



# **MINUTES**

## **GENERAL MEETING**

**Wednesday 4 August 2021**  
commencing at 9.44am

Strathpine Chambers  
220 Gympie Road, Strathpine

**ENDORSED GM20210818**

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**Membership = 13**  
Mayor and all Councillors

**Quorum = 7**

**1. CONFIRMATION OF MINUTES FROM PREVIOUS GENERAL MEETING**

**General Meeting - 4 August 2021 (Pages 21/1209 to 21/1292)**

**RESOLUTION**

Moved by Cr Denise Sims (Deputy Mayor)

Seconded by Cr Tony Latter

**CARRIED 12/0**

That the minutes of the General Meeting held 4 August 2021, be confirmed.

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## **STATEMENT - ATTENDEES AND RECORDING**

Before opening the meeting, the Mayor advised that today's meeting was being conducted via TEAMS to comply with the lock-down restrictions that are currently in place.

Due to technical limitations it was not able to simultaneously livestream this Teams meeting.

This meeting would be recorded and would be made available on the council's website following the meeting.

The Mayor opened the meeting and provided the Acknowledgement of Country and Opening Prayer / Reflection.

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## **2. ACKNOWLEDGEMENT OF COUNTRY**

The Mayor provided the Acknowledgement of Country.

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## **3. OPENING PRAYER / REFLECTION**

The Mayor provided the opening prayer / reflection for the meeting.

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## **4. ATTENDANCE & APOLOGIES**

### **Attendance:**

Cr Peter Flannery (Mayor) (Chairperson)  
Cr Brooke Savige  
Cr Mark Booth  
Cr Adam Hain  
Cr Jodie Shipway  
Cr Sandra Ruck  
Cr Karl Winchester  
Cr Denise Sims (Deputy Mayor)  
Cr Mick Gillam  
Cr Cath Tonks  
Cr Matt Constance  
Cr Darren Grimwade  
Cr Tony Latter

Chief Executive Officer  
Deputy CEO/Director Projects & Asset Services  
Director Community & Environmental Services  
Director Finance & Corporate Services  
Interim Director Infrastructure Planning  
Director Planning  
Chief Economic Development Officer  
Manager Strategy & Engagement  
Chief Legal Counsel  
Manager Governance & Executive Services

(Mr Greg Chemello)  
(Mr Tony Martini)  
(Mr Bill Halpin)  
(Ms Donna Gregory)  
(Ms Jackie Forst)  
(Mr David Corkill)  
(Mr Paul Martins)  
(Mr Joshua O'Keefe)  
(Ms Kate Draper)  
(Mr Darren Dallinger)

Meeting Support

(Larissa Kerrisk)

### **Apologies:**

Nil

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## 5. MEMORIALS OR CONDOLENCES

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There were no memorials or condolences mentioned for residents who have passed away.

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## 6. CONFIRMATION OF MINUTES FROM PREVIOUS GENERAL MEETING

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### **General Meeting - 21 July 2021 (Pages 21/967 to 21/1208)**

#### **RESOLUTION**

Moved by Cr Denise Sims (Deputy Mayor)

Seconded by Cr Matt Constance

CARRIED 13/0

That the minutes of the General Meeting held 21 July 2021, be confirmed.

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## 7. PRESENTATION OF PETITIONS

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*(Addressed to the Council and tabled by Councillors)*

There were no petitions tabled.

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## 8. CORRESPONDENCE

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Council noted the following response to a petition tabled:

### **8.1. Response to Petition: Keira Tunnah - Request for further entry/exit into the new Stodart Development of Capestone (62359520)**

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At the General Meeting held 23 June 2021, Council received a petition from Keira Tunnah regarding a request for further entry/exit into the new Stodart Development of Capestone.

A copy of Council's response to the Chief Petitioner was provided for Council's information.

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## 9. NOTICES OF MOTION (Repeal or amendment of resolutions)

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*(s262 of the Local Government Regulation 2012)*

There were no Notices of Motion.

## **9. OFFICERS' REPORTS TO COUNCIL (conducted in Sessions)**

*(as referred by the Chief Executive Officer)*

Consideration of officers' reports as referred by the Chief Executive Officer, to be conducted in Sessions.

The appointed Portfolio Councillor will facilitate the conduct of the respective session under the control of the Mayor as the Presiding Officer.

Session	Portfolio Councillor	Deputy Portfolio Councillor
<b>1 Governance &amp; Engagement</b>	Cr P Flannery (Mayor)	Cr D Sims (Deputy Mayor)
<b>2 Infrastructure Planning</b>	Cr A Hain	C T Latter
<b>3 Engineering, Construction &amp; Maintenance</b>	Cr B Savige	Cr C Tonks
<b>4 Planning</b>	Cr D Grimwade	Cr K Winchester / Cr M Booth
<b>5 Community &amp; Environmental Services</b>	Cr M Gillam	Cr S Ruck
<b>6 Finance &amp; Corporate Services</b>	Cr M Constance	Cr J Shipway



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**1 GOVERNANCE & ENGAGEMENT SESSION**

**(Cr P Flannery, Mayor)**

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**ITEM 1.1**

**125TH ANNUAL LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND  
CONFERENCE - MORETON BAY REGIONAL COUNCIL MOTIONS**

*Meeting / Session:* 1 GOVERNANCE & ENGAGEMENT  
*Reference:* 62497306 : 23 July 2021 - **Refer Supporting Information 62497306**  
*Responsible Officer:* SB, Principal Advocacy and Policy Advisor (CEO Strategy & Engagement)

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**Executive Summary**

The 125<sup>th</sup> annual Local Government Association of Queensland (LGAQ) conference will be held in Mackay from 25-27 October 2021.

The purpose of this report is to seek Council approval to submit five motions as appearing in the supporting information to this report, for inclusion in the 2021 LGAQ Conference agenda.

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**RESOLUTION**

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**Moved by Cr Mick Gillam**

**Seconded by Cr Matt Constance**

**CARRIED 13/0**

**That the Chief Executive Officer be authorised to submit Moreton Bay Regional Council's motions, as contained in supporting information #1 to this report, for inclusion in the 2021 Local Government Association of Queensland (LGAQ) conference agenda.**

ITEM 1.1 125TH ANNUAL LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND CONFERENCE - MORETON BAY REGIONAL COUNCIL MOTIONS - 62497306 (Cont.)

## OFFICER'S RECOMMENDATION

That the Chief Executive Officer be authorised to submit Moreton Bay Regional Council's motions, as contained in supporting information #1 to this report, for inclusion in the 2021 Local Government Association of Queensland (LGAQ) conference agenda.

## **REPORT DETAIL**

### **1. Background**

Each year, approximately 90 motions are considered at the LGAQ Conference. Motions which are passed go on to inform LGAQ's advocacy activity, initially with letters mailed to relevant Ministers in State and Federal government.

Council considered and put forward a small number of motions in recent years that focussed on the regulation of dangerous dogs (2019), and a motion on job creation for South East Queensland (2020).

The following motions have been identified for inclusion in the 2021 LGAQ Conference agenda:

#### Prohibiting Ownership of Restricted Dogs

That the LGAQ lobby the State Government to amend the *Animal Management (Cats and Dogs) Act 2008* to prohibit the ownership of restricted dogs in Queensland, meaning that Queensland Councils could no longer allow ownership of restricted dogs by permit.

#### Unregistered Dogs - Increasing Enforcement Powers

That the LGAQ lobby the state government to:

- provide authorised persons from the local government the power to seize/impound and seek forfeiture orders for unregistered dogs; and
- provide local government provisions within the Act to seek orders via the Magistrates Court for the forfeiture of animals and the prohibition of animal keeping of offenders similar to those contained in s182 and 183 of the *Animal Care and Protection Act 2001*.
- add a subsection to the maximum penalty of sections 44(2) and 44(3) of the *Animal Management (Cats and Dogs) Act 2008* to specify regulated dogs with a substantial increase in the penalty.

#### Removing Court Costs for Local Government

That the LGAQ lobby the State Government to amend section 16(3) of the *Uniform Civil Procedure (Fees) Regulation 2019* such that a local government is included in the meaning of 'state-related person', meaning that Councils would no longer be required to pay fees which state agencies do not pay for performing similar statutory functions.

#### State Penalties Enforcement Registry Process Improvements

That the LGAQ lobby the State Government to update the fines-on-line software which is outdated; require SPER to obtain Local Government approval to cancel enforcement orders in circumstances where legislative requirements have been met; and return all fees to Council on the approval of orders.

#### Body Worn Cameras and CCTV Systems

That the LGAQ lobby the State Government to amend the *Local Government Act 2009* to provide lawful authority for authorised persons to use surveillance devices including body-worn cameras, surveillance cameras and CCTV to record images and/or sound while the authorised person is acting in the performance of the authorised person's duties or during the investigation of offences.

A Council briefing note was circulated to Councillors on 22 July 2021 for the purpose of sharing information and seeking comments from Council on the matter. By the time of writing, no comments had been received.

ITEM 1.1 125TH ANNUAL LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND CONFERENCE - MORETON BAY REGIONAL COUNCIL MOTIONS - 62497306 (Cont.)

**2. Explanation of Item**

It is recommended that Council approve the submissions of the motions contained in supporting information #1 to this report for inclusion in the 2021 LGAQ conference agenda.

**3. Strategic Implications**

3.1 Legislative / Legal Implications ☒ Nil identified

3.2 Corporate Plan / Operational Plan  
Strengthening Communities: Strong local governance - strong leadership and governance.

3.3 Policy Implications  
The proposed motions are consistent with Council policy on these matters.

3.4 Risk Management Implications ☒ Nil identified

3.5 Delegated Authority Implications ☒ Nil identified

3.6 Financial Implications  
The motion on Removing Court Costs for Local Government, if adopted, would result in modest savings to Council.

3.7 Economic Benefit Implications  
Topics and motions associated with the conference will address a range of economic factors in local government.

3.8 Environmental Implications  
Topics and motions associated with the conference will address a range of environmental challenges facing local government.

3.9 Social Implications  
Topics and motions associated with the conference will address a range of social challenges facing local government.

3.10 Human Rights Implications  
Under the *Human Rights Act 2019 (QLD)*, Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that, whilst there may be human right implications relevant to the motions related to restricted dogs and unregistered dogs, these would be considered and addressed by the State Government in developing relevant legislation in response to the motions (if adopted).

3.11 Consultation / Communication  
Consultation has been undertaken with all Councillors, the Chief Executive Officer and the Executive Leadership Team.

**ITEM 1.2**  
**COUNCILLOR PORTFOLIO - REVIEW**

Meeting / Session: 1 GOVERNANCE & ENGAGEMENT  
 Reference: 62460583 : 30 June 2021 - **Refer Supporting Information 62526621**  
 Responsible Officer: GC, Chief Executive Officer (CEOs Office)

**Executive Summary**

Council's Portfolio system provides for nominated Councillors to be assigned specific responsibilities relative to key functions and services of the Council.

At Council's Special Meeting held 18 June 2021, the Mayor announced that these portfolios would be amended to deliver these functions and services to the community along the five pillars outlined in Council's proposed Strategic Planning Model.

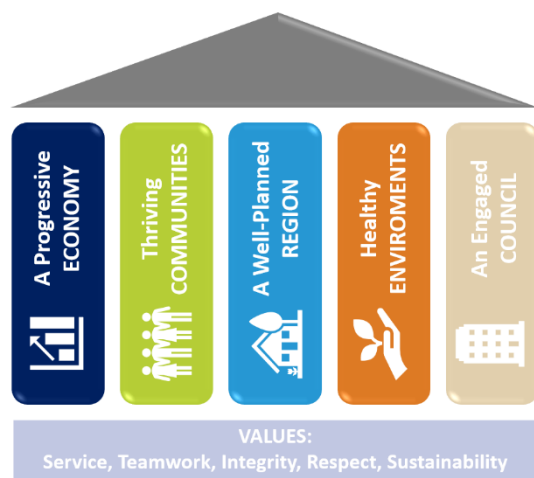


Figure 1: Council's Strategic Planning Model

**RESOLUTION**

Moved by Cr Jodie Shipway

Seconded by Cr Adam Hain

**CARRIED 12/1**

*Cr Darren Grimwade voted against the motion*

1. That Council's adopted portfolios be amended, and Portfolio Councillors and Deputy Portfolio Councillors be appointed to the amended portfolios, as follows:

Portfolio	Portfolio Councillor	Deputy Portfolio Councillor
1 Progressive economy	Cr D Sims (Deputy Mayor)	Cr K Winchester
2 Thriving communities	Cr M Gillam	Cr S Ruck
3 Well-planned region (planning)	Cr J Shipway	Cr M Booth
4 Well-planned region (transport)	Cr A Hain	C T Latter
5 Healthy Environments	Cr C Tonks	Cr B Savige
6 An engaged council	Cr M Constance	Cr D Grimwade

2. That the Councillor Portfolios Roles and Responsibilities Policy (2150-114) as amended in line with this report, be adopted as appearing in supporting information #1.
3. That the appointed Portfolio Councillor facilitate the conduct of the respective session of Council's General meetings under the control of the Mayor as the Presiding Officer.

*ITEM 1.2 COUNCILLOR PORTFOLIO - REVIEW - 62460583 (Cont.)*

## OFFICER'S RECOMMENDATION

- That Council's adopted portfolios be amended, and Portfolio Councillors and Deputy Portfolio Councillors be appointed to the amended portfolios, as follows:

Portfolio	Portfolio Councillor	Deputy Portfolio Councillor
<b>1 Progressive economy</b>	Cr D Sims (Deputy Mayor)	Cr K Winchester
<b>2 Thriving communities</b>	Cr M Gillam	Cr S Ruck
<b>3 Well-planned region (planning)</b>	Cr J Shipway	Cr M Booth
<b>4 Well-planned region (transport)</b>	Cr A Hain	Cr T Latter
<b>5 Healthy Environments</b>	Cr B Savage	Cr C Tonks
<b>6 An engaged council</b>	Cr M Constance	Cr D Grimwade

- That the Councillor Portfolios Roles and Responsibilities Policy (2150-114) as amended in line with this report, be adopted as appearing in supporting information #1.
- That the appointed Portfolio Councillor facilitate the conduct of the respective session of Council's General meetings under the control of the Mayor as the Presiding Officer.
- That the Portfolio Councillor appointments be reviewed in two years.

## **REPORT DETAIL**

### **1. Background**

At its Post-election Meeting on 29 April 2020 Council established a Portfolio system which provided for nominated Councillors to be assigned specific responsibilities relative to key functions and services of the Council, directly aligned with the Directorates outlined in the Council's Corporate Structure.

Council also adopted the Policy which outlines the roles, responsibilities and operating protocols of the Portfolio Councillor.

In line with the Policy, Councillors were appointed to the adopted portfolios, as appearing on minute page 20/624 of the General Meeting held 13 May 2020:

### **RESOLUTION:**

- That Portfolio Councillors and Proxy Portfolio Councillors be appointed to the adopted portfolios, as follows:

Session Portfolio	Councillor	Proxy Portfolio Councillor
1 Governance & Engagement	Cr P Flannery (Mayor)	Cr D Sims (Deputy Mayor)
2 Infrastructure Planning	Cr A Hain	Cr T Latter
3 Engineering, Construction & Maintenance	Cr B Savage	Cr C Tonks
4 Planning	Cr D Grimwade	Cr K Winchester/Cr M Booth
5 Community & Environmental Services	Cr M Gillam	Cr Sandra Ruck
6 Finance & Corporate Services	Cr M Constance	Cr Jodie Shipway

- That the appointed Portfolio Councillor facilitate the conduct of the respective session of Council's General meetings under the control of the Mayor as the Presiding Officer.
- That the Portfolio Councillor appointments are to be reviewed in two years.

**Figure 2: Portfolio appointments**

ITEM 1.2 COUNCILLOR PORTFOLIO - REVIEW - 62460583 (Cont.)

A Council briefing was conducted on 28 July 2021 for the purpose of sharing information and providing advice/views to Council on the matter. In line with Council's decision-making framework, an extract from the minutes of the briefing, is provided below:

That the policy be amended by realigning portfolios with the core pillars of Council's Strategic Planning framework in lieu of being aligned with Council's corporate structure.

**2. Explanation of Item**

While the community is yet to be consulted on the pillar titles outlined in the proposed Strategic Planning Model, there is a preference to use the current momentum to start this restructure prior rather than wait for the adoption of the Corporate Plan in early 2022.

The Policy currently states that each Portfolio aligns with the individual Directorates and the specific functions and services it provides as part of Council's operations. Proposed amendments to the Policy will ensure that these functions and services are delivered to the community along the five pillars outlined in Council's proposed Strategic Planning Model.

Upon community confirmation of the pillars and adoption of the corporate Plan in early 2022, the Policy will again be amended to align the pillars and portfolio titles.

**3. Strategic Implications**

**3.1 Legislative / Legal Implications**

As prescribed in the *Local Government Act 2009*, the Councillors' responsibilities, endeavours, interest and influence must be focused at the strategic level of issues of their portfolio, and not the day-to-day operational matters that fall under the domain of the administration.

Section 170(3) of the Act prescribes that a Councillor may not direct a Council employee, including the Chief Executive Officer, members of the Executive Leadership Team, departmental Managers and the Communications & Media team. Contravention of this provision is specifically included in the definition of "misconduct" in the Act.

In addition, section 12 of the Act states that when performing their responsibility, a Councillor must serve the overall public interest of the whole local government area.

**3.2 Corporate Plan / Operational Plan**

Strengthening Communities: Strong local governance - strong leadership and governance.

**3.3 Policy Implications**

Upon adoption, the Councillor Portfolios Roles and Responsibilities Policy will be amended.

**3.4 Risk Management Implications**

☒ Nil identified

**3.5 Delegated Authority Implications**

The Portfolio system provides no formal delegated authority to the Portfolio Councillor. It provides, however, the Councillor with an opportunity to develop and maintain a reasonable level of knowledge and understanding on the principal issues of the portfolio.

**3.6 Financial Implications**

☒ Nil identified

**3.7 Economic Benefit Implications**

☒ Nil identified

**3.8 Environmental Implications**

☒ Nil identified

*ITEM 1.2 COUNCILLOR PORTFOLIO - REVIEW - 62460583 (Cont.)*

3.9 Social Implications

The assigning of Councillors as a Portfolio Councillor should have a positive impact with Councillors acting as elected community representative “sounding boards” for strategic issues and suggestions from senior officers, members of the business and community, and other Councillors relating to their portfolio.

3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council’s decision in this matter.

3.11 Consultation / Communication

Council, Chief Executive Officer and Executive Leadership Team have been consulted.

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## 2 INFRASTRUCTURE PLANNING SESSION

(Cr A Hain)

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### ITEM 2.1

### REGION WIDE APPROVAL FOR DOG OFF LEASH AREAS

*Meeting / Session:* 2 INFRASTRUCTURE PLANNING  
*Reference:* 62412088 : 7 July 2021 - **Refer Supporting Information 62418648**  
*Responsible Officer:* BS, Senior Business Systems Officer (IP Parks & Recreation Planning)

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#### Executive Summary

The purpose of this report is to seek Council support for endorsement of historic Dog Off-Leash Areas (DOLA's) across the region. There are 51 operational and a further 5 proposed DOLA's in the region at the time of this report that require Council endorsement. While these facilities have been in operation for a number of years, there is a requirement for Council to formally approve their designation, in accordance with the *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011*.

There are 47 existing fully fenced facilities, 1 partially fenced and 3 unfenced facilities. There are also a further 5 new facilities proposed for construction that will require endorsement by Council. There are numerous endorsed DOLA's in the region including popular facilities such as Sweeney Reserve, Leis Park, Queens Beach North and Red Beach.

The details of the areas that require endorsement are identified in Appendix A, as attached to this report.

Any subsequent DOLA's proposed within the region either by Council or developers will need to be endorsed by Council as part of the project planning and approval process prior to installation.

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#### RESOLUTION

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Moved by Cr Mick Gillam

Seconded by Cr Adam Hain

CARRIED 13/0

1. That Council designate the Dog Off-Leash Areas as listed in Appendix A in accordance with section 10 of the *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011*.
2. That Council's website be revised to acknowledge the updated list of designated Dog Off-Leash Areas.



*ITEM 2.1 REGION WIDE APPROVAL FOR DOG OFF LEASH AREAS - 62412088 (Cont.)*

## OFFICER'S RECOMMENDATION

1. That Council designate the Dog Off-Leash Areas as listed in Appendix A in accordance with section 10 of the *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011*.
2. That Council's website be revised to acknowledge the updated list of designated Dog Off-Leash Areas.

## **REPORT DETAIL**

### **1. Background**

Dog Off-Leash Areas have become an accepted infrastructure element within parks and reserves across the region. They provide an important recreation function for socialisation of dogs and engagement amongst their owners.

There are currently 47 existing fully fenced facilities, 1 partially fenced and 3 unfenced off leash areas across the region, with a further 5 new facilities planned for construction. The majority of facilities have been installed by Council and a lesser number by developers. However, the number of requests by developers to install such facilities is steadily increasing.

A draft design guideline for DOLA's has been prepared to assist Council officers in determining how and where they are located, and will be the subject of a separate report to Council.

