place

Objective: Our built environment is well planned, effectively managed and protects our region's heritage and character.

OPERATIONAL PLAN REFERENCE

Place

Strategies

- 1. Develop and implement an efficient, effective and accountable framework for managing the growth and development of the Whitsunday Region.***
- 2. Develop and implement strategies to preserve the unique character of our communities and heritage places.***
- 3. Advocate the Whitsunday Region's planning and growth needs to Federal and State Governments.***

BUDGET REFERENCE

N/A

CONSULTATION

Matthew Twomey – Town Planner (Author)

ATTACHMENTS

Appendix Item 1 - Locality Plan
Appendix Item 2 - Proposal Plan

12. Planning and Community Services

12.6 20140638 - DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE OF PREMISES FOR DUAL OCCUPANCY - 58 HORSESHOE BAY ROAD BOWEN - BOLE AND SWART

RECOMMENDATION

That in relation to the application for Development Permit for Material Change of Use of Premises for Dual Occupancy, made by WSG Whitsunday Surveys Pty Ltd, on Lot 2 SP245743 and located at 58 Horseshoe Bay Road, Bowen, Council resolves to approve the application subject to the following conditions outlined in the Appendix - Conditions of Approval.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February, 2015 by Council's Planning and Community Department.

Council has received this Development Application under the *Sustainable Planning Act 2009* as detailed below.

SUMMARY OF APPLICATION

Applicant	WSG Whitsunday Surveys Pty Ltd
Landowner	Robert Bole and Amanda Swart
Property Address:	58 Horseshoe Bay Road, Bowen
Real Property Description:	Lot 2 SP245743
Area of Site:	1661 square metres
Planning Scheme Zone:	<i>Bowen Shire Planning Scheme 2006</i>
Existing Use:	Dwelling house and shed
Proposed Use:	Dual Occupancy
Existing Approvals:	Development Permit for a Material Change of Use for a Dwelling House (Council ref 20130044)
Approval Sought:	Development Permit for Material Change of Use of Premises for Dual Occupancy
Application Progress:	
Application Lodged:	19/09/2014
Submission Period Commenced:	29/10/2014
Submission Period End:	18/11/2014
Last Receipt of Information from Applicant:	27/11/2014
Original Statutory Determination Date:	30/12/2014

PROPOSAL

The proposal seeks a Development Permit for a Material Change of Use for Dual Occupancy located at Horseshoe Bay, Bowen. A dwelling house exists on the premises in close proximity to the southern boundary. Direct access to the site is provided via Horseshoe Bay Road and Prentice Street which borders the southern and eastern side of the site respectively.

No easements exist over the site. The site has direct access to sewer, water supply, electricity and telephone services. The site is relatively flat with grades of < 5%. The site is predominantly grassy and contains scattered mature trees and palms.

SUBJECT SITE AND ADJOINING LAND USES

The site is surrounded by the following uses:

- To the east – Open Space and residential allotments
- To the west – Residential allotments
- To the north – Queens Bay
- To the south – Residential allotments and Horseshoe Bay Road

STATE PLANNING MATTERS

1. Referral Agencies & Response to Application

The Application did not trigger referral to any referral agencies.

2. State Planning Policies

It is noted that the application does not trigger referral to the State Assessment Referral Agency as a Concurrency Agency. The State Planning Policy (Part E) includes interim development assessment requirements that are to be considered by local government in relation to the assessment of development applications for a material change of use on land. For this particular development the applicable state interests are biodiversity, coastal environment, water quality and natural hazards, risk and resilience. Council has provided an assessment against the requirements of these state interests in terms of the development application proposal.

State Interest - Biodiversity

- 1) Wildlife Habitat

"Matters of environmental significance are valued and protected and the health and resilience of biodiversity is maintained or enhanced to support ecological integrity."

Council Environmental Officers note that coastal areas are largely predicated on the coastal sheath tail bat. Due to the proposed development being situated in an established urban area and the proposal not involving any significant vegetation clearing, there is no immediate habitat degradation or threat to this species. Existing vegetation on the site is to be retained where possible.

State Interest - Coastal Environment

- 1) Coastal zone
- 2) Coastal management district

"The coastal environment is protected and enhanced, while supporting opportunities for coastal-dependent development, compatible urban form, and safe public access along the coast."

The development is situated in a coastal environment which is highly dynamic and involves complex processes associated with coastal erosion and storm-tide inundation. Future

planning and decision-making should take into account approaches that minimise the impact of potential flooding on proposed development in this area.

The proposal concentrates future development in an existing urban area through infill development on the site. The development is proposed to be constructed behind the coastal building setback line of 15 metres, which has been discussed with former the Department of Environment and Resource Management in relation to the existing Material Change of Use approval for a dwelling house. As per the requirements of the 02/2013 Temporary Local Planning Instrument and the 2006 Bowen Shire Planning Scheme, the habitable floor levels of the development are to be constructed 300 mm freeboard above the predicted defined storm surge level of 4.0 m AHD. This has been indicated to be constructed as per the submitted elevation plans.

The applicant engaged a Registered Professional Engineer of Queensland (RPEQ) to undertake an assessment of the proposal against the Bowen Temporary Local Planning Instrument 02/2013. A report has been prepared outlining the views and considerations in relation to flooding over the site for the proposed additional dwelling house and providing justification for the proposed use.

State Interest- Water Quality

- 1) Climatic regions – stormwater management design objectives

“The environmental values and quality of Queensland water are protected and enhanced.”

Conditions have been included to ensure that a site stormwater quality management plan and erosion and sediment control plan are approved prior to the commencement of any works on site and carried out in accordance with Council’s requirements. Roof and allotment drainage works can be managed on the subject site and are to be constructed to achieve compliance with the Council’s Development Manual and the Queensland’s Urban Drainage Manual.

State Interest - Natural Hazards, Risk and Resilience

- 1) Coastal hazard area – erosion prone area
- 2) Coastal hazard area – medium storm tide inundation area

“The risks associated with natural hazards are avoided or mitigated to protect people and property and enhance the community’s resilience to natural hazards.”

Residential development located in areas that flood inevitably will remain vulnerable to flood damage. The proposed development is considered to be low density in nature which poses a justified acceptable level of risk. Loss of life, injury or economic losses which may be caused by floods are to some extent circumstantial and unavoidable. The development is intended to mitigate the risks of the natural hazard to an acceptable level through appropriate raised habitable floor levels, building layout and use of cyclonic standard building materials. The proposed development is located as far landward as practicable from the coastal building line. Due to the existing structures on the land and orientation of the building, adequate setbacks have been met that comply with the planning scheme.

Regional Plan

- 1) Regional Land Use Category - Urban Footprint

Under the Mackay, Isaac Regional Plan the site is located within the urban footprint. The urban footprint designates land for future urban purposes associated with growth and development. The site can support residential growth that is consistent with the surrounding land uses.

LOCAL PLANNING MATTERS

Desired Environmental Outcomes

- (1) The desired environmental outcomes for Bowen Shire are:
- (a) Development does not adversely affect the values of the Shire's natural environment including coastal areas, wetlands, beaches, headlands, waterways, Protected Areas, undeveloped hillslopes, and areas of significant native vegetation, from any adverse effects accruing from clearing, soil degradation and pollution due to erosion and contamination, acidification, salinity, waste disposal and any modification to natural processes.
 - (b) Development does not adversely affect the quality and quantum of water available for a range of consumptive uses throughout the Shire.
 - (c) Risks to safety, property and the environment are not increased by the interaction of development and natural or other hazards, including flooding, bushfire, disturbance of acid sulphate soils, storm surge, cyclonic weather events and landslide.
 - (d) Development protects the economic values of natural resources including good quality agricultural land, extractive and mineral resources, vegetation and water.
 - (e) Development provides a benefit to and satisfies an economic demand of residents of the area in which it is located.
 - (f) Opportunities for maintaining and improving employment resulting from advancements in information technology and emerging business/industry trends are maximised.
 - (g) The Shire's tourism industry is strengthened and expanded based on the sustainable use of natural, cultural and man-made assets and the orderly provision of services and facilities.
 - (h) Bowen continues to function as the main business centre and administrative hub for the Shire.
 - (i) Growth and community development within the Shire focussed on the existing Bowen and Collinsville urban areas to facilitate the efficient use, timely and orderly expansion and continued operation of infrastructure.
 - (j) Development facilitates diverse housing choice, including affordable housing that is responsive to the changing demographic structure of the Shire's population and promotes equity in access to goods and services.
 - (k) Development promotes the efficient use and provides for the orderly expansion of the Shire's movement system, including motorised and non-motorised modes.
 - (l) Development occurs in the area:
 - (i) which is suitable and compatible with the nature of the development; and
 - (ii) in which services and facilities required in respect of the development are existing, planned or provided by the development.
 - (m) Development does not adversely affect:
 - (i) the community's health and safety;
 - (ii) the amenity enjoyed by people in different areas of the Shire; and
 - (iii) the safe and efficient operation of the transport, energy and other infrastructure supporting the Shire and surrounding region.

