

Thursday, 27 January 2022

9:00 AM

Tully Civic Centre  
Council Chambers Level 2  
38-40 Bryant Street  
Tully Q 4854



Cr Mark Nolan - Mayor  
Cr Barry Barnes - Division 1  
Cr Teresa Millwood - Division 2  
Cr Trudy Tschui - Division 3  
Cr Nicholas Pervan - Division 4  
Cr Jeff Baines - Division 5  
Cr Renee McLeod - Division 6

## LOCAL GOVERNMENT MEETING

### MINUTES

#### Welcome

Cr M Nolan (Chairman) welcomed everyone and opened the Local Government Meeting at 9:00am.

#### Present

Crs M Nolan (Mayor), B Barnes (Deputy Mayor), T Millwood, T Tschui, N Pervan, J Baines and R McLeod, Mr A Graffen (Chief Executive Officer), Mr A Sadler (Director Delivery Services), Mr S Page (Manager Water), Mr D Walker (ICT Customer Support Officer) and Mrs J Sands (Minutes Clerk)

#### Acknowledgement of Country

The Mayor acknowledged the traditional custodians of this land on which we stand, the Gulngay people and acknowledged his respect for their current and emerging elders, and those in dreaming and thanked them for the contributions they have made in building this community.

#### Apologies

Mr D Goodman (Director Infrastructure Services)

#### Minute Silence for Mr Les Scheu

Les Scheu was a long-serving Local Government Councillor who served 19 years with the Johnstone Shire Council and was a Life Member and Patron of many sporting clubs and made a huge contribution to the community. In honour of Mr Les Scheu, a Minutes Silence was observed by all present.

#### Declaration of Prescribed Conflicts of Interest or Declarable Conflicts of Interest

Cr M Nolan (Chairman) invited those present to use this opportunity to make public any Prescribed Conflicts of Interest or Declarable Conflicts of Interest in respect of the Items in the Agenda.

Councillors should use this opportunity to disclose and/or comment on other Councillors and/or Staff interests in accordance with the Act and Regulations.

#### DECLARATION

Mr A Graffen (CEO) advised that whilst he is not a decision maker in **Item 8.1 Request for Legal Assistance by the Chief Executive Officer**, this Item does relate to an application for legal assistance for himself in his role as Chief Executive Officer and Mr Graffen advised that he would leave the room during that Item to allow Council to consider the matter.

## **1. CONFIRMATION OF MINUTES**

### **1.1 Minutes of the Local Government Meeting dated 9 December 2021**

#### **Recommendation**

**"That the Minutes of the Local Government Meeting held on 9 December 2021 be confirmed as a true and correct record."**

**Moved Cr N Pervan**

**Seconded Cr B Barnes**

**Resolution Number LG1178**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

## **2. BUSINESS ARISING FROM PREVIOUS MINUTES**

### **2.1 Normalisation of Port Hinchinbrook - December Update (*Item 4.1 Normalisation of Port Hinchinbrook - December Update - LG Meeting 9/12/2021*)**

Cr T Millwood asked if Council has confirmation on all the funding from the State and Federal Governments and does Council have any indication of the additional \$1.9M which was requested with the funding. Mr A Graffen advised that Council has received a final draft of the State Funding Agreement and has been returned to the State to make some final amendments following a meeting this week. Council hopes that this Agreement will be back with Council for execution next week which is the \$6.3M from the State. Council has received correspondence this week with the Federal Government in relation to the funding for the emergency dredging funding of \$1.5M for One Mile Creek and Council hopes to have the draft Agreement in the next week to start doing a review and some final negotiations. Council has also followed up with the Federal Government the receipt of the draft Agreement for the \$6M.

Cr Millwood also asked for the meaning of emergency dredging and the CEO advised that emergency dredging is focussing on making One Mile Creek navigable again. It is not a funding agreement for ongoing maintenance dredging of that channel - it is to open up that channel and make it navigable again.

### **2.2 Petition - Request for Walking Track Between Tully and Alligators' Nest (*Item 9.1 Petition - Request for Walking Track Between Tully and Alligators' Nest - LG Meeting 9/12/2021*)**

Cr T Millwood asked if Council has proceeded with an application for the relative funding through the Walking Local Government Grants Program. Mr A Graffen took the question on notice and will provide an administrative response.

### **2.3 Removal of Vehicle - Feluga (*Item 10.3 Removal of Vehicle - Feluga - LG Meeting 9/12/2021*)**

Cr T Millwood thanked Mr A Graffen (CEO) and other staff for seeing to the removal of the car on Jack Drive which Cr Millwood has wanted resolved for some time.

### **2.4 Wayfinding Signage (*Item 10.15 Wayfinding Signage - LG Meeting 9/12/2021*)**

Cr T Millwood asked if there was any line of sight to the repairs to the wayfinding signs. Mr A Graffen (CEO) advised that there is a contractual issue with the Wayfinding Signs at the moment. The Project Manager for that project has been in contact with the contractors and those signs are

currently still in their defects liability period so the repairs are a requirement for those contractors to undertake and Council is waiting for a response from the Contractors. There has been significant correspondence particularly in relation to getting the lights and the Innisfail signs working and our Delivery team in Asset Maintenance is looking at an ongoing maintenance program for those signs once Council is out of that defects liability period.

### **2.5 After Hours Telephones (Item 10.18 After Hours Telephones - LG Meeting 9/12/2021)**

Cr T Millwood asked if there is a new contract to be sought for the After Hours number. Mr A Graffen (CEO) advised that Council is considering an Item today that puts a focus back into that community area. We have been under resourced in that area for some time but that will be a direct focus to go to Tender and to have a contract in place for that After Hours line.

## **3. RECEIPT OF MINUTES**

### **3.1 Audit Committee Report**

#### **Executive Summary**

The Cassowary Coast Regional Council Audit Committee meets quarterly each financial year to review matters relating to the operational risks and control measures detailed in its internal audit plan, as required by the *Local Government Regulation 2012*.

The minutes of the meeting contain a summary of matters which were discussed and are provided for Council's information.

#### **Recommendation**

**"That the unconfirmed minutes, which include relevant matters discussed at the Cassowary Coast Regional Council Audit Committee Meeting held on Thursday 2 December 2021, be noted."**

**Moved Cr J Baines**

**Seconded Cr T Tschui**

**Resolution Number LG1179**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

9:08am Ms L Koppen-Bradley (Business Support Accountant) entered the meeting

## **4. GOVERNANCE, ENVIRONMENT & FINANCE**

### **4.1 Finance Report December 2021**

#### **Executive Summary**

The Chief Executive Officer is required by Section 204(2) of the *Local Government Regulation 2012* to present the financial report at a meeting of the Local Government once each month. The financial report must state the progress that has been made in relation to the Local Government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

Council adopted the 2021-2022 budget on 25 June 2021 and approved the RB1 budget review on 25 November 2021 which is reflected in the attached Finance Report. The report provides information and tracks Council's year-to-date revenue and expenditure across all Departments, Programs and by

Services. It also includes crucial financial statistical data which highlights Council's operations.