### **2. Explanation of Item**

Many of these dog off-leash facilities have been in operation for many years, however a recent review of their operations was undertaken, and Council officers identified that not all facilities have been formally endorsed by Council by way of resolution, as required under *Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011*.

The attached Appendix A comprises three parts:

- a list of all off-leash areas, clarifying those that are fenced and those that are partially fenced, and those that are planned for construction under Council's Local Community Infrastructure capital works program;
- a whole of region map of all known off-leash areas; and
- a catalogue of images showing the approximate boundary of each off-leash area requiring endorsement.

*Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011* is the head of power that enables Council officers to advise on and manage the behaviour of facility users. Relevant details are provided below for Council's noting:

#### *Section 10 - Dog off-leash areas*

*(1) The local government may, by resolution, designate an area within a public place as an area where a dog is not required to be on a leash (a dog off-leash area).*

*(2) The local government must take reasonable steps to provide notice to members of the public regarding the designation of an area as a dog off-leash area.*

*(3) In this section— reasonable steps include, as a minimum, the display of a notice at a prominent place within the dog off-leash area indicating the extent of the area.*

*(4) The local government must keep a record available for public inspection identifying areas that are designated dog off leash areas.*

ITEM 2.1 REGION WIDE APPROVAL FOR DOG OFF LEASH AREAS - 62412088 (Cont.)

**3. Strategic Implications**

3.1 Legislative / Legal Implications

*Moreton Bay Regional Council Local Law No. 2 (Animal Management) 2011* is the head of power that enables Council officers to advise on and manage the behaviour of facility users.

3.2 Corporate Plan / Operational Plan

Valuing Lifestyle: Quality recreation and cultural opportunities - places to discover, learn, play and imagine.

3.3 Policy Implications

☒ Nil identified

3.4 Risk Management Implications

Contemporary design and planning considerations need to be applied to recreation infrastructure to ensure facilities are delivered at an appropriate standard to minimise risk to users.

3.5 Delegated Authority Implications

☒ Nil identified

3.6 Financial Implications

Funds for Dog Off Leash Facilities are allocated within Council's annual capital works allocations and may vary due to site specific conditions.

3.7 Economic Benefit Implications

Construction of infrastructure supports economic sustainability and job creation within the region.

3.8 Environmental Implications

☒ Nil identified

3.9 Social Implications

There are positive health and recreation benefits associated with the provision of Dog Off leash Areas.

3.10 Human Rights Implications

*Under the Human Rights Act 2019 (QLD)*, Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

3.11 Consultation / Communication

Consultation has been undertaken with officers in Council's Asset Maintenance, Legal Services and Regulatory Services Departments.

### 3 ENGINEERING, CONSTRUCTION & MAINTENANCE SESSION

(Cr B Savige)

#### ITEM 3.1

#### TENDER - D'AGUILAR - CASH STREET PARK - HALF COURT BASKETBALL INSTALLATION AND PLAYGROUND EXPANSION

Meeting / Session: 3 ENGINEERING, CONSTRUCTION & MAINTENANCE  
Reference: 62439934 : 20 July 2021 - Refer **Confidential** Supporting Information  
62476548  
Responsible Officer: WM, Technical Officer (PAS Project Management)

#### Executive Summary

Tenders were called from Council's Prequalified Landscape Construction Panel for the 'D'Aguilar - Cash Street Park - Half Court Basketball Installation and Playground Expansion (MBRC008454 / VP247999)' project. Tenders closed on 25 June 2021, with a total of seven conforming tenders received.

It is recommended that the tender for the project be awarded to Trelville Pty Ltd, trading as Aspect Contractors for the sum of \$238,000.16 (excluding GST) as this tender was evaluated as representing the best overall value to Council.

This project has received \$100,000 from the Federal Government's LRCIP2 program.

#### RESOLUTION

Moved by Cr Tony Latter

Seconded by Cr Mark Booth

CARRIED 13/0

1. That the tender for the 'D'Aguilar - Cash Street Park - Half Court Basketball Installation and Playground Expansion (MBRC008454 / VP247999)' project be awarded to Trelville Pty Ltd, trading as Aspect Contractors, for the sum of \$238,000.16 (excluding GST).
2. That the Council enters into an agreement with Trelville Pty Ltd, trading as Aspect Contractors as described in this report.
3. That the Chief Executive Officer be authorised to take all action necessary, including but not limited to, negotiating, making, amending, signing and discharging the agreement with Trelville Pty Ltd, trading as Aspect Contractors for the 'D'Aguilar - Cash Street Park - Half Court Basketball Installation and Playground Expansion (MBRC008454 / VP247999)' project and any required variations of the agreement on Council's behalf.
4. The Local Preference Policy was not applied as the project was procured via Council's Landscape Construction panel arrangement in line with Council's Procurement policy.
5. That Council commits to the provision of an additional \$65,000 in funding for the project at the 2021-22 FY quarter one review process.

ITEM 3.1 TENDER - D'AGUILAR - CASH STREET PARK - HALF COURT BASKETBALL INSTALLATION AND PLAYGROUND EXPANSION - 62439934 (Cont.)

**OFFICER'S RECOMMENDATION**

1. That the tender for the '*D'Aguilar - Cash Street Park - Half Court Basketball Installation and Playground Expansion (MBRC008454 / VP247999)*' project be awarded to Trelville Pty Ltd, trading as Aspect Contractors, for the sum of \$238,000.16 (excluding GST).
2. That the Council enters into an agreement with Trelville Pty Ltd, trading as Aspect Contractors as described in this report.
3. That the Chief Executive Officer be authorised to take all action necessary, including but not limited to, negotiating, making, amending, signing and discharging the agreement with Trelville Pty Ltd, trading as Aspect Contractors for the '*D'Aguilar - Cash Street Park - Half Court Basketball Installation and Playground Expansion (MBRC008454 / VP247999)*' project and any required variations of the agreement on Council's behalf.
4. The Local Preference Policy was not applied as the project was procured via Council's Landscape Construction panel arrangement in line with Council's Procurement policy.
5. That Council commits to the provision of an additional \$65,000 in funding for the project at the 2021-22 FY quarter one review process.

**REPORT DETAIL**

**1. Background**

The project is located within Cash Street Park, D'Aguilar. The project scope is for the construction of new park facilities, which includes:

- Demolition and removal of existing landscape finishes and playground equipment;
- Construction of retaining wall / seating areas;
- Installation of new playground equipment;
- Construction of connecting pathways;
- Construction of new half Basketball / Netball court; and
- Landscaping works including groundcover and trees.

The objective is to improve the provision of youth sports and play equipment and expand the facilities at Cash Street Park to include provision of targeted youth play activities.

Construction will commence in September 2021, to allow for a ten-week lead time for the play equipment. Construction will take twelve weeks to complete, including an allowance for wet weather.

ITEM 3.1 TENDER - D'AGUILAR - CASH STREET PARK - HALF COURT BASKETBALL INSTALLATION AND PLAYGROUND EXPANSION - 62439934 (Cont.)

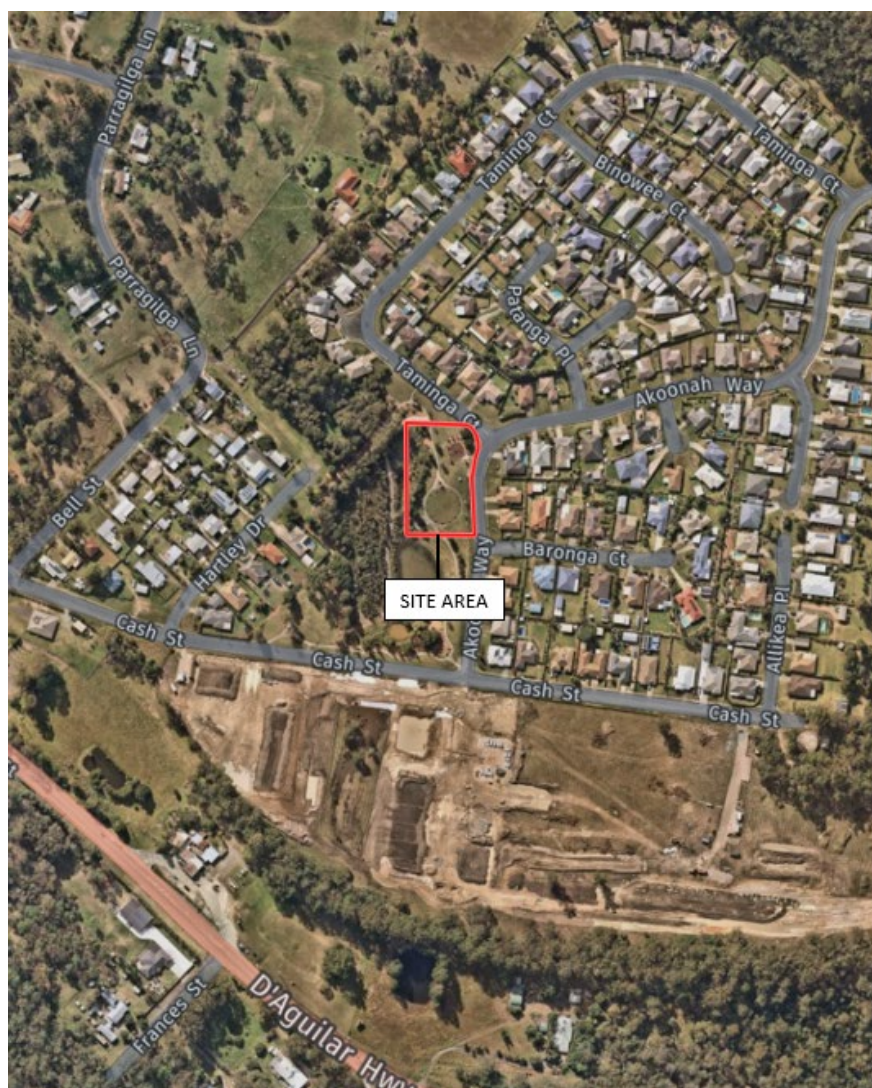


Figure 1 - Site Area - Locality Plan

2. Explanation of Item

Tenders were called from Council's Prequalified Landscape Construction Panel for the 'D'Aguilar - Cash Street Park - Half Court Basketball Installation and Playground Expansion (MBRC008454 / VP247999)' project, which closed on 25 June 2021, with a total of seven conforming tenders received. The tenderer's provided up to five alternative designs within their submissions, all of which were conforming. The tenders were assessed by the assessment panel in accordance with Council's Purchasing Policy and the selection criteria as set out in the tender documents.

All tenderers and their evaluation scores are tabled below (ranked from highest to lowest):

RANK	TENDERER	EVALUATION SCORE
1	Trelville Pty Ltd, trading as Aspect Contractors	98.26
2	The Landscape Construction Company Pty Ltd (Alternate 2)	96.73
3	The Landscape Construction Company Pty Ltd	96.00
4	S.C.L SERVICES PTY LTD, trading as Disc Landscapes	95.35

ITEM 3.1 TENDER - D'AGUILAR - CASH STREET PARK - HALF COURT BASKETBALL INSTALLATION AND PLAYGROUND EXPANSION - 62439934 (Cont.)

RANK	TENDERER	EVALUATION SCORE
5	The Landscape Construction Company Pty Ltd (Alternate 1)	94.56
6	The Landscape Construction Company Pty Ltd (Alternate 3)	93.28
7	The Landscape Construction Company Pty Ltd (Alternate 4)	86.54

**Trelville Pty Ltd, trading as Aspect Contractors ('AC')** - submitted a comprehensive tender that demonstrated their relevant experience. A tender clarification meeting was held on 8 July 2021, at which AC demonstrated their relevant experience, methodology, company capability, understanding of the project and capability in delivering the project. AC provided examples of relevant project experience including Kallangur Penson Park Upgrade (valued at \$154,000); Leslie Patrick Park All Abilities Playground (valued at \$1.53M) both for Moreton Bay Regional Council; and Waalum Park Playground Renewal (valued at \$126,000) for Sunshine Coast Regional Council.

The proposed pieces of equipment (WillPlay - Fort Themed) has many physical, cognitive and play benefits for the local children and families. The proposed play equipment provides for a broader age group of children to be active and have fun whilst improving creativity and imagination, social skills and self-confidence, as well as helping to promote an active lifestyle.

The evaluation panel considers the tender from AC to represent the best overall value to Council.

**The Landscape Construction Company Pty Ltd (Alternate 2) ('TLCC')** - submitted a comprehensive and well-presented tender, demonstrating their project experience, however, there were no additional benefits for the higher price.

**The Landscape Construction Company Pty Ltd ('TLCC')** - submitted a comprehensive and well-presented tender, demonstrating their project experience, however, the equipment selected did not achieve the criteria set out in the Schedule of Finishes and there were no additional benefits identified.

### 3. Strategic Implications

#### 3.1 Legislative / Legal Implications

Council sought quotations via Council's Prequalified Landscape Construction Panel (MBRC008454) for the work through Vendor Panel, in accordance with the Local Government Act 2009.

#### 3.2 Corporate Plan / Operational Plan

This project is consistent with the Corporate Plan outcome - Valuing Lifestyle: Quality recreation and cultural opportunities - places to discover, learn, play and imagine.

#### 3.3 Policy Implications

This project/contract/initiative has been procured/sourced in accordance with the provisions of the following documents:

- Council's Procurement Policy 2150-006
- *Local Government Act 2009*
- Local Government Regulation 2012 Chapter 6.

The Local Preference Policy was not applied as the project was procured via Council's Landscape Construction panel arrangement in line with Council's Procurement policy.

ITEM 3.1 TENDER - D'AGUILAR - CASH STREET PARK - HALF COURT BASKETBALL INSTALLATION AND PLAYGROUND EXPANSION - 62439934 (Cont.)

3.4 Risk Management Implications

The project risk has been assessed and the following issues identified. The manner in which the possible impact of these risks are minimised is detailed below.

*Financial Risks:*

The recommended tenderer is prequalified on the Council's Prequalified Landscape Construction Panel (MBRC008454).

*Construction Risks:*

- a. The recommended tenderer will provide a program of works, staging plans, traffic management plans, safety management plan, environmental management plan, tree management plan, and quality management documentation as part of the contract to detail how they will plan, establish and manage project construction risks which will be reviewed and monitored by Project Management.
- b. The recommended tenderer has advised that their program of works takes into consideration the provision of appropriate resources to be able to complete the project works effectively and on time.
- c. There are no Development Approvals which impact upon or affect this project.
- d. The procurement risks relating to this project are considered low as there is adequate lead time for the recommended tenderer to procure the relevant project construction materials. To avoid delays onsite, the recommended tenderer will program the works to allow for the ten-week lead time of the WillPlay play equipment.
- e. At the tender clarification meeting, the recommended tenderer advised that there were no foreseen COVID-19 related impacts with regard to material supply chains which would adversely affect the project.
- f. Dilapidation inspections will be conducted prior to works commencing for site and surrounding areas to record the existing condition of assets and again after construction to record any change.

3.5 Delegated Authority Implications

Under delegation Council-163, the CEO has the power to enter into contracts up to and including the amount of one percent (1%) of Council's net rate and utility charges as stated in Council's audited financial statements included in Council's most recently adopted annual report - estimated \$3.2M, providing the expenditure has been provided for in Council's annual budget.

*The cost of this project is greater than the budget allocation and is therefore reported to Council for consideration.*

3.6 Financial Implications

Council has allocated a total of \$200,000 in the 2021-22 FY Capital Projects Program for construction. Design has been completed internally in 2020-21 FY. This project has received \$100,000 in funding from the Federal Government's LRCIP2 program. All financial information below is excluding GST.

Tender Price (Construction)	\$ 238,000.16
Contingency 10%	\$ 23,800.02
Qleave (0.575%)	\$ 1,368.50

**Total Project Cost** **\$ 263,168.68**

Federal Government LRCIP2 COVID-19 funding \$ 100,000.00

**Net cost to Council** **\$ 163,168.68**

Estimated ongoing operational/maintenance costs \$ 4,500.00 per F/Y.

The budget amount for this project is insufficient. To allow this project to proceed and for Council to enter into the arrangement with the recommended tenderer, Council commits to the provision of an additional \$65,000 in the 2021-22 FY quarter one review process.

*ITEM 3.1 TENDER - D'AGUILAR - CASH STREET PARK - HALF COURT BASKETBALL INSTALLATION AND PLAYGROUND EXPANSION - 62439934 (Cont.)*

3.7 Economic Benefit Implications

The project will improve the park infrastructure to attract users and visitors to the area.

3.8 Environmental Implications

The recommended tenderer is required to submit a site-specific Environmental Management Plan (EMP), which will be reviewed and monitored by Project Management. The recommended tenderer will be required to manage sediment and erosion controls during construction in line with the EMP.

3.9 Social Implications

The project has positive social outcomes by providing a playground and basketball/netball court for use by the community.

3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

3.11 Consultation / Communication

A detailed communication plan has been prepared for the project. Project notices and signs will be distributed and placed four weeks prior to construction commencement to residents. The stakeholders, including facility users and residents have been consulted regarding the project. The Divisional Councillor has been consulted and is supportive of the project and will receive weekly email updates on the progress of the project.



**4 PLANNING SESSION**

(Cr D Grimwade)

**ITEM 4.1**

**DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516**

**APPLICANT:** Donnybrook Berries Property Holdings Pty Ltd as Trustee c/- Reel Planning Pty Ltd

**OWNER:** Donnybrook Berries Property Holdings Pty Ltd Tte (1, 2 & 3 RP13987)  
Moreton Bay Regional Council (19 RP131173)

Meeting / Session: 4 PLANNING  
Reference: 61961570 : 19 July 2021 – Refer Supporting Information 61961623, 62387067 & 62387081  
Responsible Officer: LT, Principal Planner (Development Services)

**Executive Summary**

<b>APPLICATION DETAILS</b>	
<b>Applicant:</b>	Donnybrook Berries Property Holdings Pty Ltd as Trustee c/- Reel Planning Pty Ltd
<b>Lodgement Date:</b>	12 June 2020
<b>Properly Made Date:</b>	11 September 2020
<b>Confirmation Notice Date:</b>	14 September 2020
<b>Information Request Date:</b>	28 September 2020
<b>External Referral</b>	Energex (Advice Agency)
<b>External Referral Response Received</b>	8 October 2020
<b>Info Response Received Date:</b>	17 February 2021
<b>Public Notification Dates:</b>	5 - 26 March 2021
<b>No. of Submissions:</b>	Properly Made: 15
<b>Decision Due Date:</b>	23 July 2021
<b>Prelodgement Meeting Held:</b>	No - This application follows a Show Cause Notice and Enforcement Notices issued prior to lodgement which relate to carrying out assessable development without the necessary permit.

<b>PROPERTY DETAILS</b>	
<b>Division:</b>	Div 12
<b>Property Address:</b>	748A-792A Old Gympie Road and 220 Boden Road, Elimbah
<b>RP Description</b>	Lots 1, 2 & 3 RP13987 Lot 19 RP131173
<b>Land Area:</b>	640,890m <sup>2</sup> excluding Lot 19 RP131173
<b>Property Owner</b>	Donnybrook Berries Property Holdings Pty Ltd Tte (1, 2 & 3 RP13987) Moreton Bay Regional Council (19 RP131173)

<b>STATUTORY DETAILS</b>	
<b>Planning Legislation:</b>	Planning Act 2016

*ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)*

<b>Planning Scheme:</b>	MBRC Planning Scheme
<b>Planning Locality / Zone</b>	Rural Zone (Agricultural Precinct) over majority of site Limited Development Zone over area of Six Mile Creek Tributary and associated flood hazard area.
<b>Level of Assessment:</b>	Impact Assessment (Inconsistent)

This application seeks a Development Permit for a Material Change of Use - Development Permit for High Impact Industry (Storing, packing and distribution of agricultural produce grown on and off the site) situated at the abovementioned property.

The application seeks approval for an existing purpose-built fruit storage and packing facility and the associated receiving and distribution activities. The plans indicate that the 3,700m<sup>2</sup> building and cold rooms have a gross floor area (GFA) of 1,756.4m<sup>2</sup> with a height of approximately 7.25m above finished ground level (single storey). There are breezeways connecting various parts of the building, including seven (7) loading docks on the northern side of the building. The development also includes two fire water tanks and a diesel pump shed close to the western boundary. Informal car parking areas are located on the southern side of the shed. Truck parking and manoeuvring areas are located on the northern side of the shed.

The proposal plans lodged with the application illustrate a 50m building setback from the western boundary. However, based on aerial measurement of Council's mapping, this appears to be 39-40m. The fire tanks and associated pump shed are approximately 6-7m from the western boundary.

The applicant proposes to stage the development:

- Stage 1 - Packing shed, staff car parking areas and vehicle manoeuvring areas to be accessed from Old Gympie Road. Also proposed are a new 60m long 4m high acoustic barrier and a landscape buffer along part of the approximately 370m western boundary (retaining the existing colorbond fence).
- Stage 2 - Proposed access over Council owned 220 Boden Road to Pates/Williams Road. Also proposed is a 120m long 5m high acoustic barrier terminating short of the fire tank pump shed.