- (n) Development reflects the community's reasonable expectations and harmonises with the natural environment and does not prejudice the Shire's existing scenic amenity, particularly along the coastal plain.
- (o) The community values of places and landscapes reflecting the community's history and identity are not detrimentally affected by development.

Natural Environment

The site is located in an established residential area. The development will not adversely impact on the Shire's environmental values. The proposed development is unlikely to have any adverse impacts on biodiversity values of flora and fauna. The site is affected by Storm Surge within the Temporary Local Planning Instrument (02/2013). The proposed development has been protected as far as possible from the natural hazard of flooding and storm surge. The proposal demonstrates mitigation measures to achieve compliance with the *2006 Bowen Shire Planning Scheme* and minimise natural hazard risks. The applicant will be required to build the finished floor level to appropriate height requirements and setbacks for the development behind the coasting building setback line.

Living and Working Environment

The development is situated in the Open Space Zone under the planning scheme. Properties along the seaward side of Horseshoe Bay Road consist mainly of detached dwelling houses in the Open Space Zone. The proposed development does not adversely affect the amenity of the locality and is considered an appropriate development for the site that facilitates residential growth. The proposed additional dwelling house is a residential use and as such is not a too dramatic deviance from the surrounding residential land uses. Development in a coastal community allows opportunities for changing lifestyle alternatives and choices of affordable housing for the wider population.

Economic Sustainability

The proposed development can be considered to generate local employment and jobs in the region.

Community and Cultural Development

The development is orientated adjacent to the foreshore thereby enhancing convenient accessibility to foreshore areas and use of the natural environment. The development does not encroach or restrict public access to these areas. Hansen Park and Case Park situated along the foreshore of Queens Beach provide public recreational spaces for the region and residential growth essentially complements opportunities for use of such amenities.

Urban Design and Character

The proposed development is not entirely consistent with the local character of development along Horseshoe Bay Road. The majority of development is detached dwelling houses. The proposed dual occupancy is not considered to detract from the existing development in the road or create any obtrusive amenity issues.

Physical Infrastructure

The proposed development will be serviced by Council's road infrastructure, having direct access to Horseshoe Bay Road and Prentice Street. Conditions have been included to ensure that infrastructure charges are levied against the development.

2. Overall Outcomes of Open Space Zone Code

The purpose of the Open Space Zone is the achievement of the overall outcomes sought for the purpose of the Open Space Zone Code.

The overall outcomes sought for the Open Space Zone are:

- i) The community's need for a range of active and passive recreational opportunities including facilities at regional, district and local levels is satisfied through the provision of land and infrastructure and equitable accessibility;
- ii) Areas which present significant constraints to development or possess important ecological or scenic values are conserved;
- iii) Recreational activities within areas of conservation value are co-located based on synergies between activities and the environmental values of host areas; and
- iv) A network of open spaces across the Shire is established through corridors providing movement opportunities for people and wildlife between the coast and hinterland and access to coastal areas/beaches and other significant natural and cultural features.

The proposed development is situated in the Open Space Zone. This Zone has supported low density residential growth in the region since the introduction of the *2006 Bowen Shire Planning Scheme*. This Zone is primarily not intended for residential uses however the proposed development is situated in an established residential area that is within close proximity to community facilities, commercial services and recreational opportunities. The site offers convenient access to public services and amenities and is identified as being able to support the proposed use.

The proposal does not impede access to the public foreshore areas, local parks or significantly impact on the character of the area. As the site already contains an existing dwelling house and shed, the opportunity for future development inclusive of recreational or public uses is negated.

3. Temporary Local Planning Instrument (TLPI 02/2013) affecting the *Bowen Shire Planning Scheme 2006*

The proposed development is proposed to be constructed in accordance with the provisions of the Planning Scheme and the Temporary Local Planning Instrument (02/2013) adopted by Council on the 13 December 2013. The purpose of the TLPI made under Chapter 3 Part 3 of *SPA 2009* is to provide protection from and regulation of flooding and storm tide in the township of Bowen through the use of updated hazard mapping and the associated code.

The TLPI introduces the Natural Hazard (Flooding and Storm Tide) Code as the basis for assessment when undertaking development triggered by the TLPI maps. The TLPI repeals the Special Management Overlay Code.

The overall outcomes sought for the Natural Hazards (Flooding and Storm Tide) Code are as follows:

- a) Only development which is compatible with the nature of flood and storm tide, is located within the natural hazard manage area;
- b) Development is designed and located to minimise adverse impacts from flood and storm tide;
- c) The safety of people and property is protected from unacceptable risk from flood and storm tide;
- d) Infrastructure necessary for the mitigation of flood and storm tide is provided as part of development;
- e) Where practicable, community infrastructure is located and designed to function effectively during and immediately after flood and storm tide events; and
- f) Development for urban purposes does not have an adverse impact on natural coastal or floodplain processes.

The subject property is situated in the natural hazards trigger for storm tide mapping under the TLPI. It has been identified that the habitable floor levels of the proposed dwelling are to

be 4.0 metres AHD plus 300 mm freeboard, therefore floors levels must be a total height of 4.3 metres above AHD to ensure the dwelling is not inundated in a flooding or storm tide event. The proposed dwelling does not contain any bedrooms located on the ground floor. This design and layout of the building helps minimise risks to residents' safety.

An assessment report has been prepared by a Registered Professional Engineer of Queensland (RPEQ) for the assessment of the risk of flooding and storm surge over the property in relation to the proposed additional dwelling house. The conclusions of the report are outlined below.

1. *The site is affected by storm surge but not riverine flooding;*
2. *Construction of the additional dwelling house and pool is not expected to cause any drainage nuisance on adjoining or surrounding properties;*
3. *There is potential for minor drainage nuisance from the adjoining western property, which needs to be addressed or managed as part of the construction. Currently however, the proposed location of the dwelling and pool should not impede the likely flow path for any discharge;*
4. *Habitable floor levels for the dwelling would need to be constructed 300 mm above the predicted defined storm surge level of 4.0 m AHD;*
5. *Acceptable measures will need to be employed to mitigate the risk of being located within a medium hazard coastal area; and*
6. *Since the site is not affected by riverine flood flows and will not cause any drainage nuisance on surrounding properties, a dwelling constructed with a solid base, like block and slab on ground (with infilling to the dwelling footprint), could be considered for this site.*

The assessment of the structural component of the building will be assessed at Building Works Stage to ensure the building can withstand impacts from wave action including consideration of appropriate materials to reduce impacts from salt spray due to proximity to salt spray and cyclonic events.

4. Specific Outcomes of Open Space Zone

The proposed development is not considered consistent with the overall intent of the Open Space Zone, however the development is located in an already established urban residential area and is to be constructed and operated in accordance with the provisions of the *Bowen Shire Planning Scheme 2006*.

The site contains adequate existing vegetation on site therefore additional landscaping treatments are not necessary. The applicant intends to retain as much of the existing vegetation as possible. The proposal provides adequate open space areas for use of the future owners of the dwelling house. An existing fence runs along the eastern and western property boundaries of the site.

5. Infrastructure Charges Notice

The site is located within the Priority Infrastructure Area (PIA). The site is subject to infrastructure charges as per the AICN (02/2013).

DEMAND - Adopted Infrastructure Charge

<i>Applicable Infrastructure Network</i>	<i>Adopted Infrastructure Charge Category</i>	<i>Adopted Infrastructure Charge Rate</i>	<i>Stage</i>	<i>Number of Demand Units</i>	<i>Total Adopted Infrastructure Charge</i>

Water Supply	RoL			2	\$56,000
Sewerage					
Stormwater					
Transport					
Recreation Facilities					
				TOTAL	\$56,000

CREDITS - Adopted Infrastructure Charge

Applicable Infrastructure Network	Adopted Infrastructure Category	Adopted Infrastructure Charge Rate	Stage	Number of Demand Units	Total Credits
Water Supply	RoL			1	\$28,000
Sewerage					
Stormwater					
Transport					
Recreation Facilities					
				TOTAL	\$28,000

Charge is Payable to:

Prior to the commencement of the use.

Demand	Minus Credits	Total Infrastructure Charge
\$56,000	\$28,000	\$28,000

PUBLIC NOTIFICATION, SUBMISSIONS AND REPRESENTATIONS

The development application was placed on public notification between 29 October 2014 and 19 November 2014 in accordance with the relevant provisions of the *Sustainable Planning Act 2009*. The notice of compliance was received by Council on 21 November 2014. Nine (9) submissions were received during this period of public notification. One (1) submission was received a day outside the period of public notification and the respective comments have been considered.

The submissions have been summarised in the below table and the officer's comments in response to the matters raised have been provided.