**Recommendation**

**"That the report be received and noted."**

**Moved Cr R McLeod**

**Seconded Cr J Baines**

**Resolution Number LG1180**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

9:11am Ms L Koppen-Bradley left the meeting

## **4.2 Organisational Structure - Customer Experience**

### **Executive Summary**

Council first identified customer service as a key focus in 2016 and included a goal of 'Community First' in Council's Corporate Plan 2017 – 2022. This theme is continued in Council's Strategic Plan 2021-25 as Goal 1: Community – Our People.

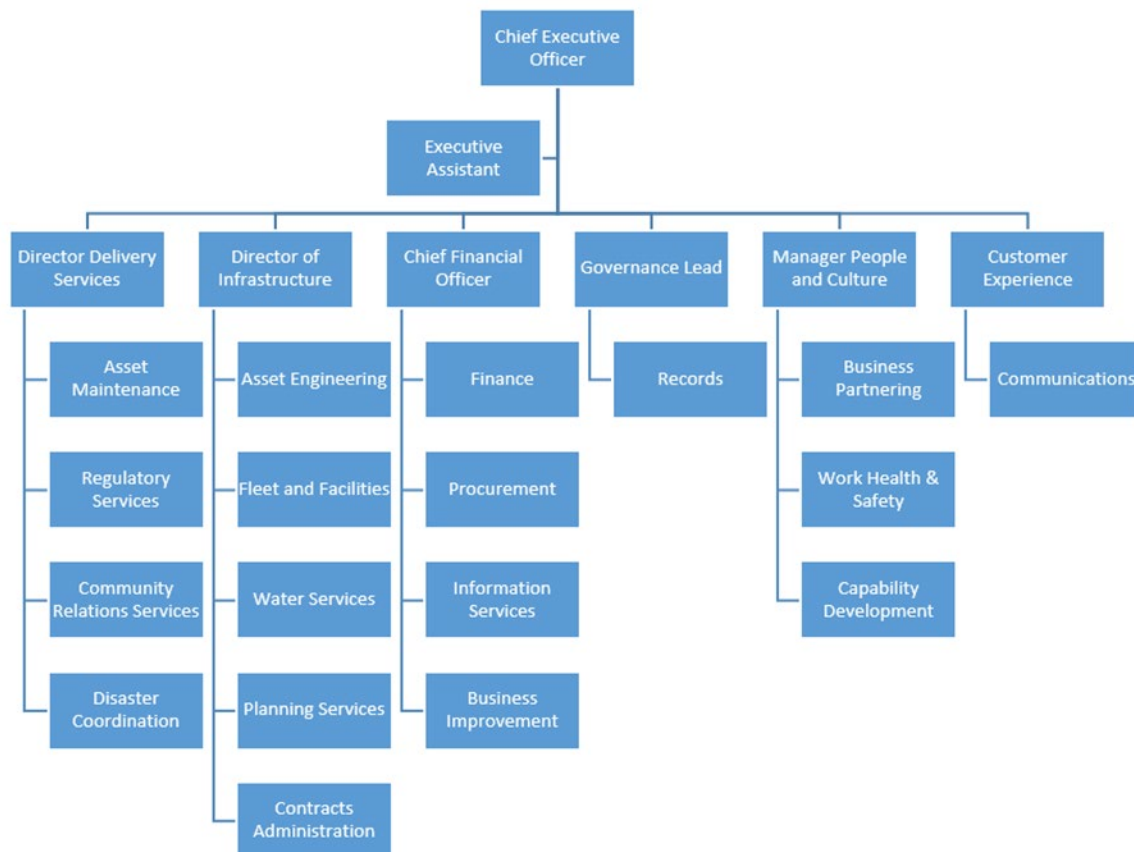
Council has been on this journey of improved customer experience and satisfaction since 2016. Council has acknowledged Customer Experience is a whole of organisation focus and not a department within the organisation. To date, levels of customer satisfaction have not changed materially therefore this report proposes to amend the organisational structure and have the Manager Customer Experience and department report directly to the Chief Executive Officer.

The role will have a functional relationship with all other delivery departments however delivery departments will retain responsibility for the outcomes of their services.

### **Recommendation**

**"That Council:**

- 1. Notes the adjustment of reporting lines as detailed within the report; and**
- 2. Adopts the new structure for Cassowary Coast Regional Council:**



Moved Cr J Baines

Seconded Cr T Tschui

Resolution Number LG1181

"That the Recommendation be adopted."

FOR: Unanimous

CARRIED

9:19am Mr P McBride (Facilities Asset Manager) entered the meeting

## 5. ASSET SUSTAINABILITY

### 5.1 Water Section - Performance Report 2020/2021

#### Executive Summary

Council is a registered Water Service Provider (WSP) under the *Water Supply (Safety and Reliability) Act 2008* (the Act) and one of its legislative obligations is to provide an annual performance report on prescribed indicators nominated by the Department of Regional Development, Manufacturing and Water (DRDMW) as the Queensland Water Supply Regulator (the Regulator). The data required by the Regulator covers details such as connected populations, asset information, water treatment and sewerage treatment volumes, staff information, system performance, customer service and financials. The water and sewerage data required by the Regulator was loaded into the State-wide Water Information Management (SWIM) portal to meet the 17 December 2021, lodgement date.

In addition to the lodgement of data into the SWIM system, Council must also publicly publish its performance with commentary on key indicators.

The Cassowary Coast Regional Council Water and Sewerage Services Performance Report for 2020-21 satisfies Council's requirements under Section 142A of the *Water Supply (Safety and Reliability) Act 2008* ("the act"), to prepare a performance report on water and sewerage services for the 2020-2021 financial year.

The report is structured to give an overview of the extent of Council's water and sewerage schemes followed by discussion on results of some of the key performance indicators (KPI's) for water services and sewerage services lodged in the SWIM system. The data lodged in the SWIM system is included in the report.

In addition to reporting against SWIM data, the Performance Report also includes an overview of Council's adopted Customer Service Standards and our performance against these standards as well an overview on Council's drinking water services measured against the requirements of its approved drinking water quality management plan (DWQMP).

The Performance Report assists the Regulator to determine whether the approved DWQMP and any approval conditions have been complied with and provides a mechanism for providers to report publicly on their performance in managing drinking water quality.

#### **Recommendation**

**"That Council:**

- 1. Notes the Cassowary Coast Regional Council Water and Sewerage Services Performance Report for 2020-21. This report has been forwarded to the Regulator and has been published on Council's web site.**
- 2. Notes that the service level for water main breaks has not been achieved this financial year and request the Chief Executive Officer considers this in preparation of the 22/23 budget."**

**Moved Cr N Pervan**

**Seconded Cr R McLeod**

**Resolution Number LG1182**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

## **5.2 Asset Rationalisation Process - Lease Report - Tully Support Centre Inc.**

### **Executive Summary**

Pursuant to the *Local Government Regulation 2012*, the grant of a lease is a "disposal of a valuable non-current asset" which must go to public tender or auction unless an exception in Division 4 applies. Section 236(b)(ii) of the Regulation allows for a disposal to a "community organisation" (meaning a not for profit group) without public tender or auction provided there is a prior resolution by Council to apply the exception.

Council officers have been working with staff from Tully Support Centre ("TSC") regarding a lease

to allow them to continue to utilise their current premises at 54 Bryant Street, Tully.