Assessment has determined that the maximum acoustic mitigation is required in the first instance (Stage 1) and that access over 220 Boden Road to Pates/Williams Road is not recommended for approval to manage safety and amenity. Accordingly, conditions are recommended removing reference to staging.

The applicant's material anticipated the facility to package 12.37 million punnets in the 2020 season (31% grown onsite). Reporting reflects employment of approximately 235 people excluding delivery drivers.

Cropping on Rural Zone land is an established lawful use on this site. Also, the MBRC Planning Scheme identifies that within the Rural Zone, Cropping and Rural Industry (including packaging and distribution of produce grown on site) is Accepted Development subject to requirements. However, the Donnybrook operation involves packaging and distribution of produce grown on and off site. The operation is High Impact Industry with reference to the MBRC Planning Scheme definition because it involves produce grown offsite and because the scale of the operation involves the potential for significant off-site impacts. Impacts off site include vehicle movement (cars and trucks) on the local road network, noise, dust, and visual impacts.

There is a nexus between the operation and its location in the Rural Zone because 31% of the packaging and distribution is fruit grown on site. That is, the operation is not solely packaging offsite produce. This operation represents an economy of scale, by creating a single, centralised packaging facility that handles produce from a number of farms.

ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)

As identified in the Need Report:

*Consolidation of packing facilities has a number of benefits including:*

- Capital cost efficiencies i.e. replication of packing facilities at each farm would result in higher capital outlay for a given level of production. This approach is ultimately less intensive given total packing facility floorspace would be lower overall.*
- Packing facilities can operate year-round due to the diversity in weather condition across farms in different locations. i.e. some farms operate an off-season growing cycle.*
- Accepting fruit from farms in different location also acts as a hedge against adverse, localised weather events such as hail and rain.*
- There is less seasonal uncertainty for workers who can be employed year-round.*

The application was publicly advertised with 15 properly made submissions received.

Detailed assessment of the development in relation to the applicable State and Local planning provisions, including matters raised in submissions, has identified mitigating measures that are recommended as conditions of approval.

The MBRC Planning Scheme Strategic Framework 3.8.1 - Rural Economy states “Council will support business activities allied to and compatible with agricultural production and rural activities within the rural areas and townships including transport and logistics, rural industries, storage and warehousing, local farmers markets and produce distribution centres where these activities can be directly accessed from the regional freight network, can be adequately serviced, are compatible with the amenity and character of the rural area and townships and do not adversely impact on environmental values;”.

The proposed packaging, storage and distribution facility involves an activity that complements cropping activities while adding value to the product and offering employment in the rural area. The site has direct access to a Local Collector Road (Old Gympie Road) which then connects via a District Collector Road to a State Controlled Road. Conditions have been recommended to address acoustic and visual amenity. The proposal will not adversely impact on environmental values. In this way, the proposal complies with the strategic intent and will contribute to the rural economy.

Subject to the recommended conditions, the proposed development is considered to accord with the intent of the MBRC Planning Scheme and is recommended to be approved subject to conditions.

This report is being presented to the Council for decision as the proposal is subject to Impact Assessment and has attracted submissions identifying community concerns. In accordance with the delegations to Council officers, the development application is to be determined by the Council instead of under Council officer delegation. Therefore, Council is now the authorised entity to decide the development application.

## RESOLUTION

Moved by Cr Tony Latter

Seconded by Cr Adam Hain

CARRIED 13/0

That the Officer's Recommendation be adopted as detailed in the report.

*ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)*

**OFFICER'S RECOMMENDATION**

- A. That Council, in accordance with the *Planning Act 2016*, approves the development application for a Material Change of Use - Development Permit for High Impact Industry (Storing, packing and distribution of agricultural produce grown on and off the site) at 748A-792A Old Gympie Road, Elimbah, described as Lots 1, 2 & 3 RP13987, subject to the following plans/documents and conditions:

<b>Approved Plans and Documents</b>			
<b>Plan / Document Name</b>	<b>Reference Number</b>	<b>Prepared By</b>	<b>Dated</b>
Cover Sheet and Notes - (Shed & Awning)	16.1976/01 Rev A	Mckdd Building Design Drafting	13/12/2016
Proposed Floor Plan	16.1976/04 Rev A	Mckdd Building Design Drafting	13/12/2016
Proposed Elevations	16.1976/05 Rev A	Mckdd Building Design Drafting	13/12/2016
Proposed Elevations	16.1976/06 Rev A	Mckdd Building Design Drafting	13/12/2016
Section	16.1976/07 Rev A	Mckdd Building Design Drafting	13/12/2016
Cover Sheet and Notes (Cold Room and Awning addition)	16.1976/101 Rev B	Mckdd Building Design Drafting	31/05/2018
Proposed Floor Plan	16.1976/104 Rev B	Mckdd Building Design Drafting	31/5/2018
Proposed Elevations	16.1976/105 Rev B	Mckdd Building Design Drafting	31/5/2018
Proposed Elevations	16.1976/106 Rev B	Mckdd Building Design Drafting	31/5/2018
Figure 6 of Attachment E - Traffic Response	-	Cambray Consulting	15 February 2021
Figure 7 of Attachment E - Traffic Response	-	Cambray Consulting	15 February 2021
Stormwater Management Plan	R.A10600.001.00.SMP	BMT	January 2021
Road Safety Audit Report	-	Cambray Consulting	15 February 2021

<b>Plan/ Documents to be Amended</b>			
<b>Plan / Document Name</b>	<b>Reference Number</b>	<b>Prepared By</b>	<b>Dated</b>
Site Plan	-	Reel Planning	3 June 2020
Part Site Plan	16.1976/103 Rev B	Mckdd Building Design Drafting	May 2018
Landscape Concept Design	201109LA	Insight Design	17/12/2020
Flood Emergency Management Plan Rev 1	R.A10600.001.01.FEMP	BMT	January 2021

ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)

Noise, Dust and Light Impact Assessment	207401.0065.R01V05	Ask Acoustics & Air Quality	28/01/2021
Onsite Sewerage Management Report	PE3121.20	Precise Environmental	February 2021

CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
<b>1</b>	<b>Approved Plans and/or Documents</b>	
	Undertake development in accordance with the approved plans and/or documents. These plans and/or documents will form part of the approval, unless otherwise amended by conditions of this approval.	Prior to commencement of use and to be maintained at all times unless other specific timing nominated herein.
<b>2</b>	<b>Amended Plans Required</b>	
A	<p>Submit an amended Site Plan incorporating the following:</p> <ul style="list-style-type: none"> <li>Accurate boundary to building setback dimensions; and</li> <li>Fully dimensioned layout plan indicating the extent of car parking area, truck manoeuvring area, acoustic barriers, stormwater quality treatment buffer and swale drain area, and effluent reticulation area.</li> </ul> <p>Submit an amended Part Site Plan incorporating the following:</p> <ul style="list-style-type: none"> <li>Accurate boundary to building setback dimensions and acoustic barriers.</li> </ul> <p>Submit an amended Flood Emergency Management Plan addressing the following:</p> <ul style="list-style-type: none"> <li>Remove the <i>Evacuation Route</i> section in the report as Williams Road/Pates Road access is not supported for this development, and revise the proposed Flood Emergency Management Plan outcomes to address removal of that Evacuation Route section; and</li> <li>The report identified that appropriate structural certification of the packing shed is required to act as a safe refuge for all personnel. Revise the Flood Emergency Management Plan to provide more detail regarding the required structural certification, including RPEQ certification.</li> </ul> <p>Submit an amended Landscape Concept Design set addressing the following:</p> <ul style="list-style-type: none"> <li>landscaping is to be provided as a single stage for the full length of the acoustic barrier, being from the southern extent of the packaging building to the northern boundary with Lot 297 CG4091;</li> </ul>	Within one month of this approval taking effect.

*ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)*

CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
	<ul style="list-style-type: none"> <li>• Buffer planting is to achieve a minimum density of one (1) tree per 5m<sup>2</sup> with trees capable of growing to minimum 5m high (as per the MBRC Planning Scheme PSP Integrated Design - Appendix D - Landscape Design and Street Trees); and</li> <li>• Plant species are to include koala food trees.</li> </ul> <p>Submit an amended Onsite sewage management report addressing the following:</p> <ul style="list-style-type: none"> <li>• Specify one dispersion area as per Proposed Effluent Irrigation Area (Option A).</li> </ul> <p>Submit an amended Noise, Dust and Light Impact Assessment report to include the following:</p> <ul style="list-style-type: none"> <li>• Remove reference to staging;</li> <li>• Remove reference to access from Pates/Williams Road (this access is not approved);</li> <li>• Address noise impacts from the diesel fire pump;</li> <li>• Address vehicle movements and parking areas to reflect the approved amended site plan;</li> <li>• The barrier setback 4m from the western boundary to be 5m high above the finished ground level and extend south to align with the southern-most part of the packing shed and extended north to the property boundary with Lot 297 CG4091; and</li> <li>• both loading bay barriers to be 4.5m high above the finished ground level of the pavement where a delivery vehicle will stand (as referenced in Figure D2 of the Noise, Dust and Light Impact Assessment report or as amended);</li> <li>• Noise attenuation measures to include Hours of Operation and Operational Requirements in Condition 21C. (These measures mitigate impacts of onsite activities and external impacts of vehicle movements).</li> </ul>	
B	<p>Obtain approval from Council for the amended plans and reporting in accordance with (A) above.</p> <p>Note: This includes seeking further approvals as required (e.g. Plumbing Approval)</p>	<p>Prior to any approval of Building Works.</p> <p>OR</p> <p>Prior to any Approval of Operational Works.</p> <p>OR</p> <p>Prior to submitting to the Council any request for approval of a plan of subdivision (i.e. a survey plan).</p>

ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)

CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
C	Implement the requirements and recommendations of the approved amended plan(s). The approved amended plan(s) will form part of the approval.	Within one month from approval of the amended plans.
<b>3</b>	<b>On-Site Car Spaces</b>	
A	Provide vehicle spaces on site in accordance with the approved Site Plan.	Within one month of approval of the amended plan (condition 2) and to be maintained at all times.
B	Provide for the manoeuvring of vehicles on site, generally in accordance with the approved plan. Car spaces, access lanes and driveways shown on the approved Site Plan must not be used for any other purpose.	To be maintained at all times.
<b>4</b>	<b>Configuration of Lots</b>	
A	Amalgamate Lots 1, 2 & 3 RP13987  Note: This condition is to regularise access for the entire site to Old Gympie Road and to ensure that the packaging and storage activity continues its association with agricultural activities on the land.	Within one month of this approval taking effect.
B	Provide evidence of lot registration to Council as confirmation of compliance with condition 4A.	Upon registration.
<b>5</b>	<b>Natural Colours, Materials and Finishes</b>	
	Ensure that colours of the acoustic barrier (western / external side) harmonise with the colours of rural/bushland vegetation and must include natural tones of green, grey and/or brown.	To be maintained all times.
<b>6</b>	<b>Landscaping Plan</b>	
A	Provide landscaping on site generally in accordance with the approved landscape concept design.	Within one month of approval of the landscape concept design.
B	Provide certification, from a suitably qualified person, that landscaping has been implemented in accordance with (A) above.	Upon completion of landscaping.
C	Maintain the landscaping.	At all times.
<b>7</b>	<b>Restricted Access</b>	
	Access to 748A-792 Old Gympie Road (Lots 1, 2 & 3 RP13987 and any future lots as registered, including through amalgamation) is by way of Old Gympie Road only. No access is to be gained to/from Pates Road/Williams Road.	At all times.

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CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
	Note: A property condition will be attached to the affected lots to advise land owners of this restriction.	
<b>DEVELOPMENT ENGINEERING</b>		
<b>8</b>	<b>Replace Existing Council Infrastructure</b>	
	Replace existing Council infrastructure (including but not limited to street trees and footpaths) that is damaged as part of works carried out in association with the development to Council's standards.	To be maintained at all times.
<b>9</b>	<b>Alterations and Relocation of Existing Services</b>	
	Ensure any alteration or relocation in connection with or arising from the development to any service, installation, plant, equipment or other item belonging to or under the control of an entity engaged in the provision of public utility services is to be carried out with the development and at no cost to Council unless agreed to in writing by the Council.	To be maintained at all times.
<b>10</b>	<b>Stormwater</b>	
	Carry out the development to ensure that adjoining properties, reserves and roads are protected from ponding or nuisance from stormwater as a result of any works undertaken.	To be maintained at all times.
<b>11</b>	<b>Stormwater Management</b>	
A	Implement and maintain the works identified in the approved Stormwater Management Plan.  The vehicle manoeuvring area is to be physically delineated with wheel stops or similar to prevent vehicles from encroaching into the buffer and swale drain area.	Within a month of this approval taking effect and then to be maintained at all times.
B	Submit certification from a suitably qualified Registered Professional Engineer Queensland (RPEQ) that the works have been built in accordance with the approved Stormwater Management Plan.	Within a month of this approval taking effect.
<b>12</b>	<b>Council Roads</b>	
A	Submit and have approved by Council, a development application for operational works for the following:  1. External roads and associated works. The external road works are as follows: <ul style="list-style-type: none"> <li>Old Gympie Road from Smiths Road intersection to development access - Road widening in accordance with Austroad Guide to road design; 2 x 3.5m wide travel lanes and 1.5m shoulders on both sides of the road. The road shoulder is to be full depth gravel pavement;</li> </ul>	To be submitted within a month of this approval taking effect and approved prior to commencement of works associated with this condition.



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CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
	<ul style="list-style-type: none"> <li>Carry out a speed limit review for Old Gympie Road from Smiths Road intersection to the development access and submit recommendations to Council with respect to the future speed limit on this section of Old Gympie Road;</li> <li>Include Flag street lighting at the intersection of Old Gympie Road and Smiths Road;</li> <li>Vegetation clearing within the road corridor in accordance with Figure 6 and Figure 7 of the Approved Plans; and</li> <li>Carry out the <i>Potential Actions</i> as tabulated in Table 3.5 of the Road Safety Audit Report, Issue ID 1 to 11. Where there are multiple options suggested, refer to the item below:                             <ol style="list-style-type: none"> <li>Issue ID 2 - Remove the two trees nearest to the edge of bitumen.</li> <li>Issue ID 6 - Remove the isolated tree nearest to the edge of bitumen.</li> <li>Issue ID 7 - Construct culvert across Old Gympie Road and regrade table drain on both sides of the road.</li> </ol> </li> </ul> <p>Design drawings are to be prepared and certified by a suitably qualified Registered Professional Engineer Queensland (RPEQ) and in accordance with the approved plans and documents of development and the MBRC Planning Scheme current at the time of the operational works application.</p>	
B	<p>Construct, at no cost to Council and in accordance with the approved plans and documents of development all external road works and associated works.</p> <p>This condition has been imposed under section 145 of the <i>Planning Act 2016</i>.</p>	Within three months of Operational Works approval.
<b>13</b>	<b>New Intersection</b>	
A	<p>Submit and have approved by Council, a development application for operational works for the following intersections:</p> <ol style="list-style-type: none"> <li>Old Gympie Road / Smiths Road intersection - Traffic lane widening and shoulder widening in accordance with Austroad Guide to Road Design and to cater for 19m long articulated vehicle. The road shoulder is to be full depth pavement.</li> <li>Twin View Road / Old Gympie Road intersection - Seal 20m south of the intersection and 10m north of the intersection, measured from the edge of the existing bitumen. Including any necessary stormwater drainage upgrades.</li> </ol> <p>Design drawings are to be prepared and certified by a suitably</p>	To be submitted within a month of this approval taking effect and approved prior to commencement of works associated with this condition.

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CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
	qualified Registered Professional Engineer Queensland (RPEQ) and in accordance with the conceptual intersection configuration in the Council approved ITA and the MBRC Planning Scheme current at the time of the operational works application.	
B	Construct the intersections at no cost to Council and in accordance with the approved plans and documents of development.  This condition has been imposed under section 145 of the <i>Planning Act 2016</i> .	Within three months of Operational Works approval
<b>14</b>	<b>Existing Dams</b>	
A	Submit and have approved by Council, a development application for operational works for earthworks for the eastern dam as identified on the approved Site Plan.  Design drawing are to be prepared and certified by a suitably qualified Registered Professional Engineer Queensland (RPEQ) and in accordance with the approved plans and documents of development and the MBRC Planning Scheme current at the time of the operational works application	To be submitted within a month of this approval taking effect.
B	Carry out earthworks within private land in accordance with Australian Standards, approved plans and documents of development.	Within 3 months of operational works approval and to be maintained.
C	Carry out rectification works for the western dam to ensure the dam top of embankment and the edge of water (at maximum storage capacity) is minimum 10m from the western property boundary.  Note: The existing western dam does not comply with Operational Works Approval DA/36921/2018/V4E.	Within 3 months of operational works approval and to be maintained.
<b>15</b>	<b>Driveway Crossover - Piped</b>	
A	Upgrade the existing property crossing to Lot 3 RP13987 in accordance with the approved plans and documents of development and IPWEA Standard Drawing RS-056.	Within one month of this approval taking effect and to be maintained.
B	Seal the driveway for 20m, measured from edge of bitumen of Old Gympie Road	Within one month of this approval taking effect and to be maintained.
<b>16</b>	<b>Existing Driveway Crossover</b>	
	Remove completely the driveway crossovers on Williams Road/Pates Road. Reinstate all disturbed areas including table drain to Council's standards current at the time of development.	Within one month of this approval taking effect.

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CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
<b>17</b>	<b>Access, Internal Roadways, Parking and Servicing Areas</b>	
A	Design and construct sealed (concrete or bitumen), access, parking and vehicle manoeuvring area (and associated works), in accordance with the approved plans and documents of development, the Department of Transport and Main Roads Manual of Uniform Traffic Control Devices (MUTCD), Australian Standards and the MBRC Planning Scheme current at the time of the building works application.  The main driveway is not required to be sealed by this condition, however, AS2890.2 requires the main driveway to the development to be minimum 6.5m wide.	Within three months of this approval taking effect and to be maintained.
B	Provide certification from a suitably qualified Registered Professional Engineer Queensland (RPEQ) that all works have been designed and constructed in accordance with this permit condition.	Upon completion.
<b>ENVIRONMENTAL HEALTH</b>		
<b>18</b>	<b>External Lighting</b>	
A	Install, operate and maintain external lighting in accordance with AS4282:2019 - (Control of the Obtrusive Effects of Outdoor Lighting) or as amended.	Within one month of this approval taking effect.
B	Provide certification from a suitably qualified person that external lighting has been installed in accordance with AS4282:2019 - (Control of the Obtrusive Effects of Outdoor Lighting).	Within one month of this approval taking effect.
<b>19</b>	<b>Pedestrian Lighting</b>	
A	Install lighting in any pedestrian areas that require illumination in accordance with AS 1158.3.1:2020 Pedestrian Area (Category P) Lighting – Performance and installation design requirements or as amended.	Within one month of this approval taking effect.
B	Provide certification from a suitably qualified person that lighting for pedestrian areas satisfies the intent of AS 1158.3.1:2020 Pedestrian Area (Category P) Lighting – Performance and installation design requirements or as amended.	Within one month of this approval taking effect.
<b>20</b>	<b>Waste Management</b>	
	Manage waste in accordance with SC 6.20 Planning Scheme Policy - Waste.	To be maintained at all times.
<b>21</b>	<b>Acoustic Attenuation Measures</b>	

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CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
A	Provide all structural and operational acoustic attenuation measures specified in the Noise, Dust and Light Impact Assessment prepared by Ask Acoustics & Air Quality (as amended in accordance with Condition 2).	Within one month of this approval taking effect and to be maintained at all times.
B	Provide certification from a suitably qualified person that: <ol style="list-style-type: none"> <li>1. The acoustic attenuation measures required by condition 21A above have been installed/implemented in accordance with the specifications of the Noise, Dust and Light Impact Assessment prepared by Ask Acoustics &amp; Air Quality; and</li> <li>2. The amendments and additions in condition 2A above have been implemented and constructed.</li> </ol>	Within three months of the approval taking effect.
C	External impacts are to be managed as follows: <p><u>Hours of Operation</u></p> <ol style="list-style-type: none"> <li>a) Unless in accordance with Operational Requirements nominated below (b)-(i), attendance at the premises by staff and visitors (and the hours for completion of activities by those staff) is limited to: <ol style="list-style-type: none"> <li>i. 7am - 10pm Mon-Sun</li> </ol> Note: (a) excludes delivery vehicles.</li> <li>b) Delivery vehicles transporting produce or goods to the site enter and exit the premises only 7am-6pm Mon-Sun.</li> <li>c) Delivery Vehicles transporting produce from the site can enter and exit between 7am-6pm and depart only between 1am-4am Mon-Sun.</li> <li>d) Unloading produce can only occur 7am-9pm Mon-Sun.</li> <li>e) Loading produce for despatch from site can only occur 7am-6pm and 1am - 4am Mon-Sun. Vehicles are to be parked (facing north) in loading bays, to depart in forward gear, at low speed. Vehicles are not to idle the engine for extended periods of time, use exhaust brakes or use trailer mounted refrigeration units whilst on the land.</li> <li>f) All deliveries to the site are to be allocated a receiving time slot via the Loading Manager.</li> </ol> <p><u>Operational Requirements</u></p> <ol style="list-style-type: none"> <li>g) Forklift or tractor use within the bounds of the packing shed, being all under roof areas, is limited to 7am - 9pm Mon-Sun.</li> <li>h) Use of generators is restricted to emergencies only.</li> <li>i) All mobile equipment used within the bounds of the packing shed must be fitted with broadband reversing alarms (no tonal reverse alarms are permitted).</li> <li>j) Any packing staff within the premises after 6pm are to leave in groups such that there are no more than: <ol style="list-style-type: none"> <li>i. 150 packing staff on the premises after 10pm; and</li> </ol> </li> </ol>	At all times.