Issue	Comment/Condition Number
Open Space Zoning of land	A common point of the objections is in relation to the zoning of the land. The land is owned privately and not by Council. As such the landowner can submit a development application to Council and be subject to the requirements under the Zone Code and supporting documentation in the <i>Bowen</i>

	<p><i>Shire Planning Scheme 2006</i>. The land is not encumbered by any covenants or easements thereby restricting use of the land, therefore the applicant has no legal obligation to preserve the land. Submitters highlighted their support for the land to be converted into public parkland and recreational facilities. This is unachievable as the land is not owned by the State nor Council. Two parks are located in close proximity to the subject site as well as community and popular tourist areas such as Hydeaway Bay and Rose Bay.</p>
<p>Environmental Impacts (storm surge & erosion)</p>	<p>The majority of the submissions cite anecdotal evidence in terms of cyclone damage leading to erosion issues along the foreshore of Queens Beach. Council does maintain the foreshore above the high-water mark and has undertaken sand scrapings and beach nourishment works in recent decades after storm surge events.</p> <p>The proposed development is situated in a highly dynamic coastal environment. The current proposal meets measures and criteria outlined in local and state legislation in terms of development mitigating storm surge and erosion hazards. A RPEQ Engineer has prepared an qualitative assessment report quantifying these risks to the development.</p> <p>Compliance with this legislation is achieved through establishing habitable floor levels a minimum of 300 mm above flood inundation level and appropriately siting the dwelling and habitable rooms. The proposed dwelling is also to be situated behind the coastal building line (as defined by the former Department of Environment and Resource Management).</p>
<p>Conflict with Council policy</p>	<p>Submissions received by Council outlined dispute at allowing further development involving intensification of existing uses or building renovations located on the subject site, in reference to a historic Council Policy.</p> <p>A previous Council Policy in 1990 restricted further development on several properties in this location including the subject site. This Policy was in force under the <i>Local Government (Planning and Environment) Act 1990</i>, however this has since been repealed due to legislation changes in Queensland</p>

	<p>involving the adoption of planning policies within planning schemes.</p> <p>A number of Legislative changes have occurred since this time involving the introduction of the <i>Sustainable Planning Act 2009 (SPA 2009)</i>, which replaced the <i>Integrated Planning Act 1997</i>, and of which replaced the <i>Local Government (Planning and Environment Act) 1990</i>.</p> <p><i>SPA 2009</i> is the requirement for planning schemes to identify strategic outcomes and guide development assessment planning practice under a planning scheme.</p> <p>The aforementioned Council Policy does not hold any particular weight as this hazard was to be addressed by the Bowen Shire Council as part of the making of the 2006 Bowen Shire Planning Scheme by addressing SP1/02 – Mitigating the Impacts of Flood, Bushfire and Landslide for which the Bowen Planning Scheme. The current State Planning Policies and the Planning Scheme have therefore overridden this previous policy and therefore no longer existing.</p> <p>Since this time the building and engineering industry have improved standards and materials in terms of building design and construction. The policy is not in effect as the site was subject to an development approval for a dwelling house in 2013.</p>
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CONCLUSION / SUMMARY

The application has been assessed against the relevant provisions of the *Sustainable Planning Act 2009* and the *Bowen Shire Planning Scheme 2006*. The proposal is considered to be inconsistent with the intent of the Open Space Zone under the planning scheme. The application is recommended for approval in accordance with the drawings and documents submitted, subject to reasonable and relevant condition, despite conflict with the Planning Scheme based upon the following grounds:

The application should be approved based on the following grounds:

- The proposal addresses the requirements and complies with the outcomes of the planning scheme, Bowen TLPI and the relevant state planning policies; and
- The proposal employs building design and setback measures for mitigating effects from storm surge.

CONSULTATION

Anthea Shivas - Town Planner (Author)

Environmental Officer

Engineering Technicians

ATTACHMENTS

Appendix Item 1 - Locality Plan

Appendix Item 2 - Proposal Plan

Appendix Item 3 - Submissions

Appendix A - Conditions of Approval

12. Planning and Community Services

12.7 APPLICATION FOR RENEWAL OF SPECIAL LEASE 5/48517 - LOT 253 ON SB699

RECOMMENDATION

That the Department of Natural Resources and Mines be advised that Council has no objection to the renewal of Special Lease 5/48517 over Lot 253 on SB699 over Local Government Reserve R194 for Business purposes (Water Supply).

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

In accordance with s16 of the *Land Act 1994*, before land is allocated under this Act, the Chief Executive of the State Department of Natural Resources and Mines must evaluate the land to assess the most appropriate tenure and use for the land.

In accordance with Departmental Guideline - Land Allocation: Deciding Most Appropriate Use, Tenure and Management (PUX/901/101), an assessment of the most appropriate use of the land should give due consideration to:

- attributes of the land,
- views and rights of interested parties, and
- government policy.

“Attributes of the land” include the environmental, social and economic values of the land, and opportunities and constraints based upon land capacity (capabilities) and condition. This will require an assessment of (among other things) natural resources, environmental values, culturally valuable and sensitive areas and features, biodiversity, community needs, and the location of the land with respect to existing and future needs for public infrastructure and services.

“Views and rights of interested parties” may require a consideration of interest holders' views (including lessees, native title holders, secondary interest holders such as a grantee of an easement, holders of rights and interests under the Mineral Resources Act 1989) and consideration of the views of interested parties such as State and local government agencies and, at times, conservation groups, community groups and adjoining property owners or managers. At a minimum the consultation process will include requesting views of local government, other relevant government agencies and assessing the status of native title and indigenous cultural heritage over the land.

“Strategies and policies”, for example regional plans and local government planning schemes, need to be checked to expert advice will be largely relied upon to provide information – for example, the State will rely on the relevant local government to provide advice on whether a proposed use is consistent with its planning scheme and policies.

Land evaluation information, upon which the most appropriate use decision will be based, will be accessed from a range of sources, including planning strategies and policies, views of interested parties, departmental databases, government laws and policies, previous planning studies, and from a physical inspection of the subject land.

After the most appropriate use for the land is determined, the specific oversight that the State wishes to retain will need to be decided by the State to ensure that the tenure type which will achieve and maintain the use is allocated.

A decision to allocate tenure is a reviewable decision in terms of the *Judicial Review Act 1991* and a decision maker must be able to provide an adequate statement of reasons for a decision.

Further, allocation and other dealings under the Land Act are subject to Native Title being satisfactorily addressed - sections 7, 27 and 28 of the Land Act 1994 (Land Act) apply.

REPORT

The Department of Natural Resources and Mines has sought Council's views on an application for renewal of Special Lease 5/48517 over Lot 253 on SB699 over Local Government Reserve R194 for Business purposes (Water Supply).

In order to provide a response to the Department in relation to the "views and rights of interested parties", council officers have undertaken a review as to whether or not the proposed renewal of Special Lease 5/48517 will adversely impact on Council interests.

The renewal of Special Lease 5/48517 does not adversely impact on existing or future Council owned or controlled infrastructure, being:

- urban and rural residential water cycle management infrastructure, including infrastructure for water supply, and sewerage;
- transport infrastructure, including constructed roads and footpaths;
- public parks infrastructure;
- community facilities, including community halls or public libraries.

The renewal of Special Lease 5/48517 does not adversely impact on valuable features, as stated in the planning scheme, such as:

- resources or areas that are of ecological significance;
- areas contributing significantly to amenity;
- areas or places of cultural heritage significance;
- resources or areas of economic value.

The proposed renewal of Special Lease 5/48517 does not adversely impact on land use intent of the area due to the subject site being zoned Residential Precinct 1 under the *2006 Bowen Shire Planning Scheme* and contains a dwelling house.

Planning offer no objection to the proposed renewal of Special Lease 5/48517.

STATUTORY MATTERS

Land Act 1994

CORPORATE PLAN REFERENCE

Objective:

Place: Our natural environment is valued and sustainable.

Place: Our region is accessible and connected.

Place: Our infrastructure supports our region's current and future needs.