**Recommendation\_**

**" That Council:**

**1. Apply the exception contained in Section 236(b)(ii) of the *Local Government Regulation 2012* to grant a lease to Tully Support Centre Inc. in line with the following key terms:**

**i. Premises: 54 Bryant Street, Tully**

**ii. Term: 30 years from 01.11.2021 to 31.10.2051**

**iii. Rent: \$1.00 if demanded**

**iv. Outgoings: Rates and charges**

**v. Permitted Use: Centre for community facilities and support services.**

**2. Authorise the Chief Executive Officer to execute the lease on behalf of the Council as Lessor.**

**3. Authorise the Chief Executive Officer to ensure ongoing compliance with all terms and conditions of the lease."**

**Moved Cr T Millwood**

**Seconded Cr N Pervan**

**Resolution Number LG1183**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

**5.3 Asset Rationalisation Process - Lease Report - Tully Bowhunters Club Inc.**

**Executive Summary**

Pursuant to the *Local Government Regulation 2012*, the grant of a lease is a "disposal of a valuable non-current asset" which must go to public tender or auction unless an exception in Division 4 applies. Section 236(b)(ii) of the Regulation allows for a disposal to a "community organisation" (meaning a not for profit group) without public tender or auction provided there is a prior resolution by Council to apply the exception.

Council officers have been working with the committee of Tully Bowhunters Club Inc. ("TBC") regarding a lease to allow them to continue to utilise their current premises at Tully Gorge Road, Tully.

**Recommendation**

**"That Council:**

**1. Apply the exception contained in Section 236(b)(ii) of the *Local Government Regulation 2012* to grant a lease to Tully Bowhunters Club Inc. in line with the following key terms:**

**i. Premises: Tully Gorge Road, Tully**

**ii. Term: 10 years from 01.12.2021 to 30.11.2031**

**iii. Rent \$1.00 (if demanded)**

**iv. Outgoings: All rates and charges**

**v. Permitted Use: Bowhunters and Archery Club and ancillary purposes**

**2. Authorise the Chief Executive Officer to execute the lease on behalf of the Council as Lessor.**

**3. Authorise the Chief Executive Officer authority to ensure ongoing compliance with all terms and conditions of the lease."**

**Moved Cr T Millwood**

**Seconded Cr J Baines**

**Resolution Number LG1184**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

9:36am Mr B Slattery (Program Lead Asset Maintenance) entered the meeting

9:36am Mr P McBride left the meeting

9:36am Mr D Horton (Manager Planning Services) and Mr B Jones (Senior Planner/Strategic Planner) entered the meeting

## **5.4 CCRC Capital Report - December 2021**

### **Executive Summary**

Council has adopted its Capital Works Program for the 2021-22 financial year. The status of individual projects is reported monthly.

### **Recommendation**

**"That Council receive the report and acknowledge the status of Capital Works projects managed by it."**

**Moved Cr T Tschui**

**Seconded Cr B Barnes**

**Resolution Number LG1185**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

## **6. PLANNING SERVICES**

### **6.1 Delegations Report and Current Applications**

#### **Executive Summary**

The Planning Services Delegations report detailing approvals issued under Delegated Authority during the month of December 2021 is presented for Councillors information.

Additionally I wish to outline that you can view documents related to any proposed development and make a submission using Council's MyCouncil platform via Councils website.

MyCouncil provides self-service options for the community 24/7 and includes the following features:



- ☐ Lodge a Customer Request (CR)
- ☐ Lodge a development application (planning, building or plumbing & drainage)
- ☐ Submit a planning & development or building records search request
- ☐ Track a CR or development application
- ☐ Make a submission on a development application on public notification
- ☐ Conduct a land parcel search
- ☐ View decision notices for development applications

**Recommendation**

**"That the Delegations report listing statistics on approvals issued by Planning Services from December 2021 be noted and received."**

**Moved Cr N Pervan**

**Seconded Cr T Millwood**

**Resolution Number LG1186**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

9:50am Cr T Tschui left the meeting

9:52am Cr T Tschui re-entered the meeting

**6.2 MCU21/0038 - Material change of use for a showroom expansion on land described as Lot 5 on RP708133 and Lot 6 on SP125415, situated at 23-29 Palmerston Drive, Goondi Bend**

**Executive Summary**

Council is in receipt of an application for a Material Change of Use. The application was prepared by Urban Sync on behalf of JEC Super Pty Ltd for the expansion of showroom activities on land described as Lot 5 on RP708133 and Lot 6 on SP125415 situated at 23-29 Palmerston Drive, Goondi Bend.

The proposed development involves a minor expansion to the existing John Cole Toyota dealership to facilitate a new dealership/s and showroom/s, as well as an expansion of the existing back of house facilities to cater for the new dealership/s and showroom/s.

The application is Code Assessable and therefore public notification was not required.

The application triggered referral to the Department of State Development, Infrastructure, Local Government and Planning - State Assessment Referral Agency (SARA) Response (2109-24927 SRA).

The subject site is located within the Urban Footprint and it is considered that the application is consistent with the intent of the Far North Queensland Regional Plan 2031 as it provides for an urban use in the form of an expansion to an existing commercial business.

The application is generally consistent with the provisions of the Cassowary Coast Regional Council Planning Scheme 2015 and the Far North Queensland Regional Plan 2031 therefore the

application for Material Change of Use for a Showroom Expansion on land described as Lot 5 on RP708133 and Lot 6 on SP125415 situated at 23-29 Palmerston Drive, Goondi Bend for approval subject to reasonable and relevant conditions.

**Recommendation**

**"That a Development Permit be issued for a Material Change of Use for a Showroom Expansion on land described as Lot 5 on RP708133 and Lot 6 on SP125415 situated at 23-29 Palmerston Drive, Goondi Bend, subject to the conditions in Annexure 1."**

**Moved Cr T Millwood**

**Seconded Cr N Pervan**

**Resolution Number LG1187**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

**6.3 MCU21/0044 - Material Change of Use for a Food and Drink Outlet (Food/Coffee Van) on land described as Lot 509 on NR6315, situated at Bruce Highway, Silkwood QLD 4856**

**Executive Summary**

Council is in receipt of an application for a Material Change of Use prepared by Vision Surveys (QLD) Pty Ltd on behalf of NM & AA Foley Superannuation Pty Ltd for a Food and Drink Outlet (Food/Coffee Van) on land described as Lot 509 on NR6315 situated at Bruce Highway, Silkwood QLD 4856. The site is located in the Township Zone, Villages Industry Precinct and has an existing industrial business which operates from the site.

The proposed development seeks a development permit to allow the establishment of a Food and Drink Outlet (Food/Coffee Van) on the site. The Food and Drink Outlet will consist of a single van located towards the Bruce Highway frontage of the site. The van will provide for food and drink to the travelling public. The van will not be a permanent structure and will operate with two (2) employees between Thursday and Sunday from 7:00am to 3:00pm. The van currently operates from the Diggers Creek rest area on the outskirts of El Arish.

The application is Impact Assessable and therefore public notification was required. Zero properly made submissions were received by Council.

The application triggered referral to the Department of State Development, Infrastructure, Local Government and Planning - State Assessment Referral Agency (SARA) Response (2110-25599 SRA) dated 30 November 2021.

Due to the small scale of the development and mixed use nature of the locality, the proposed development is considered to be in keeping with the existing character of the area, in addition to this there will be no impacts to the amenity and environmental values of the area.