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CONDITION		TIMING
<b>MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT - HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE)</b>		
<b>DEVELOPMENT PLANNING</b>		
	<p>ii. 50 packing staff on the premises after midnight unless the Council have first been notified in writing by the operator by 4pm (to email address <a href="mailto:mbrc@moretonbay.qld.gov.au">mbrc@moretonbay.qld.gov.au</a>) on that same day of a significant weather event requiring more than 150 packing staff past 10pm, and, in such circumstances, the packing staff may be increased to 200 until 2am.</p> <p>“Significant weather event” is defined to mean: (a) rain or heavy dew on the day causing berries to be wet when picked; or (b) a storm or heavy rain on the day or previous day causing damage to berries that are picked.</p>	
<b>22</b>	<b>Dust Attenuation Measures</b>	
A	Implement and maintain the dust mitigation measures as specified in section 7.2 of the Noise, Dust and Light Impact Assessment prepared by Ask Acoustics & Air Quality.	At all times.
B	Provide certification from a suitably qualified person that the above dust mitigation measures have been installed/implemented in accordance with the specifications of section 7.2 of the Noise, Dust and Light Impact Assessment prepared by Ask Acoustics & Air Quality.	Within one month of this approval taking effect.

PROPERTY NOTES	
1	<b>DS05 Site Access - Restricted Location</b>
	<p>The following property note will be attached to Council’s database for Lots 1, 2 and 3 RP13987 (and any future lots as registered, including through amalgamation):</p> <p><i>“Vehicular access to this lot directly from Williams Road and Pates Road is prohibited for traffic management and safety reasons.</i></p> <p><i>Further details can be found in the development permit creating the lot or the development approval for the use, and the associated Council report (Delegated or Council Meeting) or approval letter. This information is available through the PD Online facility on Council’s website <a href="http://www.moretonbay.qld.gov.au">www.moretonbay.qld.gov.au</a>.”</i></p>

ADVICES	
1	<b>Aboriginal Cultural Heritage Act 2003</b>
	<p>The <i>Aboriginal Cultural Heritage Act 2003</i> commenced in Queensland on April 16, 2004. The Act provides blanket protection of Aboriginal cultural heritage sites and places, including significant areas and objects, as well as archaeological remains. The Act also recognises that Aboriginal cultural heritage parties are key stakeholders in the</p>

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ADVICES	
	<p>assessment and management of Aboriginal cultural heritage.</p> <p>Under the Act, if a proposed activity involves disturbance of the ground surface, cultural heritage Duty of Care must be considered. This involves consideration of whether an activity is <i>likely</i> to harm Aboriginal cultural heritage. This may require involvement from the relevant Aboriginal cultural heritage party.</p> <p>Cultural heritage Duty of Care compliance ultimately lies with the person or entity conducting the activity, and penalty provisions apply for failing to fulfil this Duty of Care.</p> <p>Council strongly advises that before undertaking the land use activity, you refer to the <a href="#">Cultural heritage duty of care   Aboriginal and Torres Strait Islander peoples   Queensland Government (www.qld.gov.au)</a> for further information regarding the responsibilities of the developer.</p>
2	<b>Adopted Charges</b>
	<p>Payment of an Adopted Infrastructure Charge in accordance with Council's Infrastructure Charges Resolution (No. 8) dated 14 August 2018 or as amended apply to this development approval.</p> <p>From 1 July 2014, Moreton Bay Regional Council no longer issues an Infrastructure Charges Notice on behalf of Unitywater for water supply and sewerage networks and therefore a separate Infrastructure Charges Notice may be issued directly to the applicant by Unitywater in respect to this development approval.</p> <p>Payment of Infrastructure Charges is to be in accordance with the Infrastructure Charges Notice issued with this development approval and any Infrastructure Charges Notice issued by Unitywater. From 1 July 2014, all Infrastructure Charges for infrastructure networks controlled by Unitywater (eg. water and/or sewerage) regardless of when the Infrastructure Charges Notice was issued are to be paid directly to Unitywater while Infrastructure Charges for networks controlled by Moreton Bay Regional Council will continue to be paid directly to Moreton Bay Regional Council.</p>

- B. That the Council report for this application be published to the website as Council's statement of reasons in accordance with Section 63 (5) of the *Planning Act 2016*.
- C. That all external Referral Agencies for the development application be provided with a copy of the Council's Decision Notice.
- D. That the following information be included in the Decision Notice.

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### Decision Notice information

	Details to Insert
<b>Application Type</b>	Development Permit for a Material Change of Use - Development Permit for High Impact Industry (Storing, packing and distribution of agricultural produce grown on and off the site)
<b>Relevant Period of Approval</b>	Material Change of Use – 6 years
<b>Section 64(5) Deemed Approval</b>	Not applicable
<b>Superseded Planning Scheme</b>	Not applicable
<b>Variation approval affecting the Planning Scheme</b>	Not applicable
<b>Other Necessary Permits</b>	<ul style="list-style-type: none"> <li>Operational Work - Roads work including vegetation clearing</li> <li>Operational Work - Stormwater</li> <li>Operational Work - Earthworks</li> <li>Operational Work - Street lighting</li> <li>Plumbing approval</li> </ul>
<b>Codes for Accepted Development</b>	Not applicable
<b>Referral Agencies</b>	There were no concurrence agencies  Advice Agency - Energex
<b>Submissions</b>	There were fifteen (15) properly made submissions about this application.

### REPORT DETAIL

#### 1. Background

Cropping is a long term established use of land at 748A-792A Old Gympie Road.

Aerial imagery dated 15 December 2016 shows a large area of earthworks where the packing shed has since been constructed.

On 27 January 2017 Council approved an effluent disposal evaluation report (PL/167/2017/COMM) for a rural factory (58 persons) 612.5m<sup>2</sup> dispersion area.

On 3 April 2017 a Building Approval was issued by private certifier for class 8 packing shed and awnings on land at 748A-792A Old Gympie Road (Council compliance reference BL/2621/2017/EPCCOM). The plans show the building as 50m from the western boundary. However, comparison with aerials show that the building setback was 39-40m from the western boundary.

On 7 August 2018 a Building Approval was issued by private certifier for additions to a class 8 packing shed at the same premises (Council compliance reference BL/5568/2018/EPCCOM). The additions comprised additional cold rooms, breezeway and covered loading dock.

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On 13 March 2019, MBRC issued a Show Cause Notice for Unlawful Activities - assessable development without a development permit.

On 19 June 2019, MBRC issued an Enforcement Notice.

On 12 June 2020, the applicant lodged a development application seeking a Development Permit for a Material Change of Use related to the assessable development referenced in the Show Cause and Enforcement Notice.

On 20 August 2020, an amended Enforcement Notice was issued in accordance with Court Order no.2537/2019.

#### 1.1 **Material Change of Use - Definitions**

From the Planning Regulation 2017:

**rural industry** means the use of premises for—

- (a) storing, processing or packaging products from a rural use carried out on the premises or adjoining premises; or
- (b) selling products from a rural use carried out on the premises or adjoining premises, if the use is ancillary to the use in paragraph (a).

The applicant's material identifies that 31% of produce is grown on site with the remainder coming from other (non-adjacent) farms. Therefore, the use occurring on site is not Rural Industry as defined.

The Planning Regulation definition of High Impact Industry refers back to the local planning instrument (MBRC Planning Scheme). From the MBRC Planning Scheme, High Impact Industry is defined as

*Premises used for industrial activities that include the manufacturing, producing, processing, repairing, altering, recycling, storing, distributing, transferring or treating of products and have one or more of the following attributes:*

- *potential for significant impacts on sensitive land uses due to off-site emissions including aerosol, fume, particle, smoke, odour and noise;*
- *potential for significant off-site impacts in the event of fire, explosion or toxic release;*
- *generates high traffic flows in the context of the locality or the road network;*
- *generates a significant demand on the local infrastructure network;*
- *the use may involve night time and outdoor activities;*
- *on-site controls are required for emissions and dangerous goods risks*

Furthermore, example High Impact Industry activities states in MBRC Planning Scheme Industry Thresholds includes "Processing, smoking, drying, curing, milling, bottling or canning food, beverages or pet food, greater than 200 tonnes per annum".

The Donnybrook operation is detailed in the Needs Report prepared by IQ Location dated June 2020.

*"Approximately 31% of the strawberries packed at the site will be harvested from the property in 2020. The remaining 63% of strawberries came from other farms that were either owned or leased by Donnybrook Farms."*

*"The strawberries are packed into either 250-gram or 500-gram punnets with peak packing capacity of 270,000 punnets per day, every second day."*

*"The Coles supply agreement provides for the purchase of 18,315,000 250-gram punnets of strawberries between April and October, peaking at 5 million punnets in August."*



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*“Donnybrook Berries grows strawberries across some 151.5 hectares of land located on a number of properties of which they lease or own. This makes Donnybrook Berries a large strawberry producer given the average strawberry growing business across Queensland is 19.4 hectares with the average across the Moreton Bay – North SA4 at 26.1 hectares.*

*The growing operation at the Elimbah site comprises some 25 hectares of land planted with strawberries or 39% of the total 64-hectare property.*

*For the 2020 growing year, some 1.28 million strawberry plants have been planted at the Elimbah site, which is projected to result in 3.84 million punnets of strawberries. Planting was carried out by up to 31 workers on site between 7 am and 5 pm. Other farms that supply the Elimbah packing facility planted 3.13 million plants, which is projected to result in 8.53 million punnets.”*

Key factors in determining this use as High Impact Industry are:

- industrial activities which include processing, storing, distributing, transferring products - in 2020, projected 8.53 million punnets - 3.84 million punnets from this farm with remainder brought in from offsite - Based on 250g punnet, that is 2,132.5 tonnes for 2020. This exceeds the industry threshold for food processing - 200 tonnes.
- noise audible offsite at a nearby house during a low period.
- loading areas close to a nearby house used in the very early mornings (to get to Brisbane for unloading prior to 7am) which require forklifts, banging metal plates, truck movements, refrigeration
- during the site visit, offsite audible noise posed a “significant” impact as opposed to a “noticeable” impact from the Medium Impact Industry definition.
- the proposal involves large numbers of personal vehicles (staff) and trucks. The road network is comprised of narrow rural roads with frequent blind crests, no line marking and limited opportunity to pull over safely.
- the use involves night time and outdoor activities - even within the built form, there is an open breezeway between the cool rooms and the processing and packing area.

This application seeks approval for a Material Change of Use - Development Permit for High Impact Industry (Storing, packing and distribution of agricultural produce grown on and off the site).

The inclusion of “Storing, packing and distribution of agricultural produce grown on and off the site” specifies the type of industrial activity to occur on site. This application has only sought approval for this specific type of industrial activity and it is recommended that the approval be limited through the use of this description.

## **2. Explanation of Item**

Purpose built fruit storage and packing facility and associated receiving and distribution activities.

- 3,700m<sup>2</sup> building and cold rooms with gross floor area (GFA) of 1,756.4m<sup>2</sup>
- Maximum height 7.25m above finished ground level (single storey).
- Seven (7) loading docks on the northern side of the building.
- Two fire water tanks and a diesel pump shed close to the western boundary.
- Informal car parking areas are located on the southern side of the shed. Truck parking and manoeuvring areas are located on the northern side of the shed.
- Approximately 200 staff associated with the packing operations were identified in the submitted Needs Report.

The proposal plans lodged with the application illustrate a 50m building setback from the western boundary. However, based on aerial measurement of Council’s mapping, this appears to be 39-40m. The fire tanks and associated pump shed are approximately 6-7m from the western boundary.

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The application is proposing vehicle access to the site via both Old Gympie Road, but also seeks to include Council owned land at 220 Boden Road, allowing access to/from the rear of the site to Pates and Williams Road. Conditions are recommended not permitting the access at the rear of the site due to safety and amenity concerns.

Acoustic barriers (5m high) are proposed to the western boundary (setback 4m) and additional barriers are proposed as additions to the existing building.

Landscape buffer planting (4m wide) is proposed between the acoustic barrier and the existing colourbond fence along the western boundary.

The applicant's material anticipated the facility to package 12.37 million punnets in the 2020 season (31% grown onsite).

The scale of the proposed operation is limited by the vehicle movement recommendations in the Noise, Dust and Light Assessment Report:

*Truck sources for the peak hour period have been taken to be as follows for day, evening and night-time periods:*

- *Day (7am to 6pm): Trucks are permitted in all Loading Bays during this time period.*
  - *Refrigerated Semi-Trailer: 2 per hour*
  - *Refrigerated LRV: 1 per hour*
- *Evening (6pm to 10pm): Trucks are permitted in all Loading Bays during this time period.*
  - *Refrigerated Semi-Trailer: 2 per hour*
  - *Refrigerated LRV: 1 per hour*
- *Night (10pm to 7am): Trucks are limited to Loading Bays 1 and 2 during this time period*
  - *Refrigerated Semi-Trailer: 1 per hour*
  - *Refrigerated LRV: 1 per hour*

## 2.1 Description of the Site and Surrounds

The subject site is located approximately 2km west of Elimbah. The area is predominantly characterised by active agricultural properties, rural dwellings and the Glass House Mountains National Park.

Old Gympie Road (east of the site and the direct route to the Bruce Highway) is a Local Collector Road. There are some areas of this road that have been identified as requiring an upgrade. (This is reflected in recommended conditions.)

Pates Road and Williams Road (west of the site) are also Local Collector Roads, and part of the school bus route. Due to crests in the road, dwellings within view of the road, no line marking and narrow shoulders, the proposed western access (across 220 Boden Road) poses a safety and amenity concern. Due to the crests in the road, visibility of oncoming traffic is reduced, and the impacts of headlights is increased.

The land at 220 Boden Road is called "Powerline Trak". It is a long narrow (10m wide) lot that contains power poles and powerlines extending from Pates Road, south towards King Road. It is an historic "half claim width of land for road purposes" dating from 1972. However, the land is constrained by Environmental Overlay (Matters of State Environmental Significance) and is traversed by a waterway and associated High and Medium Flood Hazard and obstructed by power poles. The Lot is not a road reserve, it does not meet current road standards in terms of unobstructed width and would be impractical to form it as a thoroughfare.

The Donnybrook Farm land at 748A-792A Old Gympie Road is predominantly Rural Zone (Agricultural Precinct) with an area of Limited Development Zone in proximity to the waterway. The site has historically been used for cropping purposes and this use continues over the majority of the site. The proposed development is in the western part of the site. There is an easement in favour of Energex traversing the east of the site, not in proximity to the development area.

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Directions	Planning Scheme Zone	Current Land Use
North	Rural Zone	Rural residential / agricultural
South	Rural Zone (Limited Development Zone following waterway)	Agricultural - intensive horticulture
East	Environmental Management and Conservation Zone	National Park (State Owned)
West	Rural Zone	Rural Residential and Intensive Animal Husbandry (Intensive) - Kennel

## 2.2 Assessment Benchmarks related to the Planning Regulation 2017

The *Planning Regulation 2017* (the Regulation) prescribes Assessment Benchmarks that the application must be carried out against, which are additional or alternative to the Assessment Benchmarks contained in Council's Planning Scheme.

These Assessment Benchmarks are prescribed as being contained in:

- the South East Queensland Regional Plan and Part E of the State Planning Policy; and
- Schedule 10 of the Regulation.

<b>Applicable Assessment Benchmarks:</b>	<u>State Planning Policy</u> <ul style="list-style-type: none"> <li>State Planning Policy, Part E</li> </ul> <u>Regional Plan</u> <ul style="list-style-type: none"> <li>South East Queensland Regional Plan</li> </ul>
<b>SEQ Regional Plan Designation:</b>	<ul style="list-style-type: none"> <li>Regional Landscape and Rural Production Area</li> </ul>
<b>Koala Habitat Designation:</b>	<ul style="list-style-type: none"> <li>Core Koala Habitat mapped on site but not in vicinity of development area.</li> </ul>

### 2.2.1 *State Planning Policy*

A new State Planning Policy came into effect on 3 July 2017, and is not currently integrated into the MBRC Planning Scheme. The following assessment benchmarks are to be applied to the assessment of development applications until the State interests have been appropriately integrated into Council's planning scheme. Assessment against the SPP assessment benchmarks is as follows:

Assessment benchmark - livable communities		
Applicable to Development	SPP requirement	Comment
No	None	Not applicable
Assessment benchmark - mining and extractive resources		
Applicable to Development	SPP requirement	Comment
No	None	Not applicable

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Assessment benchmarks - water quality		
Applicable to Development	SPP requirement	Comment
Yes	<p>(1) Development is located, designed, constructed and operated to avoid or minimise adverse impacts on environmental values arising from</p> <ul style="list-style-type: none"> <li>(a) altered stormwater quality and hydrology</li> <li>(b) waste water</li> <li>(c) the creation or expansion of non-tidal artificial waterways</li> <li>(d) the release and mobilization of nutrients and sediments.</li> </ul> <p>(2) Development achieves the applicable stormwater management design objectives outlined in tables A and B (appendix 2)</p> <p>(3) Development in a water supply buffer area avoids adverse impacts on drinking water supply environmental values.</p>	An assessment of the proposed development has been undertaken against the applicable SPP requirements and the proposal has been determined to comply
Assessment benchmarks - natural hazards, risk and resilience		
Applicable to Development	SPP Requirement	Comment
Yes	<p>Bushfire, flood, landslide, storm tide inundation, and erosion prone areas outside the coastal management district:</p> <p>(1) Development other than that assessed against (1) above, avoids natural hazard areas, or where it is not possible to avoid the natural hazard area, development mitigates the risks to people and property to an acceptable or tolerable level.</p> <p>All natural hazard areas:</p> <p>(2) Development supports and does not hinder disaster management response or recovery capacity and capabilities.</p> <p>(3) Development directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties.</p> <p>(4) Risks to public safety and the environment from the location of hazardous materials and the release of these materials as a</p>	<p>The packaging shed is located outside of the flood prone area and is also serviced by two 144,000L tanks and a fire pump room. The proposal does not involve a vulnerable land use. The facilities enable a shelter in place solution in the event of an emergency.</p> <p>An assessment of the proposed development has been undertaken against the applicable SPP requirements and the proposal has been determined to comply.</p>

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	result of a natural hazard are avoided. (5) The natural processes and the protective function of landforms and the vegetation that can mitigate risks associated with the natural hazard are maintained or enhanced.	
<b>Assessment benchmarks - strategic airports and aviation facilities</b>		
Applicable to Development	SPP Requirement	Comment
No	None	Not applicable.

### 2.2.2 South East Queensland Regional Plan

The site is located in the Regional Landscape and Rural Production Area.

The development proposal is for a Material Change of Use - Development Permit for High Impact Industry (Storing, packing and distribution of agricultural produce grown on and off the site) in the Regional Landscape and Rural Production Area.

The Planning Regulation definition of Urban Purpose states:

**urban purpose** means a purpose for which land is used in cities or towns—  
(a) including residential, industrial, sporting, recreation and commercial purposes; but  
(b) not including rural residential, environmental, conservation, rural, natural or wilderness area purposes.

The examples listed in (a) include industrial, but (b) excludes “rural” purposes. As stated previously, there is a nexus between the packaging operations on site and the cropping activities onsite.

This operation packages, stores and distributes large quantities of fruit, some of which is grown off site. Accordingly, it is High Impact Industry (Storing, packing and distribution of agricultural produce grown on and off the site). However, with reference to the definition of Urban Purpose, the scale of the development does not remove the relationship to the rural activity. Accordingly, the Material Change of Use is not for an Urban Purpose.

A condition is recommended that requires the amalgamation of the lots to ensure that the packing shed use continues to be strongly related to rural activities, namely cropping / fruit production.

## 2.3 Assessment Against Local Categorising Instrument - Moreton Bay Regional Council Planning Scheme

An assessment against the relevant parts of the planning scheme is set out below.