OPERATIONAL PLAN REFERENCE

Place Strategies

- 1. Develop and implement an efficient, effective and accountable framework for managing the growth and development of the Whitsunday Region.***
- 2. Develop and implement strategies to preserve the unique character of our communities and heritage places.***
- 3. Advocate the Whitsunday Region's planning and growth needs to Federal and State Governments.***

BUDGET REFERENCE

N/A

CONSULTATION

Emma Lekic – Technical Officer Planning Assessment (Author)

ATTACHMENTS

Appendix Item 1 – Locality Plan
Appendix Item 2 – Smart Map 253SB699

12. Planning and Community Services

12.8 ADOPTION OF THE BOWEN SHIRE STORM TIDE STUDY (SEPTEMBER 2004) FOR THE PURPOSE OF PUBLIC KNOWLEDGE AND ADOPTION OF A FEE WAIVER FOR CERTAIN DEVELOPMENTS

RECOMMENDATION

That Council:

- 1. Adopt mapping developed from the Bowen Shire Storm Tide Study - Final Report (September 2004) for the purpose of public knowledge;**
- 2. Make a copy of the Bowen Shire Storm Tide Study - Final (September 2004) mapping available on Council's website for public information;**
- 3. It is recommended that Council waive the development application lodgement fee for the following type of development applications made assessable by the BPS:**
 - a) Development Application for a Material Change of Use (MCU), Carrying out Operational Work or Carrying out Building Work where it can be demonstrated that:**
 - i) The subject site is identified within the Storm Surge Hazard Special Management Area on Overlay Map 05, but not within an area identified on the developed mapping from the Storm Tide Study in Attachment A.**
 - b) Development Application for a Material Change of Use (MCU), Carrying out Operational Work or Carrying out Building Work where it can be demonstrated that:**
 - i) The subject site is identified within the Don River Flood Plain Special Management Area on Overlay Map 04; and**
 - ii) The proposed development is:**
 - (a) Wholly contained within an existing building; or**
 - (b) Involves building work of less than or equal to 50m²; or**
 - (c) Involves a change in level of less than or equal to 0.5m of any part of the site; or**
 - (d) Involves less than or equal to 50m³ of material being imported to or removed from the site.**
 - c) Development Application for a Material Change of Use (MCU), Carrying out Operational Work or Carrying out Building Work where it can be demonstrated that:**
 - i) The subject site is identified within the Storm Surge Hazard Special Management Area on Overlay Map 05; and**
 - ii) The proposed development is:**
 - (a) Wholly contained within an existing building; or**
 - (b) Involves building work of less than or equal to 50m²; or**
 - (c) Involves a change in level of less than or equal to 0.5m of any part of the site; or**
 - (d) Involves less than or equal to 50m³ of material being imported to or removed from the site;**

4. That Council note the process for Development Applications that meet the specified requirements should be lodged to Council in the standard manner; however, provide a cover letter stating that a waiver of the application fee is sought in accordance with this resolution.

Council then will undertake a review of the Development Application and either:

- i) Confirm the relevant fee waiver requirements have been met, compliance with the planning scheme has been achieved and issue a Decision Notice; or
 - ii) Confirm that the relevant fee waiver requirements have not been met and that a full assessment is required. In this instance Applicants will be provided with a Not Properly Made Letter, requesting the relevant application be made; and
5. That Council delegates to the Manager - Development Assessment to waive application fee in accordance with this resolution.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

In December 2014, the Temporary Local Planning Instrument 02/2013 (TLPI) lapsed while the development of the draft new planning scheme was in progress. As the draft new planning scheme had not reached completion Council returned to fully implementing the *Bowen Planning Scheme 2006* (BPS), in particular provisions for flooding and storm tide hazard.

Throughout the BPS reference is made to the Connell Wagner Bowen Shire Storm Tide Study – Final Report (September 2004) (Storm Tide Study) *“for further information that may assist applicants including mapping showing projected events”*. The Storm Tide Study provides estimated design floor levels for frontal dune and hinterland sites.

Since the TLPI has lapsed, this has reinstated the requirement for all triggered development, including minor development (i.e. sheds and swimming pools), to obtain an approval as well as pay the application fee. The TLPI contained fewer stringent planning controls and did not require a fee, where applicable.

REPORT

Bowen Shire Storm Tide Study Mapping

The Storm Tide Study identifies the risk of storm tide inundation along the coastal area of the former Bowen Shire by predicting extreme water levels, and the effects of actual storm surge inundation combined with wave penetration across specific coastal areas, as described within the content of the report.

The purpose of the Storm Tide Study was to develop detailed storm tide statistics at 25 selected sites within the former Bowen Shire area as identified on Figure 18 of the report. The corresponding 'Table 10 – Design Levels for Properties Affected by Storm Surge' displays the identified location's relative predicted design levels for both coastal sites and affected inland sites.

The 25 selected sites identified on Figure 18 are not clearly delineated from one another, nor does it identify the extent of wave overtopping affecting an inland site. As a result, a series of maps were developed that clearly estimates design floor levels.

Using a consistent approach to providing information to the public, each of the identified locations was developed to cover the locality with the affected inland zone being matched to DNRM's latest LiDAR data for the relative predicted design level. Contour levels were used to identify the appropriate inland areas of each locality that are prone to flood. A 100m buffer zone was applied to the coastline to identify the coastal site, as per the details of the report.

Fee Waiver History TLPI

On 11 March 2014 a workshop was held with Councillors to discuss key matters regarding the implementation of the TLPI. Specific issues regarding areas being identified on the trigger map but are not affected by a mapped Defined Flood Level (DFL) and that a site can readily demonstrate that the natural ground level is existing at or above the identified DFL. In these instances Development applications were considered 'low risk' and therefore an opportunity to reduce regulatory obligations were identified. As a result it was recommended that Council waive the development application lodgement fee where:

- The subject site is identified on the trigger map but not affected by the mapped DFL;
- The subject site has a current operational works approval where the approved natural ground level to be at or above the DFL; and
- The subject site can readily demonstrate, but submitting current levels, the existing natural ground level is at or above the mapped DFL.

Recommendation

To ensure consistency for the building and development industry throughout this period between the TLPI and the adoption of the New Planning Scheme; It is recommended that Council resolve to adopt the approach to waiving fees similar to those taken during the implementation of the TLPI.

Conclusion

The purpose of developing the Storm Tide Study maps is to ensure that Council is remaining transparent by providing comprehensive and reliable information to the public. It will also provide a clear indicator of when an applicant is eligible for a fee waiver.

STATUTORY MATTERS

The purpose of providing this information will be undertaken in accordance with requirements of the *Integrated Planning Act 1997*.

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our Leadership engages with the community and provides open, accountable and transparent local government.

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

1. ***Provide open, accountable and transparent leadership that ensures community confidence in Council and achieves positive outcomes for the Whitsunday Region.***
2. ***Develop a Governance Framework that provides accountable and transparent decision making and supports Council in meeting its legislative responsibilities.***
3. ***Engage with the community to inform Council's decision making processes.***
4. ***Communicate Council's objectives and decisions to the community through a variety of communication tools.***

BUDGET REFERENCE

N/A

CONSULTATION

Jenna Kljaic – Strategic Planner (Author)

Jamie Thorley – Executive Manager Planning & Development

Dan Staley – Director of Planning and Community Services

ATTACHMENTS

Appendix Item 1 - Bowen Shire Storm Tidy Study September 2014

12. Planning and Community Services

12.9 PORT OF AIRLIE - CONVERSION OF DEVELOPMENT LEASE TO FREEHOLD TENURE - LOT 200 SP232115 AND PART OF LOT 187 SP19978 FROM RECREATION RESERVE TO FREEHOLD TENURE - COCONUT GROVE AIRLIE BEACH

RECOMMENDATION

That Council:

- **Provide a letter of support to the proponent for the conversion of Lot 200 on SP232115 to freehold tenure in lieu of road reserve;**
- **Negotiate with the Department of Natural Resources and Mines for the waiver of the purchase price and Stamp Duty associated with the conversions;**
- **Support the area seaward of Lot 200 containing the pedestrian pathway and boardwalk being transferred to Meriden Airlie Beach Pty Ltd and Meridien AB Pty Ltd (Both Receivers and Managers Appointed) (Both in Liquidation) Trading as Windward Airlie Beach Partnership (Meriden) to freehold title subject to easements being provided over the areas in favour of Whitsunday Regional Council for access and services;**
- **Support the transfer of the balance of Canal Street and the pedestrian pathway contained between Lot 108 and 109 to Whitsunday Regional Council in freehold title; and**
- **Make application to the Department of Natural Resources and Mines for the conversion of areas A, B and C in Lot 187 on SP219978 from Recreation Reserve to Freehold title and transfer to Whitsunday Regional Council.**

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 11 February, 2015 by Council's Planning and Community Services Department.

BACKGROUND

Windward AB Pty Ltd entered into a Development Lease for the subject site on 1 November, 2005 for a period of ten years to allow the Port of Airlie Development to be completed in accordance with the Co-ordinator General's Evaluation Report dated December, 2003.

Windward AB Pty Ltd and Meridien Airlie Beach Pty Ltd entered into an Infrastructure Agreement with Council on 15 March, 2006 to ensure compliance with the Co-ordinator General's conditions.

REPORT

The proponents (Receivers) of the Port of Airlie have obtained and complied with majority of the relevant requirements within the Infrastructure Agreement and the Development Lease. The remaining Lot 200 on SP232115 (locality plan provided in Attachment 1 to this report) is the only lot which requires conversion from Development Lease.

Clause 4.2 of the Infrastructure Agreement states the roads (including boardwalk) are to be dedicated to the State as 'road'. The dedication of this road will result in Council being responsible for the maintenance and upgrades in the future, including any public liability issues associated with this land.

The boardwalk currently contains a number of private infrastructure items of which cannot be contained within easements if the tenure as proposed is 'road'. Furthermore, this creates issues at time of maintenance and future works in order to rectify the 'private infrastructure' owned by Port of Airlie.