The subject site is located within the Urban Footprint and it is considered that the application is consistent with the intent of the Far North Queensland Regional Plan 2009-2031 as it provides for a food and drink outlet within an urban area.

The application is generally consistent with the provisions of the Far North Queensland Regional Plan 2009-2031 and Cassowary Coast Regional Council Planning Scheme 2015 and therefore the application for a Material Change of Use for a Food and Drink Outlet (Food/Coffee Van) on land described as Lot 509 on NR6315 situated at Bruce Highway, Silkwood QLD is recommended for approval subject to reasonable and relevant conditions.

**Recommendation**

**"That a Development Permit be issued for a Material Change of Use for a Food and Drink Outlet (Food/Coffee Van) on land described as Lot 509 on NR6315 situated at Bruce Highway, Silkwood QLD subject to the conditions in Annexure 1."**

**Moved Cr T Millwood**

**Seconded Cr J Baines**

**Resolution Number LG1188**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

**6.4 MCU21/0047 - Material change of use for multiple dwellings (9 units) on land described as lot 1 on RP714317, situated at 2 Emily Street, Innisfail QLD 4860**

**Executive Summary**

Council is in receipt of an application for a Material Change of Use prepared Gilvear Planning on behalf of Ralphs Ranch Pty Ltd for Multiple Dwellings (9 Units) on land described as Lot 1 on RP714317 situated at 2 Emily Street, Innisfail. The site is located in the Township Zone, Innisfail Local Plan Residential Choice Precinct and has a class 1 a dwelling house which is proposed to be removed from the site and repurposed.

The proposed development involves the construction of a three storey apartment building with a maximum height of 11.5 metres comprising of 7 x 1 bedroom units and 2 x 2 bedroom units.

The development application was impact assessable and therefore required public notification was required. One (1) properly made submission was received by Council during the notification period which raised objections to the proposed development.

The application did not trigger referral to the Department of State Development, Infrastructure, Local Government and Planning - State Assessment Referral Agency (SARA). However Council sought advice from Queensland Health in regards to the potential impact of the height of the development and construction activities on the operations of the Innisfail Hospital Helipad.

The application is generally consistent with the provisions of the Far North Queensland Regional Plan 2009-2031 and the Cassowary Coast Regional Council Planning Scheme 2015 and therefore the application for a Material Change of Use for Multiple Dwellings (9 Units) on land described as Lot 1 on RP714317 situated at 2 Emily Street, Innisfail QLD 4860 is recommended for approval subject to reasonable and relevant conditions.

**Recommendation**

**"That a Development Permit be issued for a Material Change of Use for Multiple Dwellings (9 Units) on land described as Lot 1 on RP714317 situated at 2 Emily Street, Innisfail QLD 4860 subject to conditions in Annexure 1."**

**Moved Cr N Pervan**

**Seconded Cr T Tschui**

**Resolution Number LG1189**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

**6.5 MCU21/0046 - Material change of use for roadside stall on land described as Lot 22 on RP732716, situated at 85 Palmerston Drive, Goondi Bend**

**Executive Summary**

Council is in receipt of an application for a Material Change of Use. The application was prepared by Dylan De Faveri for the establishment of a Roadside Fruit Stall within the Township Zone on land described as Lot 2 on RP732716, situated at 85 Palmerstone Drive, Goondi Bend.

The proposed development involves a material change of use to allow the owner of the residential property to sell fruits using a roadside stall located within the lot. There will be an entry and exit point to Palmerston drive (state-controlled road) and two car parking spaces will be provided on the lot to complement the use.

**Recommendation**

**"That a Development Permit be issued for a Roadside Stall on land described as Lot 2 on RP732716, situated at 85 Palmerston Drive, Goondi Bend subject to conditions in Annexure 1."**

**Moved Cr T Tschui**

**Seconded Cr B Barnes**

**Resolution Number LG1190**

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

**7. GENERAL BUSINESS**

**7.1 Funding Submission**

Cr T Millwood advised that she had been informed that the Atherton Road project has been removed from Council's Work schedule and asked where the funding for the project would be diverted to. Mr B Slattery (Program Lead Asset Maintenance) advised that the Atherton Road project was one project that sat inside a Submission for a Works for Queensland Package, Submission 3 and that project is not going ahead. In terms of the funding Council has made an application to the Department to try and get those funds redisbursed amongst other projects within that same submission. Specifically Mr Slattery does not know which ones they are and Council has not had a response from the Department but currently that is what Council is looking to do. Cr Millwood made a request that maybe the funds could be put into the Revitalisation of Tully Project.

**7.2 Scrap Metal Bailers**

Cr T Millwood advised that scrap metal bailers were supposed to come before Christmas and it has been brought to her attention that the Bell's Creek facility has got mounds of white goods and scrap metals at the local and enquired if there have been any further advances because Council actually pays the scrap metal bailers twice a year to dispose of all the scrap metal and they have not attended in the past 12 months. Cr Millwood will follow this matter through with FNQROC if this has

not been carried out. Mr A Sadler (Director Delivery Services) advised that he will seek an update on the situation. There were issues with the Bailiff from the contract in relation to Council's scrap metal piles and they were scheduled to be on site at the beginning of this week and Mr Sadler will follow through and provide an outcome.

Cr B Barnes referred to the revenue received from the scrap metal because in his opinion scrap metal is currently at an all-time high. Mr A Sadler agreed advising that part of the FNQROC contract that Council is a part of, Council does receive revenue from that work.

### **7.3 Slashing in the Region**

Cr T Millwood asked if there was any line of sight to slashing in the region. Mr Sadler advised that as highlighted in earlier reports today, Council does have about a 25% reduction in staff due to COVID leave, annual leave or sick leave and there is a backlog and Mr Sadler did inform Council at the end of last week. Council does have a backlog of vegetation maintenance and grass cutting that is being monitored which has been impacted by a number of issues. Machinery is ready to go and Council will look at any external support if the backlog continues. Cr Millwood agreed that Council does not want to look at outside contractors but maybe for the short term it might be worth considering. Mr Graffen (CEO) added that there is a focus on the level of service and obviously the reduced level of service from an aesthetic slashing point of view, but those resources are being focussed onto those that are a safety concern. If there are members of the community that have specific areas where they feel that reduction in level of service due to the matters that Mr Sadler highlighted are causing a safety concern, the CEO encourages the community to please contact Council and those resources can again continue to be focussed on those safety areas. Apologies are offered but Council is impacted like most other organisations with what is being experienced at the moment and it has meant that from an aesthetic point of view that Council is not meeting that level of service that the public may be used to in some areas but safety is still a focus.

Cr B Barnes advised that Council have been using contractors for some time and that there are two (2) main green slashes in the southern section did have turbo issues and there was a long wait for parts so contractors were employed and are currently still using them but as Cr Millwood stated there is a big backlog and the growing conditions recently has made it an endless task.