### 2.3.1 Strategic Framework

In accordance with section 1.7.2 of the planning scheme, the development proposal requires assessment against the Strategic Outcomes within the Strategic Framework. The applicable Strategic Outcomes under the Themes for the planning scheme are discussed as follows:

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Strategic Outcome	Complies	Assessment
<b>Theme - Sustainability and Resilience</b>		
<i>Greenhouse gas emissions are reduced from development, land management and other planning decisions in the region.</i>	Y	Co-locating the packaging and storage facility within the rural context creates transport efficiencies.  In addition, consolidation of packing facilities reduces replication of packing facilities at each farm and extends the functional use of the facility due to the diversity in weather condition across farms in different locations. i.e. some farms operate an off-season growing cycle.  These efficiencies reduce greenhouse gas emissions associated with construction and operation of facilities.
<i>The resilience of communities, development, essential infrastructure, natural environments and economic sectors to natural hazards including projected changes in weather is increased.</i>	Y	The packing shed facility is located on a part of the site that is not subject to flooding. An emergency management plan is capable of addressing flood and bushfire impacts.
<i>Identify people, economic sectors and areas that are at risk due to oil supply vulnerability and increase their resilience to the effects of oil supply vulnerability.</i>	Y	The subject site is in close proximity to the Elimbah train station, providing an alternative mode of transport choice in the event of oil supply issues.  Also, by creating a centralised employment facility, bus transport may be implemented.
<i>The adverse effects of development on land, air quality and noise levels are avoided in the first instance, mitigated and managed to within acceptable levels and environmental harm is avoided.</i>	Y	The proposed development will not pose a negative impact on land. The land was previously cleared for cropping purposes. Air quality and acoustic management measures are the subject of detailed reported and conditions are recommended to ensure that the development avoids adverse impacts.
<b>Theme - Natural Environment and Landscape</b>		
<i>Koala population viability within the Moreton Bay Region will be maintained and improved.</i>	Y	Clearing is not required for the purposes of the shed. The land was historically used for cropping. The proposal involves the planting of a 4m landscape buffer to the western boundary. A condition is recommended requiring landscaping to include koala food species.
<i>Healthy, diverse and productive rural and coastal landscapes are maintained and enhanced, for their multiple environmental, recreational,</i>	Y	The proposed development will contribute to the productive capabilities of the rural area and economic outcomes. Through the planting of native plant species, including koala food plants, the development will

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Strategic Outcome	Complies	Assessment
<i>cultural, economic and scenic amenity values.</i>		<p>contribute to the environmental and scenic amenity outcomes.</p> <p>Through the construction of an acoustic barrier with landscape buffer in accordance with the recommended conditions, the proposed development will reduce the visual (and acoustic) impacts of the building and onsite vehicle movements, thereby protecting and enhancing the visual attributes that contribute to the character of the locality.</p>
<b>Theme - Strong Communities</b>		
<i>The built form contributes to a sense of place and identity.</i>	Y	Sheds are characteristic of the rural environment.
<b>Theme - Employment Location</b>		
<i>Develop a diversified local economy that retains local jobs and builds on regional and sub-regional competitive advantages and specialisations.</i>	Y	<p>The Need Report lodged in support of the application identifies that QLD produces 42% of Australian strawberries and that due to the perishable nature of the fruit, importation is limited.</p> <p>Moreton Bay – North represents around one third of the strawberry industry across Australia and more than half the Queensland industry on both a volume and value basis.</p> <p>At the subject site, reporting identifies employment of approximately 200 people excluding delivery drivers.</p> <p>The consolidated location of the facility is capable of offering more consistent work throughout the year.</p>
<i>Encourage increased levels of activity and greater intensity of activity within existing places of employment and business activity.</i>	Y	<p>The Strategic Framework anticipates employment growth “within rural and regional landscape areas through greater rural production, diversification of rural industries, tourism and recreation”.</p> <p>The proposed development represents the diversification of rural industries and complements employment opportunities associated with cropping alone.</p>
<i>Provide sufficient additional land for industry and related businesses to enable diversified, broad-based, future economic and employment growth across the Region.</i>	Y	Enabling appropriate rural related industries to occur within rural areas complies with this strategic outcome, enabling economic and employment growth in the Region.
<b>Theme - Rural Futures</b>		

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Strategic Outcome	Complies	Assessment
<i>The rural economy is sustainable, diversified and strengthened.</i>	Y	<p>The Strategic Framework states “Council will support business activities allied to and compatible with agricultural production and rural activities within the rural areas and townships including transport and logistics, rural industries, storage and warehousing, local farmers markets and produce distribution centres where these activities can be directly accessed from the regional freight network, can be adequately serviced, are compatible with the amenity and character of the rural area and townships and do not adversely impact on environmental values;”.</p> <p>The proposed packaging, storage and distribution facility involves an activity that complements cropping activities while adding value to the product and offering employment in the rural area.</p> <p>The site has direct access to a Local Collector Road (Old Gympie Road) which then connects via a District Collector Road to a State Controlled Road.</p> <p>Conditions have been recommended to address acoustic and visual amenity. The proposal will not adversely impact on environmental values.</p> <p>In this way, the proposal complies with the strategic intent and will contribute to the rural economy.</p>
<i>Infrastructure is provided to support the rural economy and rural communities.</i>	Y	<p>The proposed development comprises infrastructure that will contribute to the rural economy. Conditions are recommended requiring road upgrades to improve safety. Conditions are recommended avoiding access to Pates /Williams Road via 220 Boden Road (safety and amenity) and requiring a landscape buffer and acoustic barrier, contributing to positive amenity outcomes for those in the vicinity of the site.</p>
<i>Rural communities are strengthened through the delivery of appropriate infrastructure and services and by preventing the intrusion of incompatible development.</i>	Y	<p>There is a nexus between the packing shed operation and cropping activities on the site and broader context. Through the imposition of the recommended conditions, the development impacts are managed so that it does not represent incompatible development.</p>
<i>Planning promotes sustainable and diverse communities and protects</i>	Y	<p>The proposed development is characterised as a High Impact Industry due to the packaging of goods from off site (therefore</p>



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Strategic Outcome	Complies	Assessment
<i>rural areas from encroachment of incompatible activities and land uses.</i>		<p>outside the scope of a Rural Industry as defined) and because of the potential offsite impacts associated with the scale of the operation. The activity of packaging agricultural produce, some of which is grown on site, has a nexus with the rural area and expected activities within that area.</p> <p>Through the imposition of the recommended conditions, the development impacts are managed so that it does not represent incompatible development.</p> <p>The development supports the economic sustainability of the community through the provision of employment opportunities. Furthermore, the consolidation of packing facilities reduces the need for replication of packing facilities at each farm, thereby reducing construction materials.</p>
<b>Theme - Natural Resources</b>		
<i>Highly productive agricultural land (cropping land) is a finite regional resource that should be used and managed for sustainable agricultural production and protected from alienating uses and inappropriate subdivision.</i>	Y	The proposed packaging facility is intrinsically linked to agricultural cropping activities on the land and in the broader agricultural area from which it draws its produce. The shed area is only 3,700m <sup>2</sup> , being 0.57% of the farm's site area. In this way, the proposed development complements the agricultural purposes of the zone. The proposal does not involve subdivision or degradation of the land.
<b>Theme - Integrated Transport</b>		
<i>Advocate for regional freight network improvements to support economic growth of the region.</i>	Y	While the proposal does not currently rely upon rail transport, it is close to the Elimbah station and near the indicative location of the future intermodal terminal of the rail freight corridor identified in Shaping SEQ 2017. Therefore, this kind of use would be able to use the future rail network, supporting the economic growth of the region.
<b>Theme - Planning Areas</b>		
<b>Element - Rural planning area</b>	Y	<p>The site is mapped as being in the Cropping Areas settlement pattern area.</p> <p>The proposal complements the cropping activity and only involves 0.57% of the site area, thereby having an insignificant impact in terms of the overall area of cropping land.</p>
<b>Theme - MBRC Place Model</b>		

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Strategic Outcome	Complies	Assessment
Element - Rural place type	Y	<p>The site is mapped as a Rural place type.</p> <p>The Strategic Framework states <i>"In a rural place there is a balance between rural production and associated rural industry, scenic landscapes and natural areas, outdoor entertainment and recreation, rural living, tourism and home based business activities;"</i></p> <p>The proposed operation involves packaging, storing and distribution of produce grown on site and off-site. Due to the scale and impacts of the activity, it is defined as a High Impact Industry. However, it continues to be a rural production and associated rural industry activity in the sense expressed in the Strategic Framework.</p> <p>The application of conditions is recommended to address the operation of the facility, acoustic impacts, dust management and visual amenity to ensure that the development "balances" with other activities in the locality.</p> <p>Particular concerns are held with the safety and amenity impacts of the proposed access to Pates/Williams Road via 220 Boden Road. The access would be immediately adjacent to nearby dwellings. The road in this area features crests which make it dangerous when large articulated vehicles are utilising. Conditions are recommended to restrict access to Old Gympie Road only.</p>

### 2.3.2 Assessment of Applicable Codes

#### Code Compliance Summary

The assessment below identifies how the development proposal achieves the assessment benchmarks and where the development proposal;

- (a) proposes an alternative 'Example' satisfying or not satisfying the corresponding Performance Outcome; and
- (b) proposes an outcome where no 'Example' is stated in the code and the proposed outcome does not satisfy the corresponding Performance Outcome.

Assessment Benchmarks	Compliance with Overall Outcomes	Performance Outcomes assessment is required
Zone/ Local Plan Code		

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Rural Zone Code - Agricultural Precinct	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	PO1 PO8 PO17 PO20 PO21 PO23
<b>Overlay Codes</b>		
Flood Hazard Overlay Code	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

The assessment of the development proposal against the Performance Outcomes of the applicable code(s) is discussed below in section 2.3.3.

### 2.3.3 Performance Outcome Assessment

Performance Outcome	Example
<b>Rural Zone Code</b>	
<b>PO1</b> Development: e. is a size and scale that maintains the low density, low intensity and open area landscape character anticipated in the Rural zone; f. is designed, located and operated in a manner that avoids nuisance impacts on sensitive land uses; j. is not subject to a development constraint such as, but not limited to, flood, steep slope, waterway setback and significant vegetation;	No example provided.
<b>Performance Outcome Assessment</b>	
<p>PO1.e. The shed itself complies, being a single storey structure that could be anticipated in the rural zone. However, the associated structures, including the acoustic barrier (5m high) is not a usual feature of the Rural Zone. However, the 4m wide densely planted landscape buffer will mitigate the visual impact of the acoustic barrier resulting in trees and shrubs that are consistent with the landscaped character of the Rural Zone.</p> <p>The intensity of the development, particularly the external vehicle movements are addressed in Overall Outcome 3.k. response below.</p> <p>PO1.f. The applicant has proposed a shorter (length and height) acoustic barrier for Stage 1, with a longer and taller (5m) acoustic barrier proposed for Stage 2. In order to avoid the nuisance impacts on sensitive land uses in proximity to the site, it is recommended that the acoustic barrier be constructed 4m from the western boundary of Lot 1 RP13987, to the ultimate (5m) height and that the length of the acoustic barrier extend from the southern most end of the building to the northern boundary with 135 Williams Road Elimbah (Lot 297 CG4091).</p> <p>PO1.j. The shed is located outside of the constrained areas. The existing internal driveway access is mapped as being subject to flooding. However, there is sufficient infrastructure onsite to address a shelter in place approach during flood events, noting that the broader road network is also subject to flooding and the proposal does not involve a sensitive land use.</p>	

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Performance Outcome	Example
PO6 The amenity of the area and adjacent sensitive land uses are protected from the impacts of dust, odour, light, chemicals and other environmental nuisance.	No example provided.
<i>Performance Outcome Assessment</i>	
<p>The applicant has proposed mitigation measures to address impacts associated with the onsite activities.</p> <p>However, with the MBRC Planning Scheme definition of High Impact Industry also includes offsite impacts and high traffic flows in the context of the locality or the road network. The acoustic barrier and light management onsite do not address the amenity impacts to nearby dwellings and animal husbandry (kennel) associated with vehicle movements, particularly light and noise impacts during the evening and night periods. Accordingly, conditions have been recommended that do not permit vehicle access over 220 Boden (to Pates and Williams Road). This will manage concentrated vehicle movements at this point.</p>	
<p><b>PO8</b> Development ensures:</p> <ul style="list-style-type: none"> <li>a. sufficient separation from existing sensitive land uses to avoid adverse impacts from chemical spray, fumes, odour and dust;</li> <li>b. environmental nuisance or annoyance resulting from-but not limited to-noise, storage of materials and waste does not adversely impact on sensitive land uses; and</li> <li>c. buildings and other structures are consistent with the open area, low density, low built form character and amenity associated with the rural environment.</li> </ul>	<p><b>E8</b> The following uses and associated buildings are setback from all property boundaries as follows:</p> <ul style="list-style-type: none"> <li>a. Animal husbandry (buildings only) – 10m</li> <li>b. Animal keeping<sup>(5)</sup>, excluding catteries and kennels - 20m</li> <li>c. Aquaculture<sup>(6)</sup> involving ponds or water behind dams – 100m</li> <li>d. Aquaculture<sup>(6)</sup> involving the housing of tanks and associated equipment - 20m</li> <li>e. Cropping<sup>(19)</sup> (building only) – 10m</li> <li>f. Intensive horticulture<sup>(40)</sup> – 20m</li> <li>g. Nature-based tourism<sup>(50)</sup>, Shortterm accommodation and Tourist park<sup>(84)</sup> - 40m</li> <li>h. Permanent plantations<sup>(59)</sup> – 25m</li> <li>i. Rural Industry<sup>(70)</sup> - 20m</li> <li>j. Rural workers' accommodation<sup>(71)</sup> - 40m</li> <li>k. Transport depot<sup>(85)</sup>, including all vehicle parking, storage and driveway areas – 30m</li> <li>l. Wholesale nursery<sup>(89)</sup> – 10m m.</li> <li>Winery<sup>(90)</sup> (buildings only) - 10m.</li> </ul>
<i>Performance Outcome Assessment</i>	
<p>High Impact Industry is not listed in the example.</p> <p>With reference to the PO8, the proposal is capable of complying through the imposition of recommended conditions (acoustic barrier, landscaping, vehicle movement management, access management).</p>	
<p><b>PO17</b> All services including water supply, sewage disposal, electricity, street lighting, telecommunications and gas (if available) are provided in a manner that:</p> <ul style="list-style-type: none"> <li>a. is effective in delivery of service and meets reasonable community expectations;</li> </ul>	<p><b>E17</b> Development is provided with an appropriate level of service and infrastructure in accordance with Planning scheme policy - Integrated design (Appendix A).</p>

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Performance Outcome	Example
<p>b. has capacity to service the maximum lot yield envisaged for the zone and the service provider's design assumptions;</p> <p>c. ensures a logical, sequential, efficient and integrated roll out of the service network;</p> <p>d. is conveniently accessible in the event of maintenance or repair;</p>	
<b>Performance Outcome Assessment</b>	
The on-site sewer servicing arrangement is proposed to be expanded to reflect the equivalent persons load associate with the operation. This is the subject of recommended conditions to ensure that the development complies with PO17.	
<p><b>PO20</b></p> <p>Safe access is provided for all vehicles required to access the site.</p>	<p><b>E20.1</b></p> <p>Site access and driveways are designed, located and constructed in accordance with:</p> <p>a. where for a Council-controlled road and associated with a Dwelling house:</p> <p>i. Planning scheme policy - Integrated design;</p> <p>b. where for a Council-controlled road and not associated with a Dwelling house:</p> <p>i. AS/NZS2890.1 Parking facilities Part 1: Off street car parking;</p> <p>ii. AS 2890.2 - Parking facilities Part 2: Offstreet commercial vehicle facilities;</p> <p>iii. Planning scheme policy - Integrated design;</p> <p>iv. Schedule 8 - Service vehicle requirements;</p> <p>c. where for a State-Controlled road, the Safe Intersection Sight Distance requirements in Austroads and the appropriate IPWEAQ standard drawings, or a copy of a Transport Infrastructure Act 1994, section 62 approval.</p> <p><b>E20.2</b></p> <p>Internal driveways, car parks and access ways are designed and constructed with a sealed pavement and in accordance with:</p> <p>a. AS/NZS 2890.1 Parking Facilities Part 1: Off street car parking;</p> <p>b. AS 2890.2 Parking Facilities Part 2: Off street commercial vehicle facilities;</p> <p>c. Planning scheme policy - Integrated design; and</p> <p>d. Schedule 8 - Service vehicle requirements.</p> <p>Note - This includes queue lengths (refer to Schedule 8 - Service vehicle</p>

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Performance Outcome	Example
	<p>requirements), pavement widths and construction.</p> <p><b>E20.4</b> Access driveways, manoeuvring areas and loading facilities are sealed and provide for service vehicles listed in Schedule 8 - Service vehicle requirements for the relevant use. The on-site manoeuvring is to be in accordance with Schedule 8 - Service vehicle requirements.</p> <p><b>E20.5</b> Landscaping (including shade trees) is provided within car parks in accordance with Planning scheme policy - Integrated design.</p>
<i>Performance Outcome Assessment</i>	
<p>The applicant proposes Stage 1 access from Old Gympie Road using the existing crossover and Stage 2 (no built form change) access/egress using Williams/Pates Road intersection over 220 Boden Road (Council land). As a Performance Outcome, they state that the "car parking areas, internal road and manoeuvring areas are adequate for the proposed development."</p> <p>In order to comply with the safety requirements of PO20, conditions are recommended requiring access to Old Gympie Road is upgraded to meet the nominated design standards, that the internal vehicle parking areas are sealed, and that access over 220 Boden Road is not permitted.</p> <p>Given the rural setting of the site, the applicant is not proposing to plant shade trees within the car parking area. In consideration of the context of this site, and the landscaped buffer planting occurring to the western boundary, this outcome is accepted in this instance.</p>	
<p><b>PO21</b> Sealed and flood free road access during the minor storm event is available to the site from the nearest arterial or sub-arterial road.</p> <p>Editor's note - Where associated with a State controlled road, further requirements may apply, and approvals may be required from the Department of Transport and Main Roads.</p>	<p><b>E21</b> Roads or streets giving access to the development from the nearest arterial or sub-arterial road are flood free during the minor storm event and are sealed.</p> <p>Note - The road network is mapped on Overlay map - Road hierarchy.</p>
<i>Performance Outcome Assessment</i>	
The development does not comply with PO21 and cannot reasonably be conditioned to do so.	
<p><b>PO23</b> The existing road network (whether trunk or nontrunk) is upgraded where necessary to cater for the impact from the development.</p>	<p><b>E23.1</b> New intersections onto existing roads are designed to accommodate traffic volumes and traffic movements taken from a date 10 years from the date of</p>

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Performance Outcome	Example
	<p>completion of the last stage of the development. Detailed design is to be in accordance with Planning scheme policy - Integrated design.</p> <p><b>E23.2</b> Existing intersections external to the site are upgraded as necessary to accommodate increased traffic from the development. Design is in accordance with Planning scheme policy - Operational works inspection, maintenance and bonding procedures.</p> <p><b>E23.3</b> The active transport network is extended in accordance with Planning scheme policy - Integrated design.</p>
<b>Performance Outcome Assessment</b>	
<p>According to Austroads Guide to Road Design (referenced in the PSP Integrated Design), the intersection of Old Gympie Road and Smiths Road is required to be upgraded with a basic left-turn and basic right-turn treatment (BAL/BAR). The applicant proposed not to upgrade this intersection.</p> <p>Old Gympie Road typology, between Smiths Road and the development access, does not conform with Austroads Guide to Road Design. As it is anticipated that 100% of heavy vehicle and majority of passenger car traffic would utilise this section of Old Gympie Road, this section is required to be upgraded to address the impact of the development.</p> <p>It is recommended that a BAL/BAR treatment is not formalised for the intersection of Old Gympie Road and Smiths Road due to the sharp bend for through-traffic. Instead, it is recommended that necessary traffic lane widening and shoulder widening is carried out to improve the safety of the intersection and through-traffic. Shoulder widening would also ensure the swept path of a 19m long articulated vehicle remains on the road pavement.</p> <p>It is recommended that shoulder widening is carried out on Old Gympie Road between Smiths Road and the development access. The shoulder widening contributes as an informal pedestrian walkway / mountain bike path with reference to the future non-trunk active transport corridor identified on Old Gympie Road.</p> <p>Due to traffic movement, including trucks bringing produce from a Twin View Road property, northeast of the site, it is recommended that safety improvement is carried out on Old Gympie Road, between Twin View Road and the development access, in accordance with the Road Safety Audit Report.</p>	
<b>Flood Hazard Overlay Code</b>	
<p><b>PO10</b> Development maintains personnel safety at all times, such that:</p> <p>a. a vulnerable land use (flood and coastal) is not located in the High risk flood hazard area or Medium risk flood hazard area;</p>	No example provided.