A review of options has been undertaken to ascertain the most appropriate course of action to deal with the maintenance and services located within the boardwalk. Council Officers are of the view the area of Canal Street and the Boardwalk should be converted from Development Lease to Freehold Tenure. This conversion will allow for the seaward pedestrian pathway and boardwalk to be transferred to Port of Airlie and the inclusion of easements over Lot 200 for the purpose of access and services in favour of Whitsunday Regional Council. The placement of easements over the boardwalk will secure public access and other services such as stormwater discharge along the pathway and boardwalk and ensure the link to the other areas of in Canal Street and back into Port Drive remain in place.

The community benefit as part of this conversion will be to remove the financial burden on Council for the future maintenance and upkeep of the boardwalk and seaward pathway. The area below the boardwalk currently contains additional volumetric lots to allow the maintenance of the pylons and sheet piling of which is the ownership of Port of Airlie. The logical solution to this issue is to ensure this area remains in the same ownership being Port of Airlie to remove future maintenance issues.

The creation of the remainder of Canal Street and the pathway between Lot 108 and 109 pathway into freehold title and then transferred to Council will also allow for flexibility for the future developments should the pedestrian pathway require relocation or to be expanded to maintain the pedestrian link from the Transit Terminal through to Airlie Esplanade. Attachment 2 provides a mark-up of the respective areas. The areas marked in 'yellow' are intended to be transferred to Port of Airlie and the areas marked in 'blue' are to be transferred to Council.

The conversion of this land to freehold tenure will attract a purchase price and stamp duty under the *Land Act 1994* whereas the conversion to road does not attract these additional costs. On the basis of the financial costs associated with this change in tenure, it is recommended Council Officers undertake negotiation and provide a letter of support to the proponent to encourage the Department to waive or reduce the costs associated with the change in tenure. The change in tenure arrangements is being driven by Council and therefore it is considered inappropriate that the proponent incur the additional charges particularly given the community benefit associated with this change.

A further review of the cadastre for the area has also revealed areas A, B and C (highlighted in green in Attachment 2) have been converted to Recreation Reserve as part of the past conversion from Development Lease to Reserve being Lot 187 SP219978. Council Officers are of the view these areas should also be converted to freehold and transferred to Council. This conversion is recommended due to the location of these parcels, it is unlikely these areas would be used as an extension to the recreation reserve in the future and would be more suitable for alternative uses.

STATUTORY MATTERS

Sustainable Planning Act 2009

Land Act 1994

CORPORATE PLAN REFERENCE

Place

Objective: *Our infrastructure supports our region's current and future needs.*

Prosperity

Objective: *Our infrastructure enables economic development and facilitates investment opportunities.*

OPERATIONAL PLAN REFERENCE

Place

Strategies

1. ***Develop and maintain effective roads and drainage infrastructure, networks and facilities.***
2. ***Develop and maintain effective water and waste water infrastructure, networks and facilities.***
3. ***Develop integrated asset management plans to effectively manage and maintain road, water and waste water infrastructure and ensure assets meet the demands of a growing population.***
4. ***Deliver effective customer focussed water services that protect the public health.***
5. ***Develop a planned approach to securing the Whitsunday Region's water supply.***
6. ***Partner with Federal and State Governments to enhance the Whitsunday Region's capacity for ongoing development and infrastructure maintenance.***
7. ***Engage with Federal and State Governments regarding regional and national water security issues.***

Prosperity

Strategies

1. ***Develop and implement an Economic Development Strategy and Regional Investment Prospectus.***
2. ***Develop the Whitsunday Coast Airport as a significant transport and exports hub and regional economic driver.***
3. ***Partner with government, industry, business and community to create economic opportunities through encouraging and attracting investment to the Whitsunday Region.***
4. ***Advocate for the construction of the Urannah Dam and improvements to the Burdekin Falls Dam.***
5. ***Advocate for the establishment of a base load power station at Collinsville and alternative energy sources.***

BUDGET REFERENCE

N/A

CONSULTATION

Kellianne Wynne – Manager of Development Assessment (Author)

ATTACHMENTS

Appendix Item 1 – Locality Plan

Appendix Item 2 - Proposal Plan

12. Planning and Community Services

12.10 REQUEST FOR RATES ASSISTANCE 2014/15 - PROSERPINE SENIOR LIVING INC

RECOMMENDATION

That Council approve a donation equivalent 100% of general rate and 75% of the service charges levied for the 2014/2015 financial year, and 75% of water consumption for the property on rate assessment 1103913 owned by the Proserpine Senior Living Inc.

That Council include this assessment for ongoing benefit in accordance with Council's current policy and therefore do not need to reapply each year unless the use of the property changes its present use.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

The reviewed policy for Donations for Non for Profit Organisations – Affordable Housing was adopted by Council at its meeting of 17 July, 2013.

In Council's policy, 100% of the general rate and 75% of the service charges will be granted as a concession on the rates, with the organisations required to lodge a request for a donation in each financial year.

REPORT

Proserpine Senior Living Inc – A letter dated 10 February 2015 has been received from the above not for profit organisation seeking a donation on the general rates and charges for the 2014/2015 financial year for the dwellings that they offer to the elderly (65 years and over) tenants identified as in need of housing assistance to help them live independently within a safe and secure environment.

The organisation has requested a donation on these properties in the Proserpine area. Donations have previously been granted for four (4) other similar properties in their registered ownership. The Proserpine Senior Living Inc. has provided all documentation showing they are responsible for the rates and charges for this property, including a copy of the current financial statements.

Summary: This property was purchased from the Proserpine & District Day Respite Services on 6th January, 2015. A total donation applicable under Council's Policy would be \$712.33 for the general rate, and \$968.69 for the water and sewerage services for the second half of the 2014/15 financial year, being a total of \$1,681.02. This would be for the applicable assessment 1103913 – 172A Main Street, Proserpine.

The donation amount varies in each half year due to the water consumptions charges that are applicable in each period.

STATUTORY MATTERS

Local Government Act 2009 and the Local Government Regulations 2012
Council Policy - Donations for Not For Profit Organisations - Affordable Housing.

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our leadership partners with government, industry, business and community to deliver positive outcomes.

OPERATIONAL PLAN REFERENCE

People

Strategies

4. Promote healthy and balanced lifestyles and encourage physical activity.

BUDGET REFERENCE

WO: 2967.0086

CONSULTATION

Jacqueline Neave - Arts & Culture Officer (Author)
Dan Staley - Director of Planning and Community Services

ATTACHMENTS

Appendix Item 1 - Letter dated 10 February 2015 received from Kylie Borellini Administrator of Proserpine Senior Living Inc.

12. Planning and Community Services

12.11 COMMUNITY ASSISTANCE GRANT - ZONTA CLUB OF THE WHITSUNDAYS

RECOMMENDATION

That Council, in respect to an out of round application for funding received under Council's Community Assistance Grants (CAG) Program, Council disseminates a total amount of \$3500.00 as a Major Events Grant to the Zonta Club of the Whitsundays.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

Zonta International District 22 comprises 43 Zonta Clubs throughout Queensland plus the Zonta Club of Northern Rivers Inc in New South Wales. A district conference is held at least once during each biennium to promote the objects and programs of Zonta International and to conduct the business of the district.

The Zonta club members volunteer their time, talents and money to local and international service projects.

- Advance the status of women through service action and advocacy
- Fund award and scholarship programs for women of exceptional ability
- Support self-help and development programs for women in the local and global communities
- Support and fund innovative approaches to eliminate violence against women and girls

REPORT

The Zonta Club of the Whitsundays will be hosting a district conference to be held over 3 days from Friday October 9 – Sunday October 11 2015 at the Coral Sea resort and will feature activities over the 3 days of the festival. The conference theme is “Empowering Women through Conviction, Commitment and Courage” and will bring up to 150 delegates to a series of events over the 3 days.

The Zonta Club of the Whitsundays has submitted an application for a Major Events Grant funding of \$3500.00 under Council's 2014/2015 Community Assistance Grants Program (see attached).

COMMENTS

The organisation has submitted an application out-of-round, however, due to the nature of the event and given the benefits to the broader community, it has been assessed as appropriate to consider out-of-round. The application meets all of the key criteria including but not limited to:

- The organisations eligibility;
- The organisations contribution to the community;

- The organisations submission of required documentation;
- The organisations capacity to manage the project/event/funds acquittal
- The organisations contribution to the funds;
- Overall benefit to the community; and
- Equity and transparency in decision making (regional allocations)

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

People

Objective: Our region is inclusive and motivated by a range of social, cultural and recreation opportunities.