### **7.4 Feral Pigs**

Cr B Barnes advised that there had been a major influx of feral pigs within the last three or four weeks, especially in the farming area. Cr J Baines advised that there is a Feral Pig Meeting to be held on Thursday 3 February 2022 which is the last meeting for the State Program with presentation and the attendance of the National Coordinator for the National Pig Program. There was a hiatus over the Christmas break period on baiting but the baiting program is up and running as of the 19 January 2022. There are a lot of growers in cane and bananas that are part of it and would like as a program, that as many of them as possible come forward and talk to Council because if baiting clusters can be set up it makes it much easier upon all of the landholders. If there were a cluster of landholders in an area where these programs can be held it restricts the amount of notification that is needed because there is only negotiation with the boundary holders around the outside of the cluster. Council does not do that work directly but it will assist in that type of work. The baiting program is ongoing. - where do we go in the future? The State funded program was very successful and ran for three years and has been very well supported. Three years in this region is not long enough to set something like this in place and Cr Baines would encourage the State or the Federal Government to help Council continue because the model that Council has designed within the Cassowary Coast region is something that can be exported around the entire country and in his opinion they need to give Council a hand and keep this going along.

Cr T Millwood asked for clarification around the time of the meeting and who could attend. Cr Baines advised that there is a Committee that has been set up and running for three years on this pig-baiting partnership. Those committee members are already engaged and included but the meeting is not open to the public. This is a conclusionary piece of the first program but believes that Council wants to re-engage with many more growers. Cr Baines advised that he has been meeting with growers all the way through this program and he would suggest that in the near future a broader meeting would be held with the local industry because a very important piece of this is that industry has to be involved and working with Council. It is not the State Government's job or the Council's job - it is everybody's job and we all need to be a part of it.

Cr Millwood asked for media communication about the changes to the allocated baits and the new requirements and the new restrictions that are involved now that Queensland Health have put in place. Mr A Sadler (Director Delivery Services) supported Cr Baines's comments that there is an executive oversight group which has industry leaders from both cane and bananas and also Department of Defence, QPWS, Council, DAF and many others that are a part of this group. It is not an open meeting and there are industry leaders who attend for those growers particularly banana, cane or cattle. Mr Sadler also confirmed that it is a conclusion of the project that was externally funded. However because there have been some great relationships built and that this is a catchment based issue it will continue to meet and work with industry in relation to where the problems are. Pigs will go wherever they want to and we have to all come together to solve this issue. Mr Sadler added that all the growers that do work with Council have been notified of the changes at the beginning of this year and how baiting will continue at this stage. Council is working with a number of the industry leaders on how this can be improved on. Communication is definitely the key and there have been changes in relation to distribution of the 1080 poison through Queensland Health and Council is making sure that it is compliant.

Cr Baines advised that the baiting program is actually running under Federal legislation. At face value it seems a little onerous and a little over the top but it is not. It has been discussed at FNQROC, NAMAC level and also at Council level and there are lot of simple methods that are being developed that can be taken to land holders to make sure that it is not onerous and too hard for people to do. There is an education piece being put together that will be distributed through FNQROC, the local NAMAC and it will be brought up in any of these Feral Pig meetings again and we need to make it easy for everyone to get involved and continue working together to ensure the amazing results that have been achieved over three years. Please encourage your State and Federal politicians to support Council in getting this model refunded and build a model that can be exported across Queensland in its entirety and the whole nation.

## **7.5 Clump Point Facility**

Cr B Barnes stated that Council has a great facility in Clump Point and a six month settling period was given which expires at the end of January 2022 and he asked where Council currently stands with the leases on the swing moorings. He added that there needs to be a lot work within local laws so that Council can receive income from all the lessees with swing moorings. Mr A Graffen (CEO) advised that there has been a lot of work going into those local laws. Those local laws are currently with the Department for review which could take 4 - 6 weeks. Following the review those local laws will be updated with any comments of relevance from the Department and brought to Council as a draft and will be seeding Council to endorse those local laws to go out for public comment. That public comment needs to be a minimum of 21 days and then those local laws will come back to Council to be considered for adoption. It is in the process and there are some components at the moment that Council has legislative requirements that dictate the timeframe and others that are resourcing within the Department to do that review. From Council's side they are currently sitting with the Department and we will seek to have those for Council consideration to go to the public comment as soon as possible.

### **7.6 Hip Camps**

Cr B Barnes spoke about the trouble that neighbouring Councils are having with Hip Camps affecting their local caravan parks and Cr Barnes is hoping that as a Council it will soon do a study on its RV Parks, Caravan Parks and the list of applicants who want to start these Hip Camps. Some Councils that rushed into it are now regretting the decisions that have been made and Cr Barnes hopes that this Council will not be one of them.

### **7.7 Cardwell Pump Track**

Cr B Barnes asked about the Tender for the construction of the Pump Track in Cardwell that he believes closed last week. Mr A Graffen (CEO) advised that this query would be taken on notice with a response back to Cr B Barnes.

### **7.8 Playground Equipment - South Mission Beach**

Cr T Tschui asked about the return of playground equipment to South Mission Beach now that the path is completed and the return of playground equipment of some degree to Wheatley Park which is looking fantastic with the turf. The community is looking forward to taking their children and families back to this area and asked for an update on both these areas. Mr B Slattery (Program Lead Asset Maintenance) advised that the Park set will be reinstalled at South Mission Beach next week and the works for this have been impacted by resourcing issues. Wheatley Park does not have a play set at present. The set that was in place was close to end of life when it was removed and because of the damage it could not go back in. The plan is for the working group of Council Officers and external community groups that has been formed to meet and brainstorm ideas around what that space might look like. The current trend is nature play so Council is looking for options in that space that will target that same age group. Cr T Tschui asked if Netflix is coming back and obviously would need to be taken into consideration should they come back and use that space and that needs to be taken in and out as required.

### **7.9 Mission Beach Master Plan**

Cr T Tschui asked for an update regarding securing funding for the Mission Beach Master Plan and mentioned that it was spoken about earlier with Mr Albanese visiting and the Council team recently undertook a walk through. Mr D Horton (Manager Planning Services) advised that an application is currently being prepared and finalised and needs to be lodged by the 10 February 2022. Council is currently seeking external letters to support the funding, of which we already have a number of from Council's previous application. These are being correlated and checked to ensure the appropriate attachments are included. Cr Tschui also asked about changes to the last design and Mr Horton advised that the walk through was mainly around detailed design and moving forward with a change in pavement and those types of subtle approach changes. Removal of concrete from the original design but it is around the drainage and how that all fits together with the levels. Also what type of furniture within the concepts which will be much the same as what was already planned because of the short timeframe and Council will continue to work with the community, the public and any changes will be subject to consultation. The appropriate communication and engagement plans will be implemented so that Council can communicate with a number of people and businesses in the community as Council moves forward with this project.

### **7.10 Australia Day & Citizenship Ceremony**

Cr T Tschui spoke about the great celebration of the nation held at the Innisfail Shire Hall and welcome to the new citizens. Congratulations to all the nominees and winners of the Australia Day Awards. There were a greater number of people who nominated an event or a person which is fantastic and congratulations to everybody involved. Cr Tschui also thanked Council staff - Ms Hansen, Ms Agli and Ms Vitali for the great job that they do in fine-tuning everything for this event.

### **7.11 Acknowledgement of Passing of Sue Smith**

Cr T Tschui acknowledged the passing of Ms Sue Smith who was Cr Tschui's teacher at Tully High School and who taught many people at Tully High so a large number of the community will have fond memories of Ms Smith but she was also a very passionate environmentalist and worked very hard in lots of different groups. Some of which were the Wildlife Preservation Society of Queensland, Friends of Ninney Rise, the National Mahogany Glider Recovery Team and they are just a few of the groups she was involved with. Council sends it's condolences to her family and friends.