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<p>b. new buildings are not located in the High risk flood hazard area included in the Limited development zone;</p> <p>c. a residential accommodation building is located in the following:</p> <ul style="list-style-type: none"> <li>i. Balance flood planning area; or</li> <li>ii. the Medium risk area where located in the Medium risk storm tide inundation area of the Coastal hazard overlay or Balance coastal planning area of the Coastal hazard overlay;</li> </ul> <p>d. evacuation capability from the development or other premises is not hindered or made more complicated and there is no significant additional burden placed on emergency services personnel;</p> <p>e. the isolation of persons in the Defined Flood Event is avoided.</p> <p>Note - To demonstrate achievement of the performance outcome, an engineering report is to be prepared by a suitably qualified person. Guidance on the matters to be addressed in the report is provided in the Planning scheme policy Flood Hazard, Coastal Hazard and Overland Flow.</p> <p>Note - Development for residential accommodation must mitigate the medium risk for development to proceed in accordance with the Coastal hazard overlay code.</p>	
<b>Performance Outcome Assessment</b>	
<p>The packing shed is not located within the Medium and High-risk flood hazard area, however, the development does isolate personnel during minor and major storm events.</p> <p>A Flood Emergency Management Plan has been submitted to address PO10 of the Flood hazard overlay code. The structure of the development is to act as an emergency shelter so that no evacuation is required during a flood event. The emergency plan does not place significant additional burden on emergency services. Therefore, the development complies with PO10.</p>	

#### 2.3.4 Overall Outcome Assessment

The development proposal does not comply with Performance Outcomes of the Rural Zone Code. Therefore, the proposal is required to be assessed against the applicable Overall Outcomes of the code. The proposal complies with the Rural Zone Code Overall Outcomes with the exception of the following;

Rural Zone Code Section 6.2.10		
Overall Outcomes	Complies Y/N	Comments
Overall Outcome 3.i Development maintains the open area character and scenic amenity, including the low density, low intensity and dispersed built form which defines the rural place type.	N	While the proposed shed is consistent with the anticipated built form in the area, the 5m acoustic barrier is not characteristic of the open area character of the rural place type. However, the acoustic barrier is to be set back 4m from the



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Rural Zone Code Section 6.2.10		
Overall Outcomes	Complies Y/N	Comments
		property boundary and the set back area is to be densely planted to create a landscaped outcome that is consistent with the rural place type. Conditions are also recommended requiring the acoustic barrier to be of natural colours.
<p>Overall Outcome 3.k. Development does not result in adverse or nuisance impacts on adjoining properties or the wider rural environment. Any adverse or nuisance impacts are contained and internalised to the lot through location, design, operation and on-site management practices.</p> <p>And</p> <p>Overall Outcome 3.k. Development generating high volumes of traffic or involving heavy vehicle traffic movements is located on roads of a standard and capacity to accommodate traffic demand.</p>	Complies as conditioned	<p>At a broad level, beyond the immediate road network, the proposed development involves the packing, storing and distribution of crops grown on land throughout the Rural Zone agricultural precinct. When viewed broadly, the vehicle movements of trucks and staff are characteristic of rural industry and the wider rural environment.</p> <p>However, the proposed development involves a concentration of these activities at a single location, thereby comprising High Impact Industry. Accordingly, the impacts to the adjoining properties and those in close proximity are relevant.</p> <p>Through the acoustic and dust management measures, and limitation of access as recommended in conditions, the development will not result in adverse or nuisance impacts to adjoining properties.</p> <p>Detailed assessment has determined that the proposed access to Pates/Williams road would pose an adverse impact and nuisance impact on adjoining properties and the wider rural environment through the passage of trucks and staff vehicles on roads that feature crests and limited shoulders. Pates and Williams Roads also form part of the school bus route. The road safety concerns associated with the use of these roads cannot easily be addressed without significant upgrades.</p> <p>The use of this access has been assessed and found to be</p>

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Rural Zone Code Section 6.2.10		
Overall Outcomes	Complies Y/N	Comments
		unnecessary as there is another road frontage to a Local Collector Road - Old Gympie Road. Both roads are subject to periodic flooding. The development has sufficient infrastructure to enable sheltering in place. Therefore, it is not necessary or beneficial to have a second emergency access to Pates Road and Williams Road.
Overall Outcome 3.m. Development does not result in the establishment of industrial activities, other than rural industry	N	The proposed development is characterised as a High Impact Industry due to the packaging of goods from off site (therefore outside the scope of a Rural Industry as defined) and because of the potential offsite impacts associated with the scale of the operation. The activity of packaging agricultural produce, some of which is grown on site, has a nexus with the rural area and expected activities within that area.
Overall Outcome 3.u. Development in the Rural Zone does not include any of the following... High Impact Industry	N	The proposal is defined as High Impact Industry.
<b>Agricultural Precinct</b>		
Overall Outcome 5.f. Development in the Agricultural Precinct does not include any of the following... High Impact Industry	N	The proposal is defined as High Impact Industry.

The proposal is inconsistent with the Overall Outcomes as identified above. Therefore, in accordance with section 1.7.2 of the MBRC Planning Scheme, an assessment against the Strategic Framework is set out in section 2.3.1 of this report.

In addition, section 45 (5) of the *Planning Act 2016* states the assessment may be carried out against, or having regard to, any other relevant matter other than a person's personal circumstances, financial or otherwise. The other relevant matters to justify any approval of the proposal, are discussed in section 2.8 of this report.

## 2.4 Trunk Infrastructure

In accordance with section 4 of the Moreton Bay Regional Council Planning Scheme, the subject site is not located in the identified Priority Infrastructure Area. Infrastructure charges applying to the land, where applicable, are to be applied in accordance the Council's Charges Resolution No. 8 commencing in August 2018 (CR).

### 2.4.1 Levied Charge

In accordance with section 10 of the CR, a Levied Charge is applicable to the development proposal

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**2.4.2 Levied Charge Credit**

In accordance with section 14 of the CR, a credit exists for the development based on the credit being the greater of the following amounts:

(a) Purpose equivalent to its current use  
Refer (c) Lawful use of land.

(b) Payment of previous charges or contributions  
There is no record of a previous charge or contribution having been made in relation to the land in accordance with section 14 of the CR. Accordingly, the credit available under this option is \$0.00

(c) Lawful use of land  
Low Impact Rural (Cropping) does not attract an Infrastructure Charge or credit. Accordingly, the credit available under this option is \$0.00.

(d) Other development able to occur without a development permit  
There is no other development able to be lawfully carried out without a development permit (including a development permit for Building Works). Accordingly, the credit available under this option is \$0.00

(e) The adopted charge for a residential lot (applied equally to non-residential development)  
The site is comprised of three allotments and a condition is recommended requiring the amalgamation of the lots. While the site is traversed by a water main, the property appears not to be within the Unitywater connections area. Therefore, the credit available under this option is \$61,355.30 (2 x \$30,677.65) based on the proportional split stated in Table 3 of the CR.

**2.4.3 Levied Charge Offset or Refund**

The site is not affected by a Trunk Infrastructure requirement and therefore there is no offset or refund applicable to the development proposal.

**2.4.4 Additional Trunk Infrastructure Costs**

In accordance with section 130 of the *Planning Act 2016*, an additional payment condition may be imposed if the proposed development;

- (a) generates infrastructure demand of more than what is required to service the type or scale of future development assumed in the LGIP; or
- (b) requires new trunk infrastructure earlier than when identified in the LGIP; or
- (c) is for premises located completely or partly outside the Priority Infrastructure Area; and

The development will impose additional trunk infrastructure costs on Council after taking into account the levied charge and any trunk infrastructure provided, or to be provided by the development.

In this instance, having assessed the proposed development, it does not warrant the imposition of an additional payment condition.

2.5 Recording of particular approvals on the MBRC Planning Scheme  
Not Applicable in this instance.

**2.6 Referrals**

**2.6.1 Council Referrals**

**2.6.1.1 Development Engineering**

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Development engineering comments regarding the State Planning Policy and MBRC Planning Scheme assessment are reflected in the body of the report above.

**Traffic and Access**

In order to address the safety of the road network, the applicant has prepared a Road Safety Audit (RSA) to assess Old Gympie Road from Smiths Road to Twin View Road, Twin View Road from Old Gympie Road to Williams Road, and Williams Road from Twin View Road to Pates Road. Road safety improvements are required on Old Gympie Road to accommodate the significant increase in vehicle movement including 19m long articulated vehicles. The below table summarises the necessary actions to address road safety on Old Gympie Road (Table 3.5 of Road Safety Audit Report).

Issue ID	Action required
1	Resealing surface (isolated section)
2	Remove isolated tree, install additional guide posts
3	Install safety barrier, rectify signs and line-marking
4	Rectify signage
5	Seal development access/driveway for 20m
6	Remove isolated tree, rectify signage
7	Regrade table drain and install culverts, rectify signage
8	Rectify signage
9	Rectify signage
10	Rectify signage
11	Sealing extent of side roads on both sides of Twin View Road intersection

Item 11 in Table 3.5 of the RSA is unclear of the extent of works required. Therefore, Council recommends that 20m of Old Gympie Road, south of Twin View Road intersection, is to be sealed, and 10m of Old Gympie Road, north of the intersection to be sealed. Culverts may be required to address the ponding and drainage issue.

Item 5 in Table 3.5 of the RSA is in relation to the development access. The development access is to be sealed and upgraded accordingly. The existing pipe underneath the driveway is too small and does not comply with IPWEA Standard Drawing RS-056.

Williams Road and Pates Road are sub-standard rural roads which do not conform to Austroads Guide to Road Design, therefore, they are suitable only for low scale rural activities and local access. Both these roads consist of multiple hidden dips (vertical alignment), sharp crests and concealed driveways. A school bus route also uses these roads. Council officers recommend that no development traffic is to gain direct access to/from Williams Road and Pates Road. These rural roads are not suitable for a high impact industry access and do not comply with the Planning Scheme Policy Integrated Design requirements.

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Old Gympie Road typology, between Smiths Road and the development access, is sub-standard and does not conform with Austroads Guide to Road Design. Shoulder widening is required on this section of Old Gympie Road in order to address the traffic impact of the development and maintain the safety and capacity of the road network. A future non-trunk Active Transport Corridor is mapped along Old Gympie Road. A speed limit review is also required for this section of Old Gympie Road.

As part of the Response to Information Request, the applicant has provided a detailed assessment of Old Gympie Road/Smiths Road intersection. Vegetation clearing in the road reserve is required to ensure there is sufficient sight distance. Additional road works is also required to cater for 19m long articulated vehicle.

Stormwater / Flooding

The Stormwater Management Plan is acceptable. An amended overall development plan is required to ensure the car parking area does not encroach into the designated buffer and swale drain area required to treat stormwater runoff. The plan is to indicate the new expanded effluent reticulation area as well.

A Flood Emergency Management Plan has been submitted to address PO10 of the Flood hazard overlay code. An amended plan is required to ensure all personnel onsite seek shelter onsite until flood water has receded and access to/from Williams Road and Pates Road is not available for the development. Further clarification is also required regarding the building structure certification.

Earthworks

The earthworks onsite do not conform with the approved operational works DA/36921/2018/V4E. A special condition is imposed to ensure earthworks is carried out in accordance with the Planning Scheme works code.

**2.6.1.2 Environmental Health**

Lighting

It is recommended that conditions are included to ensure suitable lighting is installed and maintained.

Noise

The applicant submitted a Noise, Dust and Light Impact Assessment prepared by ASK Acoustics & Air Quality dated 28 January 2021, report number 207401.0065.R01V05. The recommendations for noise include operational requirements for all stages as well as three acoustic barriers -

- For stage one, a barrier is recommended along part of the western boundary (4m high and 60m long) and two other barriers adjacent to the loading bays (3.75m high and 26m long, and another 3.75m high and 30m long).
- For stage 2, the barriers near the loading bay are to increase in height to 4.5m and remain the same length. The western boundary is to change to 5m high and 120m long.

An additional noise source not been considered by the report. There are two diesel fire hydrant pumps beside the water tanks that are near the western boundary and slightly south of the extent of the proposed barrier. Additionally, the report states that vehicle noise will encroach "onto the residential property from the north and this is due to the road access location which cannot be effectively attenuated any further using barriers on the subject site". The access point via Pates/Williams Road is not supported. Also, vehicle movements illustrated in various reports/plans within the application material are inconsistent. To manage acoustic impacts associated with the pumps, the packing shed and vehicle movements within the site, the recommendation will include an additional

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requirement that the western acoustic barrier be extended south to ameliorate pump noise and also extended to the northern boundary of the property to minimise vehicle noise.

Further, there is no clear point when stage 2 of the development commences to trigger the changes to the acoustic barriers and adding to the height of acoustic barriers after they are constructed is impractical. Consequently, the recommendation is that all barriers be built to the stage 2 requirements at stage 1 of the approval.

The recommendations of this report include a condition that the development be undertaken in accordance with an amended acoustic report with the additional requirements stated above.

Dust

The Noise, Dust and Light Impact Assessment prepared by Ask Acoustics & Air Quality dated 28 January 2021, report number 207401.0065.R01V05, determined that the nearest residence will experience elevated dust levels due to truck movements on unpaved surfaces and from wind erosion. The recommendations include sprinklers to suppress dust, a maximum vehicle speed of 5 kilometers per hour, construction of the 5m high acoustic barrier, and vegetation along the western boundary with foliage from base to crown. As a consequence, the recommendations of this report include a condition that the development be undertaken in accordance with the requirements of section 7.2 of the report, including sealing the vehicle manoeuvring and parking areas.

Waste Management

There is ample room for the storage of bins. As a consequence, the recommendations of this report include a condition that the development be undertaken in accordance with SC 6.20 Planning scheme policy - Waste.

*2.6.2 Referral Agencies*

***2.6.2.1 Concurrence Agencies***

There were no Concurrence Agencies involved in assessing this development application.

***2.6.2.2 Advice Agencies***

Energex

Council was advised on 8 October 2020 that the Advice Agency has no objection to the proposal and no requirements.

***2.6.2.3 Third Party Agencies***

There were no Third Party Agencies involved in assessing this application.

***2.7 Public Consultation***

*2.7.1 Public Notification Requirements under the Development Assessment Rules*

- (a) Public Notification was served on all adjoining landowners on 3/3/2021.
- (b) The development application was advertised in the Quest News online within Courier Mail Online on 4/3/2021.
- (c) A notice in the prescribed form was posted on the relevant land on 4/3/2021 and maintained for a period of 15 business days until 26/3/2021.

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### 2.7.2 Submissions Received

Council received the following types of submissions in respect to this development application.

Type		Number of Signatures	Number of Submissions
Properly Made	Letter, Email, Fax		15
	Petition		-
Not Properly Made	Letter, Email, Fax		-
	Petition		-
Total			15

The matters raised within the submissions are outlined below:

Assessment of Submissions
<p><b>Issue</b> Industrial Use within a Rural Zone - Incompatible Use / Inconsistency with Planning Scheme</p> <ul style="list-style-type: none"> <li>Inconsistent with the Strategic Framework</li> <li>Inconsistent with the Zone Intent - quiet rural character</li> <li>Does not align with the MBRC Place Model - rural place type, settlement pattern and is not located in the enterprise and employment place type.</li> </ul>
<p><b>Discussion</b> This report includes a detailed assessment in relation to the MBRC Planning Scheme provisions.</p> <p>High Impact Industry is listed as an Inconsistent use in the Rural Zone Overall Outcomes. Accordingly, an assessment in relation to the Strategic Framework has been undertaken.</p> <p>The development is consistent with the Strategic Framework. One example is:</p> <p>The Strategic Framework states “Council will support business activities allied to and compatible with agricultural production and rural activities within the rural areas and townships including transport and logistics, rural industries, storage and warehousing, local farmers markets and produce distribution centres where these activities can be directly accessed from the regional freight network, can be adequately serviced, are compatible with the amenity and character of the rural area and townships and do not adversely impact on environmental values;”.</p> <p>The proposed packaging, storage and distribution facility involves an activity that complements cropping activities while adding value to the product and offering employment in the rural area.</p> <p>The site has direct access to a Local Collector Road (Old Gympie Road) which then connects via a District Collector Road to a State Controlled Road.</p> <p>Conditions have been recommended to address acoustic and visual amenity. The proposal will not adversely impact on environmental values.</p> <p>In this way, the proposal complies with the strategic intent and will contribute to the rural economy.</p> <p>This is not reason for refusal of the application.</p>
<b>Issue</b>

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#### Assessment of Submissions

Noise, Chemical and visual pollution, including burning plastics, light pollution.  
Impact on adjoining properties - disturbed sleep  
Impact on boarding kennel  
Impact on properties along Pates and Williams roads.

#### Discussion

The lighting of fires is regulated by the MBRC Subordinate Local Law No. 3 (Community and Environmental Management) 2011 and does not form part of this town planning assessment.

The application has otherwise been assessed in relation to acoustic, air quality impacts, light impacts and waste management practices.

The picking of fruit sometimes necessitates late night activities associated with the established cropping use. It then follows that the perishable fruit packaging occurs into the evening and night times. This type of activity is characteristic of a rural agricultural area. However, the proposed development is a more intensive concentration of these activities. Accordingly, the proposed development includes the construction of acoustic barriers and onsite management practices to address acoustic impacts associated with the onsite activities. Conditions are recommended that require the planting of a landscape buffer along the exterior side of the acoustic barrier to the western boundary. Densely planted trees are to be capable of growing to 5m. The acoustic barrier is to be made of natural colours. In this way, the proposed development will reflect the rural setting when viewed from Pates and Williams Road, addressing visual amenity concerns.

The road crests and proximity of dwellings to the proposed access to Pates/Williams Roads result in light and noise impacts to nearby dwellings. Noise impacts and headlight impacts associated with vehicle movement is recommended to be addressed by limiting access to occur only via Old Gympie Road.

Conditions have been recommended in relation to lighting and waste management.

This is not a reason for refusal.

#### Issue

Road Safety Concerns - Speed, impacts to pedestrians, cyclists and animals

#### Discussion

One submission raised particular concerns with speed in proximity to the National Park. This section of Old Gympie Road provides access to the national park (Mount Elimbah). It is also a section of road mapped as a future non-trunk active transport corridor. As non-local drivers, pedestrians, and cyclists would utilise this road when visiting the national park, this section of road is required to be upgraded to address the safety impact due to the increased traffic volume, including trucks.

It is recommended that roadworks are conditioned to improve the safety of Old Gympie Road from Smiths Road intersection to the development access. A condition has also been applied requiring a review of speed limits. A condition has also been applied not permitting access to the site via Pates/Williams Road.

This matter has been addressed with recommended conditions and is not a reason for refusal.

#### Issue

Pates Road has large volume of development traffic, including trucks



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<b>Assessment of Submissions</b>
<p>Pates Road is unsafe for additional development traffic</p> <p>Williams Road is unsafe for additional development traffic</p> <p>These roads are used by the school bus route and horse riders.</p> <p>The speed limit of 100km/hr is too high.</p>
<p><b>Discussion</b></p> <p>Pates Road is a sub-standard rural road and does not comply with Austroads Guide to Road Design. Williams Road is a sub-standard rural road and does not comply with Austroads Guide to Road Design. Additional development traffic on these roads is not suitable unless major upgrade works are carried out. The site has an existing lawful access to Old Gympie Road.</p> <p>It is recommended that the development does not gain direct access to/from Williams Road and Pates Road</p> <p>This matter has been addressed with recommended conditions and is not a reason for refusal.</p>
<p><b>Issue</b></p> <p>Reduction in property value</p>
<p><b>Discussion</b></p> <p>The Planning Act 2016 s45(5)(b) stipulates that Impact Assessment “<i>may be carried out against, or having regard to, any other relevant matter, other than a person’s personal circumstances, financial or otherwise.</i>”</p> <p>Therefore, this is not a reason for refusal.</p> <p>(Note: amenity, acoustic and air quality impacts are addressed separately).</p>

#### 2.7.3 Notice of Compliance

The Notice of Compliance was received by Council on 29/3/2021. The Notice of Compliance identifies that the public notification requirements for the development application were correctly undertaken in accordance with the requirements of Part 4, of the Development Assessment Rules.

#### 2.8 Other Matters

Planning Act 2016 s45(5)(b) stipulates that Impact Assessment “*may be carried out against, or having regard to, any other relevant matter other than a person’s personal circumstances, financial or otherwise.*”

Council’s Regional Economic Development Strategy 2020-41 identifies agriculture as a key industry. Value adding and processing are identified as opportunities for the agricultural sector.

The applicant’s material anticipated the facility to package 12.37 million punnets in the 2020 season (31% grown onsite). Reporting reflects employment of approximately 200 people excluding delivery drivers.

The application material included a Needs Assessment report prepared by Location IQ dated June 2020. This document identifies details regarding the strawberry industry including the role of production and packaging in the Moreton Bay - North area, “one third of the strawberry industry across Australia and more than half the Queensland industry on both a volume and value basis”.

ITEM 4.1 DA/41055/2020/V2L - MATERIAL CHANGE OF USE - DEVELOPMENT PERMIT FOR HIGH IMPACT INDUSTRY (STORING, PACKING AND DISTRIBUTION OF AGRICULTURAL PRODUCE GROWN ON AND OFF THE SITE) - 748A-792A OLD GYMPIE ROAD & 220 BODEN ROAD ELIMBAH QLD 4516 - 61961570 (Cont.)

From the Needs Report.

*Consolidation of packing facilities has a number of benefits including:*

- Capital cost efficiencies i.e. replication of packing facilities at each farm would result in higher capital outlay for a given level of production. This approach is ultimately less intensive given total packing facility floorspace would be lower overall.*
- Packing facilities can operate year-round due to the diversity in weather condition across farms in different locations. i.e. some farms operate an off-season growing cycle.*
- Accepting fruit from farms in different location also acts as a hedge against adverse, localised weather events such as hail and rain.*
- There is less seasonal uncertainty for workers who can be employed year-round.*

In this way the proposed development is consistent with the MBRC Regional Economic Development Strategy.

### 3. Strategic Implications

#### 3.1 Legislative/Legal Implications

The applicant and submitters have appeal rights in accordance with the *Planning Act 2016*.