OPERATIONAL PLAN REFERENCE

People

Strategies

7. Promote volunteerism and encourage the participation of volunteers in community activities.

BUDGET REFERENCE

WO 2967.0084

CONSULTATION

Jacqueline Neave - Arts & Culture Officer (Author)
Dan Staley - Director of Planning and Community Services

ATTACHMENTS

Appendix Item 1 - Community Assistance Grant - Major Events Application Zonta Club of the Whitsundays

12. Planning and Community Services

12.12 COMMUNITY ASSISTANCE GRANT - OPERATION PILGRIMAGE GROUP

RECOMMENDATION

That Council, in respect to an out of round application for funding received under Council's Community Assistance Grants (CAG) Program, Council disseminates a total amount of \$5000.00 as a Projects Grant to the Operation Pilgrimage Group.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

The Operation Pilgrimage Group has submitted an application for a Projects Grant funding under Council's 2014/2015 Community Assistance Grants Program. The group are all ex-servicemen who have been planning, undertaking & completing projects in the national interest since 1993. This project will be the seventeenth, the record of successful projects has been provided in "Who We Are" see attached.

REPORT

The Operation Pilgrimage Group aims to plan, undertake, erect & dedicate a suitable memorial to recognize the loss of life of five young officers aboard the training whaler from HMAS Sydney in 1963 off the Whitsunday Coast. A team from OPG travelled to the Whitsundays to retrace the journey around Hook Island, and on completion of the circumnavigation of Hook Island, OPG's objective/aim of the project is to place a suitable Memorial Anchor from the decommissioned HMAS Sydney as permanent reminder of the tragedy.

PROJECT BENEFITS

The entire community will benefit from the provision of this project by way of fundraising during the period of operation, to pay tribute to every service member of the Defence Forces who have paid the price of their service by active training in particular "The Missing Midshipmen of '63". The Memorial stone with Naval Anchor will attract the public attention where a memorial plaque will tell the story; other benefits of this project for the Whitsunday Region are an inclusion in tourism literature; radio, media and press releases that will include the acknowledgement of Council's contribution.

COMMENTS

The organisation has submitted an application out-of-round, however, due to the nature of the project and given the benefits to the broader community and tourists, it has been assessed as appropriate to consider out-of-round. The application meets all of the key criteria including but not limited to:

- The organisations eligibility;
- The organisations contribution to the community;
- The organisations submission of required documentation;

- The organisations capacity to manage the project/event/funds acquittal
- The organisations contribution to the funds;
- Overall benefit to the community; and
- Equity and transparency in decision making (regional allocations)

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

People

Objective: Our region is inclusive and motivated by a range of social, cultural and recreation opportunities.

OPERATIONAL PLAN REFERENCE

Governance and Leadership

Strategies

1. ***Build and maintain strong, collaborative and cooperative relationships across all levels of government, business, industry and the community.***
3. ***Partner with government, business, industry and the community to promote the Whitsunday Region at both a national and international level.***
4. ***Advocate Council's interests and objectives to government, business, industry and the community.***

BUDGET REFERENCE

Budget Cost Code: WO2967.0081 - Project Grants

CONSULTATION

Jacqueline Neave - Arts & Culture Officer (Author)

Cr Jan Clifford

Dan Staley - Director of Planning and Community Services

ATTACHMENTS

Appendix Item 1 - Operation Pilgrimage Group support letter and Estimate of Costs dated 31 January 2015

Appendix Item 2 – “Who We Are” Operation Pilgrimage Group Activities-Achievements-Accomplishments 1992-2015

12. Planning and Community Services

12.13 WHITSUNDAY LIBRARY SERVICES HOME DELIVERY - BOWEN HOUSEBOUND SERVICES

RECOMMENDATION

That Council approve the implementation of a housebound library delivery service in Bowen.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

This report is in reference to the establishment of a housebound delivery service for Bowen residents unable to physically access the library building. This service will be in line with the housebound service already provided in Proserpine and Cannonvale/Airlie Beach.

REPORT

This report proposes an alignment with the housebound service already provided in Proserpine and Cannonvale/Airlie Beach.

This service would provide an opportunity for housebound Bowen residents to access a variety of resources available for lending in the library building. An initial survey of interested participants would be conducted with the assistance of local care groups.

This service would comply with the Guidelines for Australian home library services initiated by ALIA 2000 (Australian Library and Information Association) and the Queensland Public Library Standards and Guidelines Operational Services Standard August 2009.

STATUTORY MATTERS

Guidelines for Australian home library services 2000 ALIA;
Queensland Public Library Standards and Guidelines Operational Services Standard August 2009.

CORPORATE PLAN REFERENCE

Governance and Leadership

Objective: Our Leadership engages with the community and provides open, accountable and transparent local government.

OPERATIONAL PLAN REFERENCE

People

Strategies

- 1. Effectively maintain public spaces and ensure they are accessible to people of all ages and abilities.***

2. *Effectively maintain and develop community hubs, libraries and facilities across the Whitsunday Region.*
7. *Promote volunteerism and encourage the participation of volunteers in community activities.*

BUDGET REFERENCE

WO: 3710

CONSULTATION

Terry Mills-Edward Team Leader Bowen Library (Author)
Dan Staley – Director of Planning and Community Services
Sharon Tollard – Manager of Community Development and Libraries

ATTACHMENTS

N/A

12. Planning and Community Services

12.14 REQUEST FOR FEE WAIVER - COLLINSVILLE YOUTH COALITION

RECOMMENDATION

That Council waive the associated hire fees for the use of the Collinsville Football Club for the Collinsville CYC Youth Coalition ladies night being held on Saturday 9 May 2015.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

CYC is a non-profit organisation that relies on the support from the local community; any money raised for the Collinsville CYC goes back into the Collinsville CYC to continue to provide a safe & healthy environment for the children in the community.

REPORT

Kerry Cowan from Collinsville CYC sent a letter dated 11 February 2015 to Whitsunday Regional Council requesting the waiver of the associated fees of \$279.00 and the bond fee of \$240.00 for the hire of the football club for their function \$1000 ladies night on Saturday 9 May 2015, with access to the cold room (attached).

STATUTORY MATTERS

Local Government Act 2009

CORPORATE PLAN REFERENCE

People

Objective: Our region is inclusive and motivated by a range of social, cultural and recreation opportunities.

OPERATIONAL PLAN REFERENCE

People

Strategies

6. Support community groups in facilitating a variety of cultural, community, sporting and recreation activities, events and programs.

BUDGET REFERENCE

WO 2967

CONSULTATION

Jacqueline Neave – Arts & Culture Officer (Author)

Dan Staley – Director of Planning and Community Services

ATTACHMENTS

Appendix Item 1 - Letter dated 11 February 2015 received from Kerry Cowan - Collinsville CYC Youth Coalition

12. Planning and Community Services

12.15 LIQUOR LICENCE APPLICATION - LUV A COFFEE, WHITSUNDAY PLAZA

RECOMMENDATION

That Council submits correspondence to the Office of Liquor and Gaming Regulation, supporting the liquor licence application (commercial subsidiary on premises licence), lodged by Port Douglas Investments Pty Ltd, trading as Luv A Coffee, Whitsunday Plaza.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

Council is in receipt of notification from the Office of Liquor and Gaming Regulation (OLGR) advising a liquor licence application has been lodged for Luv A Coffee, Shop SP014, Whitsunday Plaza. The application is for a *commercial other subsidiary on premises licence* for the hours 10:00am to midnight, 7 day per week.

Luv a Coffee is a café located at the northern entrance to Whitsunday Plaza, directly opposite Amcal Pharmacy. The proprietor is applying for a permit to sell alcohol for consumption on the premises, where the principal activity is the provision of meals intended to be eaten on the premises. However alcohol may be sold to patron's to consume on premises without dining or consuming a meal. The applicant is also intending to include an outdoor dining area as part of the licensed area.

Council's internal assessment policy is to seek comment from a number of departments. As a result of internal consultation, Council officers are of the belief the proposed licensed venue is consistent with the approved land use and will have a minimal impact on the amenity of the surrounding area.

Council Officers recommendation is that Council submit correspondence to the OLGR, in support of the liquor licence lodged by Port Douglas Investments Pty Ltd, trading as Luv A Coffee, Whitsunday Plaza.

REPORT

The current internal process for assessment of a liquor licence application is to consult with staff in the following disciplines:

- Environmental Health
- Town Planning
- Local Laws

The Whitsunday station of the Queensland Police Service (QPS) is also consulted, to confirm they have been notified of the application directly by OLGR and to ascertain if they have any concerns in relation to the application.

In this circumstance, Whitsunday Plaza Centre Management was also contacted to confirm they were aware of the application and ascertain whether they had any concerns in relation to the proposal.

Town Planning Comments

Town planning have advised there are no additional Town Planning requirements. The premises is located with the Commercial Zone and is currently approved as a 'refreshment premises' under the Whitsunday Regional Planning Scheme. This definition includes licenced and unlicensed premises. Given that the use of the premises is not changing, Planning Officers have no further restrictions due to the application for liquor licence.

Environment and Compliance Comments

The internal liquor licence assessment process has triggered the following criteria which require escalation to Council for a decision:

- *Proposed licensed premise is within 200m of a sensitive land use:*
The Luv A Coffee shop frontage is located within 180m of a sensitive use, i.e. the Whitsunday Christian College on Paluma Road. However the shop frontage is well within the Whitsunday Plaza property boundary. The school is thought to be protected from direct noise and amenity impact as the commercial building tenanted by Rivers and Video Ezy, blocks the view of the proposed licenced premises from Paluma Road Rd.