### **7.12 Operating Hours - Stoters Hill**

Cr N Pervan asked for an update on the operating hours of the Stoters Hill Waste Transfer Station in relation to extending the operation in the afternoon. Mr Sadler advised that he would take the request on notice as he does not have the answer and has a number of staff currently on leave and he will follow this query through later today. Cr Pervan asked if this could please be followed up as he has members of the public and in particular businesses querying him about this as businesses are finding this very difficult.

### **7.13 Entrance to Innisfail (near old High School)**

Cr N Pervan asked about the whole entryway to Innisfail from the south (near the old High School) where the traffic lights areas and who maintains it. Is it Council or Main Roads - as this area needs a major clean up being the very first thing you see when entering Innisfail and in particular the kerb and channelling. Cr Pervan asked that whoever is responsible for the maintenance of this area that they be asked to clean it up. Mr A Sadler (Director Delivery Services) advised that he would follow this up.

### **7.14 Port Hinchinbrook - Dredging**

Cr M Nolan acknowledged the totally operational and sensitive negotiations currently being undertaken by Council but advised that from a political view, 7 Councillors are nervous about the Federal election being called and the expected caretaker mode which could restrict the flow of funding. Councillors are nervous about Council staff securing an Agreement on the dredging before the Federal election is called.

### **7.15 Volunteers**

Cr M Nolan concurred with Cr Tschui's praise for the wonderful Australia Day event held and stated that if you add up the hundreds of years of volunteers that those nominees put in - it is unbelievable! Given that Irene Braddock was awarded the 2022 Citizen of the Year Cr Nolan considers it appropriate to go to Lions International and their description of a volunteer.

" It's not for money, it's not for fame, it's not for any personal gain - it's just for love of fellow man, it's just to send a helping hand. It's just to give a tilth of self, that's something you can't buy with wealth. It's not medals won with pride - it's that feeling deep inside. It's that reward down in your heart. It's that you've been a part of helping others far and near - that's what makes a volunteer."

In terms of Irene Braddock this describes her perfectly.

**MOVE INTO CLOSED SESSION - 10:27am**

**Moved Cr B Barnes**

**Seconded Cr J Baines**

**Resolution Number LG1191**



**THAT the meeting be closed to the public in accordance with the Local Government Regulation 2012, Section 254J (1) so that Council can discuss:**

<b>Item No.</b>	<b>Confidential Item</b>	<b>Reason for Meeting Closure</b>
<b>8.1</b>	<b>Request for Legal Assistance by the Chief Executive Officer</b>	<b>(e) legal advice obtained by the local government or legal proceedings involving the local government including for example, legal proceedings that may be taken by or against the local government</b>
<b>8.2</b>	<b>Legal Matters Update January 2022</b>	<b>e) legal advice obtained by the local government or legal proceedings involving the local government including for example, legal proceedings that may be taken by or against the local government</b>

**FOR - Unanimous**

**CARRIED**

10:27am Ms K Slattery (Governance Lead) entered the meeting

**10:28am Declaration**

Mr A Graffen (CEO) advised that **Item 8.1 Request for Legal Assistance by the Chief Executive Officer**, relates to an application for legal assistance for himself in his role as Chief Executive Officer and Mr Graffen left the meeting room and did not participate in the discussion during that Item to allow Council to consider the matter.

10:48am Mr A Graffen re-entered the meeting

**MOVE OUT OF CLOSED SESSION -11:16am**

**Moved Cr N Pervan**

**Seconded Cr T Tschui**

**Resolution Number LG1192**

**FOR - Unanimous**

**CARRIED**

**11:16am**

**Mr A Graffen (CEO) left the meeting room and did not participate in the discussion relating to Item 8.1 Request for Legal Assistance by the Chief Executive Officer as the matter related to himself.**

11:19am Mr A Graffen re-entered the meeting

## **8. CONFIDENTIAL REPORTS**

### **8.1 Confidential Report - Request for Legal Assistance by the Chief Executive Officer Executive Summary**

On 22 December 2021, Mayor Mark Nolan received an Application for the Provision of Legal Representation Costs from Chief Executive Officer Andrew Graffen.

In accordance with Council's Provision of the Legal Assistance for Employees and Councillors CCRC003, the Mayor is to receive the request, assess and make a recommendation to Council to decide to either a) refuse; b) grant, or; c) grant the request subject to conditions, the application for the payment of legal representation costs under the policy.

#### **Recommendation**

**"That Council:**

- 1. Approve the payment of legal representation costs incurred by Andrew Graffen as first respondent in the Application for Statutory Order of Review Matter 669/21;**
- 2. Authorise the engagement of Connolly Suthers to represent the Chief Executive Officer Mr Andrew Graffen in the Application for Statutory Order of Review Matter 669/21."**

Moved Cr M Nolan

Seconded Cr J Baines

Resolution Number LG1193

**"That the Recommendation be adopted."**

**FOR: Unanimous**

**CARRIED**

### **8.2 Confidential Report - Legal Matters Update January 2022**

#### **Executive Summary**

This report provides an update on Legal Matters afoot between Council and Bingil Bay couple Paul and Julianne Toogood with particular focus on Defamation Matter D169/17 and Bankruptcy Appeal Matter QUD362/2021.

Council were last updated on these matters at LGM 9 December 2021. This report, further to previous updates provides oversight to an application for a Statutory Order of Review which was served on Cassowary Coast Regional Council, Chief Executive Officer, Andrew Graffen and Cassowary Coast Regional Council by Mr Steven Paul Toogood on 8 December 2021.

This report seeks to update Council on these matters.

#### **Recommendation**

**"That Council:**

- 1. Note the Report – Legal Matter Update;**
- 2. Note the commencement of action against Cassowary Coast Regional Council and Council's Chief Executive Officer in Matter 669/21;**
- 3. Resolve in accordance with section 235 (a) and (b) of the Local Government Regulations 2012 that it is satisfied that Connolly Suthers Solicitors are sole suppliers and / or suppliers**

of specialised or confidential nature services for 'Legal matters relating to Paul Toogood and / or Julianne Toogood';

4. Authorise the engagement of Connolly Suthers to represent Council in Matter 669/21;

5. Note that the defendants have refused James Gott's offer to discontinue Defamation Matter D169/17;

6. Note as a result of item 5 an application seeking an order from the court granting permission to discontinue Defamation Matter D169/17 has been filed;

7. Note in Bankruptcy Appeal Matter QUD362/2021 the appellants have not consented to provide Security for Costs;

8. Note as a result of item 7 a Security for Costs application will be filed in Bankruptcy Appeal Matter QUD362/2021; and

9. Note that the respondents other than Council to Bankruptcy Appeal Matter QUD362/2021 have instructed Connolly Suthers to file a submitting notice, if appropriate, at the earliest opportunity."

Moved Cr J Baines

Seconded Cr R McLeod

Resolution Number LG1194

"That the Recommendation be adopted."