#### 3.2 Corporate Plan / Operational Plan

Creating Opportunities: Well-planned growth - a sustainable and well-planned community.

#### 3.3 Policy Implications

The proposal is consistent with the existing Moreton Bay Region planning provisions and relevant policies.

#### 3.4 Risk Management Implications

☒ Nil identified

#### 3.5 Delegated Authority Implications

☒ Nil identified

#### 3.6 Financial Implications

- a) In the event that an appeal is made to the Planning & Environment Court against Council's decision, the Council will incur additional costs in defending its position.
- b) The proposal will result in infrastructure contributions to Council.

#### 3.7 Economic Benefit Implications

The development is consistent with the Regional Economic Development Strategic goals for agricultural opportunities, providing economic and employment benefits to the region.

#### 3.8 Environmental Implications

Road upgrade conditions require remove of a small number of trees from the road reserve to improve safety.

#### 3.9 Social Implications

The proposed development provides employment opportunities. Negative impacts associated with the operation (acoustic, dust, traffic, light, visual impacts) are proposed to be managed through the imposition of conditions.

#### 3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

#### 3.11 Consultation / Communication

Refer to clause 2.7.

## ITEM 4.2 PREFERRED SUPPLIER - ETHOS URBAN PTY LTD

*Meeting / Session:* 4 PLANNING  
*Reference:* 62411228 : 27 July 2021 - Refer **Confidential** Supporting Information  
**62503379**  
*Responsible Officer:* HB, Regional Planning and Growth Monitoring (PL Strategic Planning & Place Making)

### Executive Summary

Council engaged Ethos Urban Pty Ltd (Ethos Urban), a specialist planning and economics firm, via Local Buy (BUS265 Planning, Surveying, Design & Architecture) to undertake a confidential planning investigation as part of the Regional Planning Program.

The on-going confidential nature of the services sought, and specialised experience and knowledge gained cannot be easily and practically duplicated by other consultancies within the timeframes required to suit the project schedule.

It is recommended that Ethos Urban be engaged to provide further ongoing support to Council in resolution of any identified outstanding issues and technical studies for Council consideration.

Section 235(b) of the Local Government Regulation 2012 requires Council resolution to purchase goods and services from a single supplier without seeking competitive quotations.

Accordingly, this matter is reported to Council for resolution.

### RESOLUTION

Moved by Cr Mick Gillam

Seconded by Cr Cath Tonks

CARRIED 13/0

1. That in accordance with section 235(b) of the Local Government Regulation 2012, because of the specialised and confidential nature of the services that are sought it would be impractical or disadvantageous for Council to invite quotes or tenders for the services.
2. That Council enters into an agreement with Ethos Urban Pty Ltd as described in this report.
3. That the Chief Executive Officer be authorised to take all action necessary, including but not limited to, negotiating, making, amending, signing and discharging the agreement with consultant Ethos Urban Pty Ltd for the work specified in this report and any required variations of the agreement on Council's behalf.

*ITEM 4.2 PREFERRED SUPPLIER - ETHOS URBAN PTY LTD - 62411228 (Cont.)*

**OFFICER'S RECOMMENDATION**

1. That in accordance with section 235(b) of the Local Government Regulation 2012, because of the specialised and confidential nature of the services that are sought it would be impractical or disadvantageous for Council to invite quotes or tenders for the services.
2. That Council enters into an agreement with Ethos Urban Pty Ltd as described in this report.
3. That the Chief Executive Officer be authorised to take all action necessary, including but not limited to, negotiating, making, amending, signing and discharging the agreement with consultant Ethos Urban Pty Ltd for the work specified in this report and any required variations of the agreement on Council's behalf.

**REPORT DETAIL**

**1. Background**

Council initially engaged Ethos Urban through Local Buy (BUS265 Planning, Surveying, Design & Architecture) to undertake a confidential land use investigation as part of the Regional Planning Program.

A total of two (2) quotes were received and Ethos Urban was the successful consultant. The original procurement engagement was undertaken through the Vendor Panel process (VP211166).

The following summarises the original scope of work

- Provide strategic advice regarding the preferred role and regional significance of the development area in a ShapingSEQ context.
- Provide advice regarding the timing and highest and best land use of the development area in an MBRC employment lands context.
- Undertake a peer review of a current development application proposing mixed use development (including residential uses) made over part of the development area from a strategic land use planning and economic development perspective.
- Investigate and provide high level advice on any infrastructure serviceability issues with the development area, in the context of the assessments and findings above.

A Confidential Council Briefing occurred on this matter on 27 May 2021. As a result of that briefing, required further work was identified. The Confidential Supporting Information includes details of that briefing.

**2. Explanation of Item**

This report recommends that Council enters into a contract with Ethos Urban to carry out required remaining further work.

This is the most practical and efficient way to ensure that the remaining further work is completed within the timeframes required and is of a high standard to suit project needs. The remaining further work is largely informed by the initial work already undertaken by Ethos Urban (including the sub-consultant team). Furthermore, the Ethos Urban team has specialised knowledge of, and experience with, the work undertaken to date and the outstanding issues required to be resolved.

Ethos Urban has substantial knowledge and skills to undertake these further investigative studies. This also supports the principle of "value for money" for Council and will leverage the project knowledge Ethos Urban has established from work completed to date, as well as drawing from its experience obtained from similar projects.

At this point in time, it would not be possible for a consultancy other than Ethos Urban to acquire the specialised knowledge and experience necessary to carry out the remaining work.

ITEM 4.2 PREFERRED SUPPLIER - ETHOS URBAN PTY LTD - 62411228 (Cont.)

In addition, seeking quotes from other consultants or engaging another consultant to undertake the work could prejudice Council's interests given the confidential nature of the work being undertaken. Accordingly, it is considered that it would be impractical or disadvantageous to seek quotes for the additional work.

**3. Strategic Implications**

**3.1 Legislative/Legal Implications**

Under the Local Government Regulation 2012, the Procurement Policy 2150-006 notes that for all contracts exceeding \$200,000 it is necessary to conduct an open tender process, unless an exception is made in accordance with the Local Government Regulation 2012.

Section 235(b) of the Local Government Regulation 2012 provides that Council can enter into a contractual arrangement without firstly seeking quotes or tenders if it resolves that, because of the specialised or confidential nature of the services sought, it would be impractical or disadvantageous to invite quotes or tenders.

**3.2 Corporate Plan / Operational Plan**

Creating Opportunities: Well-planned growth - a sustainable and well-planned community.

**3.3 Policy Implications**

This contract has been procured in accordance with the provisions of the following documents:

- Council's Procurement Policy 2150-006
- *Local Government Act 2009*
- Local Government Regulation 2012.
- Local Preference Corporate Directive 2108-054

Procurement Policy 2150-006 notes that for all contracts exceeding \$200,000 it is necessary to conduct an open tender process, unless an exception is made in accordance with the Local Government Regulation 2012.

As stated above, under section 235(b) of the Local Government Regulation 2012, a local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders.

The objective of Local Preference Corporate Directive 2180-054 is to proactively support local business and industry to create jobs in the Moreton Bay region. A review of market providers within the region was unable to identify a local organisation that had the capability, experience, knowledge and lack of conflicts to undertake this highly specialised multidisciplinary (and confidential) work.

**3.4 Risk Management Implications**

The matters related to the work are confidential; introducing a new consultant into the process would increase Council's exposure to a confidential matter being released and delay the works as the new consultancy comes up to speed with the project.

**3.5 Delegated Authority Implications**

No delegated authority implications arising as a direct result of this report.

**3.6 Financial Implications**

The original contract for services undertaken by Ethos Urban was entered into in November 2020. The current contract did not include undertaking the remaining work identified and cannot be expanded to do so.

The value of this agreement is included in the Confidential Supporting Information due to Commercial in Confidence considerations.

*ITEM 4.2 PREFERRED SUPPLIER - ETHOS URBAN PTY LTD - 62411228 (Cont.)*

3.7 Economic Benefit implications ☒ Nil identified

3.8 Environmental Implications ☒ Nil identified

3.9 Social Implications ☒ Nil identified

3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

3.11 Consultation / Communication

Officers have undertaken consultation with representatives of Legal Services and Procurement regarding the preparation of this report.

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**5 COMMUNITY & ENVIRONMENTAL SERVICES SESSION**

**(Cr M Gillam)**

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**ITEM 5.1**

**LEASE RENEWAL - FRIENDS OF THE REDCLIFFE BOTANIC GARDENS INC**

*Meeting / Session:* 5 COMMUNITY & ENVIRONMENTAL SERVICES  
*Reference:* 62402828 : 26 July 2021 - **Refer Supporting Information 62402829**  
*Responsible Officer:* CM, Supervisor Community Leasing (CES Community Services, Sport & Recreation)

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**Executive Summary**

This report seeks Council's approval for the provision of a lease to Friends of the Redcliffe Botanic Gardens Inc at 20-24 Henzell Street, Redcliffe (Division 6).

This matter is reported to Council as section 236(2) of the Local Government Regulation 2012 requires Council resolution to apply the exception under section 236(1)(b)(ii) to dispose of land and buildings (via a lease to a community organisation) other than by tender or auction.

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**RESOLUTION**

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**Moved by Cr Karl Winchester**

**Seconded by Cr Mick Gillam**

**CARRIED 13/0**

1. That the exception contained in section 236(1)(b)(ii) of the Local Government Regulation 2012 applies to the Council regarding the disposal of the land referred to in this report.
2. That, subject to recommendation 3, Friends of the Redcliffe Botanic Gardens Inc be granted a lease over an area at 20-24 Henzell Street, Redcliffe (*refer Supporting Information #1*) for a period of five years.
3. That the terms and conditions of this lease be in accordance with Council's Community Leasing Policy, with annual rental commencing at \$1.00 per annum.
4. That the Chief Executive Officer be authorised to take all action necessary including, but not limited to, negotiating, making, amending, signing and discharging the lease and any required variations of the lease on the Council's behalf, as described in this report.

ITEM 5.1 LEASE RENEWAL - FRIENDS OF THE REDCLIFFE BOTANIC GARDENS INC - 62402828 (Cont.)

**OFFICER'S RECOMMENDATION**

1. That the exception contained in section 236(1)(b)(ii) of the Local Government Regulation 2012 applies to the Council regarding the disposal of the land referred to in this report.
2. That, subject to recommendation 3, Friends of the Redcliffe Botanic Gardens Inc be granted a lease over an area at 20-24 Henzell Street, Redcliffe (*refer Supporting Information #1*) for a period of five years.
3. That the terms and conditions of this lease be in accordance with Council's Community Leasing Policy, with annual rental commencing at \$1.00 per annum.
4. That the Chief Executive Officer be authorised to take all action necessary including, but not limited to, negotiating, making, amending, signing and discharging the lease and any required variations of the lease on the Council's behalf, as described in this report.

**REPORT DETAIL**

**1. Background**

The Friends of the Redcliffe Botanic Gardens Inc (the organisation) has held a lease with Council over a building at the Redcliffe Botanic Gardens, 20-24 Henzell Street, Redcliffe (*refer Supporting Information #1*) for the purpose of assisting with the management and operations of the Redcliffe Botanic Gardens. The organisation's operations also include use of a rotunda structure, shed and nursery, all of which have been occupied without formal tenure arrangements in place.

**2. Explanation of Item**

The organisation has made application to Council seeking renewal of its lease at 20-24 Henzell Street, Redcliffe under Council's Community Leasing Policy (2150-079). As part of the lease renewal process, Council officers identified the organisation's exclusive use of the rotunda structure, shed and nursery and the need to include these areas into the organisation's future lease. Following discussion with the organisation regarding its requested lease renewal, the organisation has confirmed its desire to be granted a lease over a revised area inclusive of the rotunda structure, shed and nursery.

The inclusion of the rotunda structure, shed and nursery will see the organisation's lease area increase by approximately 380m<sup>2</sup>, representing an increase of approximately 330% in comparison to its existing lease. In accordance with Council's Community Lease Renewals Policy Directive (No. 2160-024), due to the size of the lease area increase being greater than 20% of the organisation's original lease area, Council must consider the renewal at a General Meeting. Accordingly, this report recommends that Council approves the granting of a new lease to the Friends of the Redcliffe Botanic Gardens Inc over the area identified in *Supporting Information #1* under the terms and conditions of Council's Community Leasing Policy (2150-079). Further, it is recommended that this lease be for a period of five years.

**3. Strategic Implications**

**3.1 Legislative / Legal Implications**

The Council must comply with the *Local Government Act 2009* and the Local Government Regulation 2012 when it disposes of valuable non-current assets. In accordance with section 224(6) of the Regulation, the disposal of a valuable non-current asset includes the disposal of all or any part of an interest in the asset (for example the grant of a lease over land or a building).

Section 236(2) of the Regulation provides that the exception in section 236(1)(b)(ii) of the Regulation applies only if the Council has decided by resolution that it may apply. By resolving that the exception applies, Council can dispose of the land and buildings (via a lease to a community organisation) other than by tender or auction. The organisation identified in this report is a community organisation for the purposes of the Regulation.



ITEM 5.1 LEASE RENEWAL - FRIENDS OF THE REDCLIFFE BOTANIC GARDENS INC - 62402828 (Cont.)

3.2 Corporate Plan / Operational Plan

Valuing Lifestyle: Quality recreation and cultural opportunities - active recreation opportunities

3.3 Policy Implications

The terms and conditions of the proposed lease agreement will be in accordance with Council's Community Leasing Policy (2150-079).

3.4 Risk Management Implications

☒ Nil identified

3.5 Delegated Authority Implications

As per Officer's Recommendation 4 of this report, it is proposed that the Chief Executive Officer be authorised to take all action necessary to execute the new lease.

3.6 Financial Implications

☒ Nil identified

3.7 Economic Benefit Implications

☒ Nil identified

3.8 Environmental Implications

☒ Nil identified

3.9 Social Implications

The issuing of a lease to Friends of the Redcliffe Botanic Gardens Inc will provide the group with additional facilities to support its operations.

3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

3.11 Consultation / Communication

Councillor Winchester (Division 6)  
Relevant Council Departments  
Friends of the Redcliffe Botanic Gardens Inc

## ITEM 5.2 PROPOSED TRUSTEE LEASES - BRIBIE GARDENS CANAL ESTATE

Meeting / Session: 5 COMMUNITY & ENVIRONMENTAL SERVICES  
Reference: 62405930 : 23 July 2021 - Refer Supporting Information 62405933;  
**Confidential Supporting Information 62502128**  
Responsible Officer: AS, Manager Property Services (CES Property & Commercial Services)

### Executive Summary

This report seeks Council's approval to enter into trustee leases to permit the construction of pontoons within the Bribie Gardens Estate canals by adjoining property owners, on the terms outlined in this report.

### RESOLUTION

Moved by Cr Brooke Savage

Seconded by Cr Adam Hain

CARRIED 13/0

1. That the exception contained in section 236(1)(c)(iv) of the Local Government Regulation 2012 applies to the Council regarding the disposal of the property referred to in this report.
2. That the lessees under each proposed lease as identified in the Schedule at *Confidential Supporting Information #1* be granted a lease over the respective lease areas detailed in the Schedule at *Confidential Supporting Information #1* on the terms outlined in this report.
3. That the Chief Executive Officer be authorised to take all action necessary including, but not limited to, negotiating, making, amending, signing and discharging each lease and any required variations of that lease on the Council's behalf, as described in this report.

ITEM 5.2 PROPOSED TRUSTEE LEASES - BRIBIE GARDENS CANAL ESTATE - 62405930 (Cont.)

**OFFICER'S RECOMMENDATION**

1. That the exception contained in section 236(1)(c)(iv) of the Local Government Regulation 2012 applies to the Council regarding the disposal of the property referred to in this report.
2. That the lessees under each proposed lease as identified in the Schedule at *Confidential Supporting Information #1* be granted a lease over the respective lease areas detailed in the Schedule at *Confidential Supporting Information #1* on the terms outlined in this report.
3. That the Chief Executive Officer be authorised to take all action necessary including, but not limited to, negotiating, making, amending, signing and discharging each lease and any required variations of that lease on the Council's behalf, as described in this report.

**REPORT DETAIL**

**1. Background**

The canals within the 'Bribie Gardens Estate' at Bribie Island, being Lot 303 on RP218692 and Lot 147 on RP852171 (Council's Land) are reserve lands managed by Council as trustee, an overview of Council's Land can be found at *Supporting Information #4*.

The proposed lessees have requested a trustee lease over part of Council's Land adjoining their properties for the permitted use as noted in the table below. An aerial view of the respective properties can be found at *Confidential Supporting Information #2* and the plan for each proposed lease can be found at *Confidential Supporting Information #3*.

Council has registered standard trustee lease terms for pontoons within the Estate, with the commercial terms for each lease as outlined below:

Core Term	Description
<b>Term</b>	30 years
<b>Option</b>	Nil
<b>Commencement Date</b>	As set out in the Schedule at <i>Confidential Supporting Information #1</i>
<b>Rent</b>	\$1.00 plus GST (payable upon demand)
<b>Permitted Use</b>	The constructions, placement or erection of facilities for the berthing and/or mooring of marine vessels

The rental of \$1.00 per annum (plus GST) is supported by an independent market valuation provided by a registered valuer, with the relevant pages attached at *Confidential Supporting Information #4*.

**2. Explanation of Item**

The establishment of the Bribie Gardens Estate created a number of canal front allotments offering direct boating access to the Pumicestone Passage. Accordingly, the construction of pontoons, by the owners of canal front allotments, within adjoining Council controlled land is considered an appropriate extension of that purpose.

In accordance with the Land Act 1994 (Qld), Council is required to enter into trustee leases with adjoining landowners for part of Council's Land on which any pontoons are located. Such trustee leases can be granted to the adjoining landowners, in compliance with Section 236(1)(c)(iv) of the Regulation. Given the proposed lease areas form part of a canal and are specifically adjacent to a pontoon owner's property, the land is not considered to be practically accessible or appropriate to be leased by any other party.

In addition, Council's independent market valuation confirms the rental being charged for each lease meets the requirements of s236(3) and 236(5) of the Regulation.

ITEM 5.2 PROPOSED TRUSTEE LEASES - BRIBIE GARDENS CANAL ESTATE - 62405930 (Cont.)

**3. Strategic Implications**

**3.1 Legislative / Legal Implications**

Section 236(1)(c)(iv) of the Regulation allows Council to dispose of a valuable non-current asset without putting the asset to tender or auction if the land is disposed of to a person who owns adjoining land and:

- (a) the land is not suitable to be offered for disposal by tender or auction for a particular reason;
- (b) there is not another person who owns other adjoining land who wishes to acquire the land;
- (c) it is in the public interest to dispose of the land without a tender or auction; and
- (d) the disposal is otherwise in accordance with sound contracting principles.

Council may only rely on this exception if, before granting a lease, it resolves that the exception applies.

**3.2 Corporate Plan / Operational Plan**

Valuing Lifestyle: Quality recreation and cultural opportunities - active recreation opportunities.

**3.3 Policy Implications** ☒ Nil identified

**3.4 Risk Management Implications** ☒ Nil identified

**3.5 Delegated Authority Implications**

In accordance with Officer's Recommendation 3 of this report, it is proposed that the Chief Executive Officer be authorised to take all actions necessary to execute the new leases for each of the Premises outlined in this report.

**3.6 Financial Implications** ☒ Nil identified

**3.7 Economic Benefit Implications** ☒ Nil identified

**3.8 Environmental Implications** ☒ Nil identified

**3.9 Social Implications** ☒ Nil identified

**3.10 Human Rights Implications**

Under the *Human Rights Act 2019* (Qld), Council must not make a decision which is incompatible with a person's human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that Council's decision in this circumstance (if it reflects the officer's recommendation) is compatible with (and does not limit) a person's human rights.

**3.11 Consultation / Communication**

Legal Services

Councillor for Division 1

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**6 FINANCE & CORPORATE SERVICES SESSION**

**(Cr M Constance)**

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**ITEM 6.1  
TENDER - CLOUD AND CONNECTIVITY SERVICES**

*Meeting / Session:* 6 FINANCE & CORPORATE SERVICES  
*Reference:* 62400956 : 5 July 2021 - Refer **Confidential** Supporting Information  
**62425952**  
*Responsible Officer:* SA, ICT Infrastructure and GIS Coordinator (FCS Information & Communication Technology)

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**Executive Summary**

Tenders were invited for the provision and Cloud and Connectivity Services. Tenders closed on 15 June 2021 with a total of seven conforming submissions received.

It is recommended that the tender for Cloud and Connectivity Services be awarded to TPG Networks Pty Ltd for the amount of \$555,408 (excluding GST) as this tender was evaluated as providing the best value to Council.

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**RESOLUTION**

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**Moved by Cr Jodie Shipway**

**Seconded by Cr Mark Booth**

**CARRIED 13/0**

1. That the tender for Cloud and Connectivity Services be awarded to TPG Networks Pty Ltd for the amount of \$555,408 (excluding GST).
2. That the Council enters into an agreement with TPG Networks Pty Ltd as described in this report.
3. That the Chief Executive Officer be authorised to take all action necessary, including but not limited to, negotiating, making, amending, signing and discharging the agreement with TPG Networks Pty Ltd for Cloud and Connectivity Services and any required variations of the agreement on Council's behalf.
4. That it be noted this project has been awarded in accordance with Council's Procurement Policy.