Other considerations

- *Proposed licensed premise is located with 100m of an existing licensed premise:*
Luv a Coffee is located within 100m of Thirsty Camel, a bottle shop located at the southern entrance to Whitsunday Plaza. Whitsunday Plaza Centre Management have advised they have no concerns with the liquor licence application for Luv a Coffee.
- *Proposed licensed premises includes outdoor dining*
Luv A Coffee currently has outdoor seating for 26 patrons, however Council has no jurisdiction over outdoor dining within the bounds of private property.
- *Operating hours*
The applicant has requested licensed hours be from 10:00am to midnight, 7 days per week. The development approval issued for Whitsunday Plaza has no restrictions on operating hours, however noise levels are restricted to 5dB(a) above the background noise, when measured at the property boundary. These noise levels can be easily achieved during the proposed licensed hours, given the café is located well within the boundary of the property, and there are no residential dwellings located in the immediate vicinity of the shopping centre.

Queensland Police Service

Sergeant Brad Teys, Whitsunday Police Station, has advised QPS have no concerns with the liquor licence application.

Recommendation:

That Council submit correspondence to the OLGR, in support of the liquor licence lodged by Port Douglas Investments Pty Ltd, trading as Luv A Coffee, Whitsunday Plaza.

STATUTORY MATTERS

Section 117(3) Liquor Act 1992

CORPORATE PLAN REFERENCE

People

Objective: Our region is active, healthy, safe and resilient.

OPERATIONAL PLAN REFERENCE

People

Strategies

- 3. Implement, enforce and review community health regulations and standards and deliver a timely and effective response to emerging health issues.*

BUDGET REFERENCE

No budget allocation.

CONSULTATION

Kate Mee – Environmental Health Officer (Author)
Kellianne Wynne – Manager of Development Assessment
Julie Wright – Compliance Manager

ATTACHMENTS

Appendix Item 1. – Whitsunday Plaza Centre Map and Aerial View
Appendix Item 2. – Notification from the Office of Liquor and Gaming

12. Planning and Community Services

12.16 REQUEST FOR FEE WAIVER - WHITSUNDAY CRUISIN' CAR CLUB

RECOMMENDATION

That Council waive the Minor Events - Class 3 Application fee of \$375.00 associated with the use of Airlie Beach Foreshore for the 2015 Whitsunday Cruisin' Car Club Display to be held on the Saturday 7 March 2015.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

The Whitsunday Cruisin' Club is a non-profit organisation that does not charge an admission fee and has no retail sales, so have very little funds available to pay the fees associated with holding the event. The display is being held for the community to view some of the best Classic Cars from North QLD i.e. Townsville, Burdekin, Mackay, Mirani these are some of the clubs involved along with the Whitsundays all supporting this display, which in turn will benefit the area.

REPORT

Council is in receipt of a letter dated 16 February 2015 from Mr Peter Rehbein requesting consideration for the waiver of the associated fee of \$375.00 to hold the Classic Car Jamboree on Saturday 7 March 2015 on the Airlie Beach Foreshore (attached).

STATUTORY MATTERS

Local Government Facilities and Areas Local Law 2011

CORPORATE PLAN REFERENCE

People

Objective: Our region is inclusive and motivated by a range of social, cultural and recreation opportunities.

OPERATIONAL PLAN REFERENCE

People

Strategies

6. Support community groups in facilitating a variety of cultural, community, sporting and recreation activities, events and programs.

BUDGET REFERENCE

WO 2967.0083

CONSULTATION

Jacqueline Neave - Arts & Culture Officer (Author)
Dan Staley - Director of Planning and Community Services

ATTACHMENTS

Appendix Item - Letter dated 16 February 2015 received from Mr Peter Rehbein - Whitsunday Cruisin' car Club

12. Planning and Community Services
12.17 REQUEST FOR FEE WAIVER - RSPCA MILLION PAWS WALK 2015
-

RECOMMENDATION

That Council waive the Events - Class 3 Application fee of \$375.00 associated with the use of Cannonvale Beach & Foreshore for the 2015 RSPCA Million Paws Walk to be held on the Sunday 17 May 2015.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

RSPCA is a non for profit incorporated body.

Dog owners make a donation to the RSPCA to enter the walk with their respective pet. It is estimated that more than 20,000 people and their dogs will walk in Queensland on the 17 May 2015 to show their support for animals in need.

Funds raised from registrations, on the day will help to provide essential care, veterinary treatment, food and shelter for more than 18,000 dogs that RSPCA Queensland cares for each year.

REPORT

Council is in receipt of an Events Application, and is requesting consideration for the exemption of the associated fee of \$375.00 to hold the 2015 RSPCA Million Paws Walk on the 17 May 2015, see attached.

STATUTORY MATTERS

Local Government Facilities and Areas Local Law 2011

CORPORATE PLAN REFERENCE

People

Objective: Our region is inclusive and motivated by a range of social, cultural and recreation opportunities.

OPERATIONAL PLAN REFERENCE

People

Strategies

6. *Support community groups in facilitating a variety of cultural, community, sporting and recreation activities, events and programs.*

BUDGET REFERENCE

W2967.0083

CONSULTATION

Jacqueline Neave - Arts & Culture Officer (Author)
Dan Staley - Director of Planning and Community Services

ATTACHMENTS

Appendix Item 1 - Events Application received 27 January 2015 from RSPCA Million Paws Walk, Suzanne Crabtree (Organiser)

12. Planning and Community Services

12.18 NORTH HEAD LIGHTHOUSE CONSERVATION MANAGEMENT PLAN DRAFT

RECOMMENDATION

That Council receive the Conservation Management Plan Draft on the North Head Lighthouse dated January 2015 from Converge Heritage and Community.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Planning and Community Services Department.

BACKGROUND

Ben Gall and Associates of Converge Heritage and Community were engaged to draft up a Conservation Management Plan for the North Head Lighthouse.

The North Head Lighthouse was constructed in 1866 and taken into operation in November that year.

The Conservation Management Plan focuses primarily on the lighthouse. The lighthouse is part of a wider complex that effectively encompasses the entire North head Island. The CMP has been developed as a practical tool to assist WRC and community to make sound decisions about conserving and managing the heritage values of the lighthouse.

REPORT

In consultation with Neil Cross – Facilities Officer, the cost implications of implementing the project are currently being reviewed, such as transporting scaffolding and equipment by barge and safety issues on gaining access to the site.

The Bowen Community has rallied together to address the importance of the restoration of the North Head Lighthouse as part of Bowen's Maritime history. A steering committee has been created consisting of Chairman John Attwood, Secretary Christine Daniel and Stephen Darwen from the Bowen Independent, along with a group of experienced volunteers. At the meeting a number of qualified volunteers have stepped forward including an Engineer, Painters, Paint Suppliers, Football Clubs, etc, who are all keen to be a part of the project and volunteered their services.

The implementation plan consists of two 'plans': Action and Maintenance. The action plan applies to recommended actions identified in the CMP for particular elements of the North Head Lighthouse. The maintenance plan includes recommended maintenance tasks that should occur at regular intervals. A basic summary of planning requirements is provided for each task, but any proposal for major work will generally require further planning prior to application to Council.

North Head Lighthouse is entered on the Whitsunday Regional Council local heritage register as part of the North head Lighthouse Complex. It is also proposed that the site should be nominated to the Queensland Heritage Register and obligations may already exist under the Queensland Heritage Act 1992, these obligations have been included in the CMP.

STATUTORY MATTERS

Queensland Heritage Act 1992
Sustainable Planning Act 2009
Queensland Heritage Regulation 2003
Department of Environment and Heritage Protection

CORPORATE PLAN REFERENCE

Place

Objective: Our built environment is well planned, effectively managed and protects our region's heritage and character.

OPERATIONAL PLAN REFERENCE

Place

Strategies

- 1. Develop and implement an efficient, effective and accountable framework for managing the growth and development of the Whitsunday Region.***
- 2. Develop and implement strategies to preserve the unique character of our communities and heritage places.***
- 3. Advocate the Whitsunday Region's planning and growth needs to Federal and State Governments.***

BUDGET REFERENCE

WO 2967

CONSULTATION

Jacqueline Neave – Arts & Culture Officer (Author)
Dan Staley – Director of Planning and Community Services
Neil Cross – Facilities Officer

ATTACHMENTS

Appendix Item 1 – North Head Lighthouse Conservation Management Plan for Whitsunday Regional Council Draft January 2015

13. Engineering Services

13.1 EXTENTION OF ROMA PEAK ROAD MAINTENANCE

RECOMMENDATION

That Council do not extend the maintenance area of Roma Peak Road and that the property owner of Lot 694H1248 be allowed to construct a creek crossing on Roma Peak Road at owners cost.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Engineering Services Department.