ITEM 6.1 TENDER - CLOUD AND CONNECTIVITY SERVICES - 62400956 (Cont.)

**OFFICER'S RECOMMENDATION**

1. That the tender for Cloud and Connectivity Services be awarded to TPG Networks Pty Ltd for the amount of \$555,408 (excluding GST).
2. That the Council enters into an agreement with TPG Networks Pty Ltd as described in this report.
3. That the Chief Executive Officer be authorised to take all action necessary, including but not limited to, negotiating, making, amending, signing and discharging the agreement with TPG Networks Pty Ltd for Cloud and Connectivity Services and any required variations of the agreement on Council's behalf.
4. That it be noted this project has been awarded in accordance with Council's Procurement Policy.

**REPORT DETAIL**

**1. Background**

Council currently maintains two data centres located in the Caboolture and Strathpine administration buildings. Many of the key hardware elements within the data centres are approaching end of service life which will see an end to manufacturer support.

This project aims to migrate Council's production datacentre to a private cloud facility in the Brisbane region with high speed connectivity. In doing so Council will benefit from:

- a technology refresh for Council's production datacentre while reducing on-premise data centre infrastructure;
- data centre rationalisation and reduced costs associated with running a second data centre;
- a new infrastructure platform to house data and applications that cannot be migrated to TechnologyOne or are cost prohibitive to migrate to public clouds;
- no change in user experience by having the data and applications hosted locally in the Brisbane area with a direct high-speed connection;
- improved system resiliency by hosting in a specialised data centre facility; and
- flexibility to scale if required without the need for major hardware purchases.

One data centre site will remain on Council premises for data backup and disaster recovery purposes.

**2. Explanation of Item**

Public tenders closed on 15 June 2021 with seven conforming tenders received for this project. The tenders were assessed by the assessment panel in accordance with Council's procurement policy and the selection criteria set out in the tender documents.

All tenders with their weightings are tabled below (ranked from highest to lowest):

Rank	Tenderer	Evaluation Score (Post Local Preference)
1	TPG Networks Pty Ltd	106.54
2	Centorrino Technologies Pty Ltd	104.00
3	iSeek Pty Ltd	93.27
4	Optus Networks Pty Ltd	87.51
5	Digital Sense (Option 1)	81.24
6	Blue Apache Pty Ltd	50.90
7	Digital Sense (Option 2)	38.59

ITEM 6.1 TENDER - CLOUD AND CONNECTIVITY SERVICES - 62400956 (Cont.)

**TPG Networks Pty Ltd** received the highest ranking from the selection panel based on the selection criteria. Their submission was comprehensive, exceeded the mandatory requirements, competitively priced, and demonstrated a clear understanding of the scope of works. This is the preferred option as it provides the best value for money to Council and is within the budget allocation.

**Centorrino Technologies Pty Ltd** received the second highest ranking from the selection panel. Their submission was comprehensive, well presented, and met all the mandatory requirements. It was within the budget allocation.

**iSeek Pty Ltd** received the third highest ranking from the selection panel. Their submission was comprehensive, well presented, and met all the mandatory requirements however there was no additional benefit for the higher price.

**Optus Networks Pty Ltd** received the fourth highest ranking from the selection panel. Their submission was complete, well presented but lacked the detail of the other higher-ranking tenders. The submission meets the mandatory requirements but was not within the budget allocation.

**Digital Sense (Option 1)** received the fifth highest ranking from the selection panel. Their submission was comprehensive, well presented, but was not competitively priced when compared to the other higher-ranking tenders. The submission meets the mandatory requirements but was not within the budget allocation.

**Blue Apache Pty Ltd** received the sixth highest ranking from the selection panel. Their submission was complete, well presented, but was not competitively priced when compared to the other higher-ranking tenders. The submission meets the mandatory requirements however there was no additional benefit for the higher price.

**Digital Sense (Option 2)** received the lowest highest ranking from the selection panel. Their submission was comprehensive, well presented, but was not competitively priced when compared to the other tenders. The submission meets the mandatory requirements however there was no additional benefit for the higher price.

### 3. Strategic Implications

#### 3.1 Legislative / Legal Implications

Due to value of work being greater than \$200,000, Council called a public tender for the work through the eProcure tender system in accordance with the *Local Government Act 2009*.

#### 3.2 Corporate Plan / Operational Plan

This project is consistent with the Corporate Plan outcome - Creating Opportunities: Digital literacy and commerce - a digital region.

#### 3.3 Policy Implications

This contract has been procured in accordance with the provisions of:

- Council's Procurement Policy 2150-006;
- *Local Government Act 2009*; and
- Local Government Regulation 2012 Chapter 6.

Tenders were tested against Council's Procurement Policy under the Competitive Local Business and Industry (local preference) initiative.

#### 3.4 Risk Management Implications

The project risk has been assessed and the following issues identified. The manner in which the possible impact of these risks is minimised is detailed below.

ITEM 6.1 TENDER - CLOUD AND CONNECTIVITY SERVICES - 62400956 (Cont.)

*Financial Risks:*

A third-party review of financial status has been carried out and the successful tenderer was rated *Satisfactory*.

*Project Risks:*

- a) The proposed solution provides connectivity redundancy to the hosted location of the cloud services.
- b) Council will maintain a backup copy of data and disaster recovery capabilities in its remaining data centre.
- c) The proposed solution uses the same underlying technologies that Council currently has in its data centres reducing the need for training of Council staff.

3.5 Delegated Authority Implications

Under delegation Council-163, the CEO has the power to enter into contracts up to and including the amount of one percent (1%) of Council's net rate and utility charges as stated in Council's audited financial statements included in Council's most recently adopted annual report - estimated \$3.2M, providing the expenditure has been provided for in Council's annual budget.

Given this is a multi-year agreement, it is reported to Council for consideration.

3.6 Financial Implications

The Cloud and Connectivity contract is over a 3-year term with monthly costs of \$15,428, totalling \$555,408 (ex GST).

The cost for FY2022 has been budgeted.

3.7 Economic Benefit Implications ☒ Nil identified

3.8 Environmental Implications ☒ Nil identified

3.9 Social Implications ☒ Nil identified

3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

3.11 Consultation / Communication

The Procurement and Legal Departments were consulted during this process.



## ITEM 6.2 ADDITIONAL COVID SUPPORT MEASURES

*Meeting / Session:* 6 FINANCE & CORPORATE SERVICES  
*Reference:* 62576850 : 2 August 2021  
*Responsible Officer:* JL, Financial Operations Manager (FCS Financial Operations)

### Executive Summary

The State Government has responded to an outbreak of the highly contagious Delta variant of COVID-19 in the community by declaring a “lockdown” on 11 south east Queensland local government areas.

Assistance measures for the community and local business have already been announced by the Federal and State Governments. This report examines and recommends opportunities for Moreton Bay Regional Council to provide assistance to the community in response to the current lockdown.

### RESOLUTION

Moved by Cr Denise Sims (Deputy Mayor)

Seconded by Cr Matt Constance

CARRIED 13/0

1. That Council endorses the support measures as outlined in this report in order to provide relief to residents, community organisations and local businesses within the Moreton Bay Region experiencing financial hardship due to the coronavirus (COVID-19), and to help stimulate the local economy in the region.
2. That Council is satisfied that during the COVID-19 pandemic, particularly the hard lockdown affecting the Moreton Bay Region in July and August 2021, the payment of rates or charges will cause hardship to landowners and that by granting the following concession it will encourage the economic development of the area.
3. That Council grants a rates concession under section 121(b) of the *Local Government Regulation 2012* (Qld):
  - a) to any ratepayers required to pay rates on property in the Moreton Bay Regional Council area; and
  - b) amend the due date for rates payment to be 15 September 2021.
4. That pursuant to section 257 of the *Local Government Act 2009* (Qld), Council delegates to the Chief Executive Officer the right to:
  - a) determine a ratepayer’s eligibility for the concession under section 120(c) of the *Local Government Regulation 2012* (Qld);
  - b) enter into repayment plans with eligible ratepayers; and
  - c) determine the form of the Repayment Plan Agreement.
5. That consistent with the period of the rates concession above, Council suspend rates collection activities to 15 September 2021.
6. That the Chief Executive Officer be authorised to take all action reasonably required to give effect to implementing and administering these support measures.

ITEM 6.2 ADDITIONAL COVID SUPPORT MEASURES - 62576850 (Cont.)

**OFFICER'S RECOMMENDATION**

1. That Council endorses the support measures as outlined in this report in order to provide relief to residents, community organisations and local businesses within the Moreton Bay Region experiencing financial hardship due to the coronavirus (COVID-19), and to help stimulate the local economy in the region.
2. That Council is satisfied that during the COVID-19 pandemic, particularly the hard lockdown affecting the Moreton Bay Region in July and August 2021, the payment of rates or charges will cause hardship to landowners and that by granting the following concession it will encourage the economic development of the area.
3. That Council grants a rates concession under section 121(b) of the *Local Government Regulation 2012* (Qld):
  - a) to any ratepayers required to pay rates on property in the Moreton Bay Regional Council area; and
  - b) amend the due date for rates payment to be 15 September 2021.
4. That pursuant to section 257 of the *Local Government Act 2009* (Qld), Council delegates to the Chief Executive Officer the right to:
  - a) determine a ratepayer's eligibility for the concession under section 120(c) of the *Local Government Regulation 2012* (Qld);
  - b) enter into repayment plans with eligible ratepayers; and
  - c) determine the form of the Repayment Plan Agreement.
5. That consistent with the period of the rates concession above, Council suspend rates collection activities to 15 September 2021.
6. That the Chief Executive Officer be authorised to take all action reasonably required to give effect to implementing and administering these support measures.

**REPORT DETAIL**

**1. Background**

South East Queensland is currently experiencing an outbreak of the highly contagious Delta variant of the COVID-19 virus. In response to this outbreak, the State Government has imposed a lockdown on 11 local government areas in the south east corner, including Moreton Bay Regional Council from 4pm on Saturday 31 July 2021.

The lockdown was originally anticipated to last three days, however following an increase in case numbers and exposure sites in the community, the State Government has further extended the lockdown period until 4pm on Sunday 8 August 2021, with further extensions possible.

The lockdown has a significant effect on the local business community who, in many cases, are unable to operate during the lockdown period. It also has a significant impact on employees of the local businesses who are unable to work and as a result will experience a reduction in their income. Both the State and Federal Governments have announced relief measures for impacted individuals and businesses.

Since the outbreak of the pandemic in early 2020, Moreton Bay Regional Council has supported the community and local businesses through a raft of assistance measures and targeted projects to stimulate the local economy totalling over \$55 million. Council acted swiftly to ensure immediate support to the community from as early as March 2020 activating most of the levers available to local governments.

*ITEM 6.2 ADDITIONAL COVID SUPPORT MEASURES - 62576850 (Cont.)*

These measures include:

- providing \$7 million in Community Infrastructure Revitalisation and Community Hardship and Assistance Grants;
- rates rebates;
- Food Licence refunds (two financial years);
- suspension of rate collection activities and an introduction of an interest free period;
- deferred payment of infrastructure charges for development projects;
- the introduction of a Local Preference Objective in our Procurement policy;
- fast tracking \$4 million in additional contracted maintenance works;
- recruitment of Council staff providing employment opportunities; and
- fast tracking of payments to suppliers to assist businesses manage cashflow impacts (two payments weekly for the last 18 months upon approval of invoice).

In addition to the measures above, Council received almost \$60 million in State (\$39.3 million) and Federal (\$20.7 million) Government Stimulus grants. Council has invested an additional \$43 million to bring the total infrastructure spend to almost \$105 million. This has enabled Council to fast-track 146 capital projects throughout the region. These projects are estimated to have created nearly 1,600 jobs.

As the current COVID-19 lockdown continues to evolve, it is recommended Council once again look to how it can support the local community. The measures outlined above are a quick response to impacts right across the community and go some way to helping families and businesses manage their cashflow at this time.

## **2. Explanation of Item**

In response to the current lockdown, it is recommended that Council consider the following assistance measures:

1. Defer the due date for the 1 July to 30 September 2021 rates notice by four weeks. The current due date is 18 August 2021 and the deferred due date is proposed to be 15 September 2021.
2. Continue the fast tracking of payments to suppliers until 1 October 2021.
3. Defer the due date for the payment of the renewal of Food Licences until 3 January 2022.

## **3. Strategic Implications**

### **3.1 Legislative / Legal Implications**

The support measures outlined in this report are able to be implemented in accordance with provisions in the *Local Government Act 2009* and the *Local Government Regulation 2012*.

### **3.2 Corporate Plan / Operational Plan**

Strengthening Communities: Strong local governance - strong leadership and governance.

### **3.3 Policy Implications**

All policies have been complied with in developing the recommendations for Council's consideration.

### **3.4 Risk Management Implications**

The primary risk is reputational due to the potential for the community to hold differing views on the proposed support measures. This will be managed through community messaging.

### **3.5 Delegated Authority Implications**

☒ Nil identified

ITEM 6.2 ADDITIONAL COVID SUPPORT MEASURES - 62576850 (Cont.)

3.6 Financial Implications

The above measures will have the following financial implications:

- Prolonging the receipt of rates payments and food licences as well as the fast tracking payments to suppliers will impact cash flow, however the effect on investment interest earnings from this delay will be negligible.
- Delaying the due date will also delay the date in which rates and charges are considered overdue. This will delay the commencement of penalty interest charges on overdue rates relating to this quarter. The effect penalty interest earnings is not expected to be significant.

3.7 Economic Benefit Implications

These measures will reduce the immediate burden on businesses and individuals suffering financial loss as a result of the lockdown and provide them with additional short term cashflow to be able to sustain and recover from the lockdown.

3.8 Environmental Implications ☒ Nil identified

3.9 Social Implications ☒ Nil identified

3.10 Human Rights Implications

Under the Human Rights Act 2019 (QLD), Council must not make a decision which is incompatible with human rights. Council must also give proper consideration to any human rights relevant to its decision. Officers consider that there are no human right implications relevant to Council's decision in this matter.

3.11 Consultation / Communication

Chief Executive Office and Executive Leadership Team  
Chief Legal Counsel  
Director Finance and Corporate Services  
Financial Operations Manager

**ATTENDANCE**

Ms Kate Draper and Mr Darren Dallinger attended the meeting at 11.01am for discussion on General Business items.

## 10. NOTIFIED GENERAL BUSINESS ITEMS OR RESPONSE TO QUESTIONS TAKEN ON NOTICE

### ITEM 10.1 WASTE TRANSFER STATIONS

(TL)

Residents who do not have Council kerbside waste collection are unable to dispose of their waste whilst waste transfer stations are closed during lockdown.

#### RESOLUTION

Moved by Cr Tony Latter

Seconded by Cr Darren Grimwade

CARRIED 13/0

That waste transfer stations be opened and operated in line with State Government Health updated information to facilitate the disposal of waste for residents who do not have Council kerbside waste collection.

### ITEM 10.2 REKO RING

(DG)

Cr Darren Grimwade made special mention of the outstanding work done by REKO Ring in Samford and Dayboro across the last week. Current lockdown restrictions lead to the cancellation of the Moreton Bay Food & Wine Festival which left many vendors and businesses with an excess of food which would have otherwise perished. REKO Ring offered their assistance in facilitating the sale of excess food so as not to go to waste and to support businesses. Cr Grimwade thanked REKO Ring Samford and Dayboro and said that he appreciated the work they did.

Cr Peter Flannery (Mayor) concurred with Cr Grimwade and noted that it was great to see the community come together to support those businesses and vendors ready for the Moreton Bay Food & Wine Festival that unfortunately did not proceed.

Cr Jodie Shipway also noted her appreciation and said that REKO Ring are also located in North Lakes and they too are supporting from this weekend with COVID safe plans.

### ITEM 10.3 RNA SHOW HOLIDAY 2021

(MC)

On 5 August 2020 Moreton Bay Regional Council in Item 1.8 adopted Monday 9 August 2021 as the Royal National Show Holiday in the Moreton Bay Regional Council area.

Given the current lockdowns and changes by other South East Queensland Councils council reconsiders the date allocated.

#### RESOLUTION

Moved by Cr Matt Constance

Seconded by Cr Mark Booth

CARRIED 13/0

That Council seeks State Government approval to defer the RNA Show Holiday on Monday 9 August 2021 for a future date to be determined.

**ITEM 10.4**  
**SUPPORT FOR TAKEAWAY FOOD VENDORS**  
(MC)

**RESOLUTION**

Moved by Cr Matt Constance

Seconded by Cr Brooke Savage

**CARRIED 13/0**

1. That in-line with the Chief Health Officer Directive Restrictions for Locked Down Areas (South-East Queensland) Direction (No. 4) council support the continued operation of takeaway food vendors, including those with permits under the Moreton Bay Popup program.
2. That Council notes that many of these businesses are local small business operators and the CHO directive places additional requirements on operators including check-in and social distancing and the provision of takeaway meals only.
3. That Council also notes that should the CHO directive be amended to specifically exclude mobile vendors from takeaway operations the CEO may be required to make amendments to the approach as described in 1 and 2 above.

**ITEM 10.5**  
**ACTIVE TRAVEL PATHWAY - FRESHWATER CREEK, GRIFFIN TO MANGO HILL**  
(JS)

Griffin residents often utilise services, shopping and schools in North Lakes, however they are required to travel via Murrumba Downs and Kallangur.

Cr Shipway requested that the Chief Executive Officer investigate the possibility of an active travel pathway across Freshwater Creek between Griffin and Mango Hill, which would also provide vital connections for those residents of Griffin wanting to access the train stations in Mango Hill and provide safer and quicker connectivity to schools for students travelling from Griffin to the Mango Hill State School and new Secondary College.

Deputy Premier Steven Miles and Local MP has also provided his support to Cr Shipway at investigating the option of this connection.

**RESOLUTION**

Moved by Cr Jodie Shipway

Seconded by Cr Denise Sims (Deputy Mayor)

**CARRIED 13/0**

**That the Chief Executive Officer investigate an active travel pathway across Freshwater Creek between Griffin and Mango Hill.**

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## 11. CLOSED SESSION

*(s254J of the Local Government Regulation 2012)*

Consideration of confidential officers' reports as referred by the Chief Executive Officer and confidential general business matters as raised at the meeting.

### CLOSED SESSION

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#### RESOLUTION

Moved by Cr Karl Winchester

Seconded by Cr Matt Constance

CARRIED 13/0

That Council move into closed session pursuant to the provisions of s254J of the Local Government Regulation 2012 to discuss Items C.1.

The closed session commenced at 11.57am (recording paused).

### OPEN SESSION

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#### RESOLUTION

Moved by Cr Cath Tonks

Seconded by Cr Tony Latter

CARRIED 13/0

That Council resume in open session and that the following motions be considered.

The open session (recording) resumed at 12.04pm.

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**12a. CONFIDENTIAL OFFICERS' REPORTS TO COUNCIL**

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**ITEM C.1 – CONFIDENTIAL**

**ACQUISITION OF EASEMENT FOR DRAINAGE PURPOSES**

**Meeting / Session:** 5 COMMUNITY & ENVIRONMENTAL SERVICES

**Reference:** 62205158 : 26 July 2021 - Refer **Confidential** Supporting Information  
62205159

**Responsible Officer:** AS, Manager Property Services (CES Property & Commercial Services)

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**Basis of Confidentiality**

Pursuant to s254J(3) of the Local Government Regulation 2012, clause (g), as the matter involves negotiations relating to a commercial matter involving the local government for which a public discussion would be likely to prejudice the interests of the local government.

**Executive Summary**

The State of Queensland (represented by the Department of Resources) has written to Council advising that it is willing to grant an easement in favour of Council for drainage purposes over part of unallocated State land (USL).

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**RESOLUTION**

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Moved by Cr Brooke Savige

Seconded by Cr Mick Gillam

**CARRIED 13/0**

1. That Council resolves to accept the offer from the Department of Resources for the granting of the easement in favour of Council over part of the unallocated State land (USL).
2. That Council delegates to the Chief Executive Officer the power to negotiate and finalise the terms of the easement as set out in the offer from the Department of Resources attached to this confidential report.
3. That Council authorises the Chief Executive Officer to do all things that are reasonable and necessary to assist the Department of Resources creating the easement.



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**12b. CONFIDENTIAL GENERAL BUSINESS**

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No items for consideration.

**13. CLOSURE**

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There being no further business the Chairperson closed the meeting at 12.06pm.

CHIEF EXECUTIVE OFFICER'S CERTIFICATE

I certify that minute pages numbered 21/1209 to 21/1292 constitute the minutes of the General Meeting of the Moreton Bay Regional Council held 4 August 2021.

\_\_\_\_\_  
Greg Chemello  
Chief Executive Officer

CONFIRMATION CERTIFICATE

The foregoing minutes were confirmed by resolution of Council at its meeting held Wednesday 18 August 2021.

\_\_\_\_\_  
Greg Chemello  
Chief Executive Officer

\_\_\_\_\_  
Councillor Peter Flannery  
Mayor