BACKGROUND

The Engineering Services Department was approached by the owner of Lot 694H12481 to extend the maintenance of Roma Peak Road from where it currently stops at the gate to Lot 605H12452. Access to Lot 694H12481 is currently gained from Lot 507H12421.

REPORT

An onsite inspection was undertaken on the 2 February 2015 by officers from the Engineering Services Department to investigate the possibility of extending the maintenance area of Roma Peak Road. Council officer met with the owner of Lot 694 H12481 onsite and the owner explained that he requires access to his property via a creek running through his property. He also indicated that the owner of Lot 507 H12421 intend to sell the property and that he will not be able to get access to his property, being Lot 694H12481.

The following lots are all adjoining and are either owned by the same owner or leased by the same person, Lot 605H12452, Lot694H12481, Lot 5230SP142540, Lot 487H1248. Extending the maintenance area of Roma Peak Road effectively requires additional road construction of approximately 1.2km plus the construction of a causeway. This section of road will require an extensive amount of road works as the road has to be constructed through a cutting and across a creek. The estimated cost for this construction is around \$150,000.

The following legal opinion was expressed by GAQ regarding Councils obligation to construct gazetted road once named.

'Section 901 of the LGA confers upon Council control of all roads in its area, which control includes the capacity to take all necessary steps for (among other things) construction, maintenance and improvement of roads.

The *Local Government Act 1993* ("LGA") defines "road" as:

- (a) *an area of land dedicated to public use as a road; or*
- (b) *an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles; or*
- (c) *a bridge, culvert, ferry, ford, tunnel or viaduct; or*
- (d) *a pedestrian or bicycle path; or*

- (e) *a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d),*

but it does not include a State-controlled road under the Transport Infrastructure Act 1994.

As the road in question has been dedicated, it satisfies the definition in the *Local Government Act*. Therefore, Council has control over the road pursuant to section 901.

However, the fact that this control includes capacity to take necessary steps for construction of the road does not oblige Council to undertake the construction of a road simply because a road reserve exists or because it has been named. Council possesses no statutory obligation, under the *Local Government Act* or any other statute, to construct the road once the relevant area has been dedicated and named. Its statutory control under section 901 is expressed as including “capacity” to construct.

Similarly, Council is not obliged to repair and maintain a road in its area that it has not constructed or previously maintained. However, where a local government maintains or repairs a road, it will become bound by a duty of care to all potential road users, or other people who might be affected by the repair/maintenance works performed, to ensure that proper care is exercised in performing the works. Similarly, where a local government becomes aware (or should be aware) of a risk created by the condition of a road and has the power to take action to reduce or eliminate this risk, it will become bound by a duty of care to all potential road users, to take such action.

The Council’s liability in respect of the repair and maintenance of roads was recently confirmed by section 37 of the *Civil Liability Act 2003*, which provides that:

- (1) *A public or other authority is not liable in any legal proceeding for any failure by the authority in relation to any function it has as a road authority—*
- (a) *to repair a road or to keep a road in repair; or*
- (b) *to inspect a road for the purpose of deciding the need to repair the road or to keep the road in repair.*
- (2) *Subsection (1) does not apply if at the time of the alleged failure the authority had actual knowledge of the particular risk the materialisation of which resulted in the harm.*

Whilst the *Civil Liability Act* defines “road” differently to the *Local Government Act*, it still includes any area that is dedicated to public use as a road or is open to or used by the public and is developed for, or has as one of its uses, the driving or riding of motor vehicles.

Prior to the introduction of section 37 of the *Civil Liability Act*, there was some confusion regarding a local government’s liability with respect to the maintenance of roads, as the High Court in *Brodie -v- Singleton Shire Council* [2001] HCA 29 overruled the long-standing principle that a highway authority (Council in this instance) is immune from liability for non-feasance with respect to road maintenance. However, the *Civil Liability Act* has reinstated this principle to the extent that a local government will not be liable for failing to maintain a road that it has not constructed or previously repaired or maintained.

Accordingly, by naming the road and giving the relevant landowner a rural address, Council is not obliged to construct or maintain the road for public use.’

The construction of this section of road could be considered as private works as it only provide access to one property owner and it is therefore not recommended.

STATUTORY MATTERS

Local Government Act 2009

CORPORATE PLAN REFERENCE

Place

Objective: Our infrastructure supports our region's current and future needs.

OPERATIONAL PLAN REFERENCE

Place

Strategies

- 1. Develop and maintain effective roads and drainage infrastructure, networks and facilities.*

BUDGET REFERENCE

Roads and Drainage Operational Budget

CONSULTATION

Hennie van der Schyff – Executive Manager of Roads and Drainage (Author)
Ray Tree - Manager Design

ATTACHMENTS

Appendix Item 1 – Smart map/Layout of Effective Lots

13. **Engineering Services**
13.2 **LOGANS ADVENTURE PLAYGROUND UPDATE**

RECOMMENDATION

That Council resolves to receive the minutes from the Logan's Adventure Playground Project Committee meeting held on the 3rd February 2015 and 12th February 2015.

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25th February 2015 by Council's Roads and Drainage Department.

BACKGROUND

In December 2011, a Parents Action Group based in Cannonvale approached Council interested in developing an adventure playground in Cannonvale. A Committee was established to develop the project which included the Parent Action Group members and Council officers.

In February 2013 the Council engaged John Harper Landscaping Designs to assist the project committee to design the playground. Council endorsed the proposed design plans for Logan's Adventure Playground on the 26th of June 2013.

A project committee meeting was held on the 3rd February 2015 and 12th February 2015.

REPORT

The Logan's Adventure Playground working group met on the 3rd February 2015 and 12th February 2015. The minutes from the working group meeting are attached to this report. The minutes provide an update on the progress of the Logan's adventure playground project.

STATUTORY MATTERS

There are no statutory obligations associated with the recommendation.

CORPORATE PLAN REFERENCE

- 4.1. Promote/support the development of arts and cultural projects, activities and festivities.***
- 4.2. Support and assist community groups to provide necessary services for their clients.***
- 4.3. Encourage and support youth development programs.***
- 4.6. Continued support and improvements of Sport and Recreation facilities and address opportunities for the provision of such facilities, and the promotion of active and healthy lifestyles.***

OPERATIONAL PLAN REFERENCE

The Logan's Adventure playground committee meeting is not listed in the Whitsunday Regional Council's Operational Plan.

BUDGET REFERENCE

Budget Cost Code

There is no expenditure attributed to the recommendation.

CONSULTATION

Scott Hardy – Manager of Parks and Gardens (Author)
Hennie van der Schyff – Executive Manager Roads and Drainage

ATTACHMENTS

Appendix Item 1 – Minutes 3rd February 2015
Appendix Item 2 – Minutes 12th February 2015

13. Engineering Services

13.3 DONATION FROM QUEENSLAND RAIL IN RELATION TO QR150 CELEBRATIONS

RECOMMENDATION

It is recommended that Council:

- Accept the two bench seats from Queensland Rail as part of their QR150 Celebrations;
 - Write to Queensland Rail and thank them for their offer for two (2) bench seats to be located in Proserpine and Bowen;
 - Councillors decide on suitable locations for the two (2) bench seats in each town;
 - Councillors decide on a suitable date for the presentation of the two (2) bench seats.
-

The following report has been submitted for inclusion in Council's Ordinary Meeting to be held on 25 February 2015 by Council's Engineering Services Department.

BACKGROUND

Last year Queensland Rail advised that they were planning steam train journeys in 2015 along the Queensland coast to celebrate 150 years of rail in Queensland. Whitsunday Regional Council hosted a welcome event to celebrate this milestone. On the 10 December 2014 Council resolved to assist Queensland Rail to celebrate 150 years of rail in Queensland. A welcome event was held both in Proserpine and Bowen.

REPORT

As part of Queensland Rail's 150 celebrations, Queensland Rail have gifted two QGR bench seats to the Whitsunday Regional Council. These bench seats are made of wrought iron from 100 years ago and only a few towns in Queensland have been selected to be part of the QR150 Celebrations by gifting bench seats to them. QR have conditioned the donation that one seat has to be installed in Proserpine and one seat to be installed in Bowen.

The location of these bench seats have not been finalised and it is up to Council to decide where these bench seats are to be installed. Council also have to decide on suitable dates for the presentation of the two bench seats to take place.

STATUTORY MATTERS

N/A

CORPORATE PLAN REFERENCE

Prosperity

Objective: Our tourism and small business sectors are strong, sustainable and actively promoted.

OPERATIONAL PLAN REFERENCE

Prosperity

Strategies

3. *Partner with tourism, business and economic development organisations to promote the local tourism and small business sectors.*
5. *Promote the Whitsunday Region as a desirable domestic and international tourist destination.*

BUDGET REFERENCE

N/A

CONSULTATION

Hennie van der Schyff – Executive Manager of Roads and Drainage (Author)

ATTACHMENTS

Appendix Item 1 – Bench Seat