FOR: Unanimous

CARRIED

## **9. MEETING CLOSURE**

11:22am There being no further business, the Mayor declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD THIS TWENTY-FOURTH DAY OF  
FEBRUARY 2022

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Cr M Nolan, Mayor

Item 6.2 MCU21/0038

Annexure 1 – Assessment Manager's Conditions

1. Approved Plans and Supporting Documentation	
Condition	Timing
The development must be undertaken generally in accordance with the application, documentation received by Council on 14 September 2021 and plans in the table below, which forms part of this approval, except where varied by the following conditions.	At all times

Plan/Drawing Number	Plan Name	Date
Drawing No. M21-4804 A1-100 Rev. A	Site Plan – Master Plan	Dated: 16/05/2021 Received by Council: 14/09/2021
Drawing No. M21-4804 A1-101 Rev. A	Existing Layout Plan	Dated: 16/05/2021 Received by Council: 14/09/2021
Drawing No. M21-4804 A1-102 Rev. A	Proposed Layout Plan	Dated: 16/05/2021 Received by Council: 14/09/2021
Drawing No. M21-4804 A1-103 Rev. A	Elevations	Dated: 16/05/2021 Received by Council: 14/09/2021
Drawing No. M21-4804 A1-104 Rev. A	Area Plan	Dated: 16/05/2021 Received by Council: 14/09/2021
Drawing No. M21-4804 A1-105 Rev. A	3D Views	Dated: 16/05/2021 Received by Council: 14/09/2021

2. Lot amalgamation	
Condition	Timing
The applicant/owner must amalgamate Lot 5 on RP708133 and Lot 6 on SP125415 to form a single lot.	Prior to the commencement of the use and at all times

3. Hours of Operation	
Condition	Timing
The applicant/owner must ensure that the hours of operation for the site are limited to 06:00am to 9:00pm Monday to Friday and 06:00am to 5:00 pm on Saturdays. No audible noise is permitted outside these hours or on Sundays and public holidays with the exception of the loading and unloading of vehicles.	At all times

4. Water Connection	
Condition	Timing
The applicant/owner must ensure the development is connected to Council's reticulated water network in accordance with the FNQROC Development Manual.	Prior to the commencement of the use

5. Sewerage Connection	
Condition	Timing
The applicant/owner must ensure the development is connected to Council's reticulated sewerage network in accordance with the FNQROC Development Manual.	Prior to the commencement of the use

6. Car Parking	
Condition	Timing
<p>The applicant/owner is to ensure that the development provides a minimum of 27 carparks on the subject site inclusive of 2 spaces for accessible car parking.</p> <p>All Circulation and turning areas, queuing and set down areas, parking bays, manoeuvring areas, driveways, and vehicle loading and unloading bays are designed and constructed in accordance with Australian Standard AS2890.1 – <i>Parking Facilities (off-street car parking)</i> and Australian Standard AS2890.2 – <i>Parking Facilities (off street commercial vehicle facilities)</i>.</p> <p>All car parking spaces, accesses and loading bays must be sealed and drained to a lawful point of discharge.</p>	Prior to the commencement of the use and maintained at all times

7. Landscaping	
Condition	Timing
The applicant/owner is to ensure that all landscaping works are carried out in accordance with the approved plan Site Plan – Master Plan (Drawing No. M21-4804, A1-100 Rev. A), dated 16 May 2021 and Planning Scheme Policy SC6.4 Landscaping to the satisfaction of the Manager Planning Services.	Prior to the commencement of the use and at all times

8. Disaster Management/Site Evacuation Plan	
Condition	Timing
<p>The applicant/owner must prepare a Disaster Management/Site Evacuation Plan which is to be enacted during an 1% annual exceedance probability flood event:</p> <p>The Disaster Management/Site Evacuation Plan shall:</p> <ul style="list-style-type: none"> <li>Detail an evacuation route from the buildings on site to a dedicated road that is safely accessible and trafficable; and</li> <li>Detail how any components of the buildings that are likely to fail to function or may result in contamination when inundated by water (e.g. electrical switchgear and motors, lift motors, communications and data infrastructure, water supply pipeline air valves) are designed, constructed and operated to limit the impacts from flood water intrusion/infiltration.</li> </ul>	<p>Prior to the commencement of the use and at all times</p>

9. Erosion and Sediment Controls	
Condition	Timing
<p>Effective erosion and sediment controls must be maintained during and after the construction, installation and maintenance of the site until there is adequate vegetation cover, paved or other controls to prevent any silt run-off from the site to the satisfaction of the Manager Planning Services.</p>	<p>At all times</p>

10. Stormwater Discharge	
Condition	Timing
<p>The applicant/owner must ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge, such that stormwater does not adversely affect surrounding properties, to the satisfaction of the Manager Planning Services.</p>	<p>At all times</p>

11. Odour	
Condition	Timing
<p>The applicant/owner is to ensure that odour from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i>.</p>	<p>Prior to the commencement of construction</p>

12. Waste	
Condition	Timing
The applicant/owner is to ensure that waste from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

13. Waste Bins and Storage Area	
Condition	Timing
The applicant/owner must provide a dedicated waste area for the storage of waste. The waste storage area must be imperviously sealed, appropriately designed and ventilated of the building and be located so it cannot be seen from the street by locating the area to the rear of the buildings or applying landscaping and fencing treatments to visually screen the area to the satisfaction of Manager Planning Services.	Prior to the commencement of the use and at all times

14. Noise	
Condition	Timing
The applicant/owner is to ensure that noise from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> , <i>Environmental Protection (Noise) Policy 2019</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

15. Street Numbering	
Condition	Timing
The applicant/owner is to ensure that the street numbers are erected to be clearly identifiable from the Bruce Highway to the satisfaction of the Manager Planning Services.	Prior to the commencement of the use and maintained at all times

16. Lighting	
Condition	Timing
The applicant/owner is to ensure that all lighting is designed and constructed to the satisfaction of the Manager Regulatory Services, so as to ensure that light emitted from the subject site does not create environmental nuisance in accordance with the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

**Referral Agency Conditions:**



Department of State Development, Infrastructure, Local Government and Planning - State Assessment Referral Agency (SARA) Response (2109-24927 SRA) dated 22 December 2021.

**Assessment Manager's Advice:**

**1. Currency Period**

The currency period for the development approval (Material Change of Use) shall be six (6) years starting the day the approval is granted or takes effect. In accordance with section 85 of the *Planning Act 2016 (PA)*, the development approval for Material Change of Use lapses if the building work under the approval is not complete within the abovementioned currency period.

An applicant may request Council extend the currency period provided that such request is made in accordance with section 86 of *PA* and before the development approval lapses under section 85 of *PA*.

**2. Further Approvals Required**

An application for a Development Permit for Building Works and Plumbing/Drainage Works is required for the proposed development. This application/s are required to be approved prior to any works commencing on site.

**3. Cultural Heritage**

The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act 2003* and in particular 'the duty of care' that imposes landowners, developers and the like.

**4. Engineering Works**

The applicant/owner is to ensure that the engineering works involved in the proposed development are designed and constructed in accordance with the FNQROC Development Manual.

**5. Compliance with Laws**

The approval does not negate the requirement for compliance with all other relevant local Laws and other statutory legislation.

**6. Environmental Nuisance**

The *Environmental Protection Act 1994* states a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard persons and entities, involved in the civil, earthworks and construction phases of this development, are to adhere to their "general environmental duty" to minimise the risk of causing environmental harm.

Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an



environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Council to cause undue disturbance or annoyance to persons or affect property not connected with the use.

#### **7. Adopted Infrastructure Charges**

The applicant/owner must contribute in accordance with Council's Infrastructure Charges Resolution (No.1) 2019, made under the Planning Act 2016. The adopted infrastructure charge is payable prior to the commencement of the use. Payment is to be made to Council in accordance with the Adopted Infrastructure Charges Notice attached to the decision notice.

Item 6.3 MCU21/0044

Annexure 1 - Assessment Manager's Conditions

1. Approved Plans and Supporting Documentation		
Condition		Timing
The development must be undertaken generally in accordance with the application, documentation received by Council on 20 October 2021 and plans in the table below, which forms part of this approval, except where varied by the following conditions.		At all times
Plan/Drawing Number	Plan Name	Date
21610-PP-01 Sheet 1 of 1 Rev 0	Site Plan	Dated: 27/08/2021 Received by Council: 20/10/2021
2. Hours of Operation		
Condition		Timing
The applicant/owner must ensure that the hours of operation for the Food and Drink Outlet (Food/Coffee Van) are limited to 06:00am to 06:00pm Monday to Sunday (including public holidays) only.		At all times
3. Public Toilets		
Condition		Timing
The applicant/owner must ensure that the toilets are open to the public at all times when the Food and Drink Outlet (Food/Coffee Van) is operating from the site.		At all times
4. Advertising Devices		
Condition		Timing
The applicant/owner is to ensure that all advertising devices erected on site are in accordance with 9.4.1 Advertising Devices Code of the Cassowary Coast Regional Council Planning Scheme 2015 to the satisfaction of the Manager Planning Services.		At all times
5. Landscaping		
Condition		Timing
The applicant/owner is to ensure that all landscaping works are carried out in accordance with Planning Scheme Policy SC6.4 Landscaping to the satisfaction of the Manager Planning Services.		Prior to the commencement of the use and maintained at all times

6. Stormwater Drainage	
Condition	Timing
The applicant/owner must ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge, such that stormwater does not adversely affect surrounding properties, to the satisfaction of the Manager Planning Services.	Prior to the commencement of construction of internal works.

7. Noise	
Condition	Timing
The applicant/owner is to ensure that noise from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> , <i>Environmental Protection (Noise) Policy 2019</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

8. Odour	
Condition	Timing
The applicant/owner is to ensure that odour from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

9. Waste	
Condition	Timing
The applicant/owner is to ensure that waste from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

10. Waste Bins and Storage Area	
Condition	Timing
The applicant/owner must provide a dedicated waste area for the storage of waste. The waste storage area must be imperviously sealed, appropriately designed and ventilated and be located so it cannot be seen from the street by locating the area to the rear of the van or applying landscaping and fencing treatments to visually screen the area to the satisfaction of Manager Planning Services.	Prior to the commencement of the use and maintained at all times

11. Public Infrastructure/Utilities	
Condition	Timing
Any relocation or alteration to any public utilities (including stormwater infrastructure) in association with building work must be undertaken as required by the relevant service provider and at no cost to Council.	At all times

**Referral Agency Conditions:**

Department of State Development, Infrastructure, Local Government and Planning - State Assessment Referral Agency (SARA) Response (2110-25599 SRA) dated 30 November 2021.

**Assessment Manager's Advice:**

1. Currency Period
<p>The currency period for the development approval (Material Change of Use) shall be six (6) years starting the day the approval is granted or takes effect. In accordance with section 85 of the <i>Planning Act 2016 (PA)</i>, the development approval for Material Change of Use lapses if the building work under the approval is not complete within the abovementioned currency period.</p> <p>An applicant may request Council extend the currency period provided that such request is made in accordance with section 86 of <i>PA</i> and before the development approval lapses under section 85 of <i>PA</i>.</p>
2. Further Approvals Required
<p>An application for a Food Licence is required for the proposed development. This application/s are required to be approved prior the commencement of the use on the site.</p> <p>If the Food and Drink Outlet (Food/Coffee Van) is to be located on the site permanently and not taken away, the Food and Drink Outlet (Food/Coffee Van) should be attached to footings. A building application for the footings should be lodged.</p>
3. Cultural Heritage
<p>The applicant/owner is to ensure compliance with the requirements of the <i>Aboriginal Cultural Heritage Act 2003</i> and in particular 'the duty of care' that imposes landowners, developers and the like.</p>
4. Engineering Works
<p>The applicant/owner is to ensure that the engineering works involved in the proposed development are designed and constructed in accordance with the FNQROC Development Manual.</p>
5. Compliance with Laws

The approval does not negate the requirement for compliance with all other relevant local Laws and other statutory legislation.

## 6. Environmental Nuisance

The *Environmental Protection Act 1994* states a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard persons and entities, involved in the civil, earthworks and construction phases of this development, are to adhere to their "general environmental duty" to minimise the risk of causing environmental harm.

Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Council to cause undue disturbance or annoyance to persons or affect property not connected with the use.

Item 6.4 MCU21/0047

Annexure 1 - Assessment Manager's Conditions

1. Approved Plans and Supporting Documentation	
Condition	Timing
The development must be undertaken generally in accordance with the application, documentation received by Council on 9 November 2021 and plans in the table below, which forms part of this approval, except where varied by the following conditions.	At all times

Plan/Drawing Number	Plan Name	Date
No Plan/Drawing Number	New Residence	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 1	Site Plan	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 2	FL1	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 3	FL2	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 4	FL3	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 4.1	Rankin Street Elevation	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 4.2	Emily Street Elevation	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 4.3	Front Elevation	Dated: 27/10/2021 Received by Council: 09/11/2021
No Plan/Drawing Number Sheet 4.4	Left Elevation	Dated: 27/10/2021 Received by Council: 09/11/2021



No Plan/Drawing Number AR01	Project Information	Dated: 27/10/2021 Received by Council: 09/11/2021
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## 2. External Works

Condition	Timing
<p>The applicant/owner must at no cost to Council, provide the following works internal to the subject site:</p> <ul style="list-style-type: none"> <li>Construct a 3 metre wide pedestrian footpath along the full frontage of the site to Emily Street connecting with the existing pedestrian footpath in Rankin Street in accordance with the FNQROC Development Manual. All works are to include appropriate drainage.</li> </ul>	<p>Prior to the commencement of the use on the site and to be maintained at all times</p>

## 3. Internal Works

Condition	Timing
<p>The applicant/owner must at no cost to Council, provide the following works internal to the subject site:</p> <ul style="list-style-type: none"> <li>Construct a 1.8 metre high impervious screening fence along the southern and western boundaries of the site in accordance with the approved Plan (No Plan/Drawing Number Sheet 2, Site Plan, Dated 27/10/2021) to the satisfaction of the Manager Planning Services;</li> <li>Undertake landscaping works in accordance with the approved Plan (No Plan/Drawing Number Sheet 2, FL1, Dated 27/10/2021) and Planning Scheme Policy SC6.4 Landscaping to the satisfaction of the Manager Planning Services.</li> <li>Apply to Council's Asset Engineering Section of the Infrastructure Services Department, for approval of a 6 metre wide vehicle access crossover for this development in accordance with the approved Plan (No Plan/Drawing Number Sheet 2, FL1, Dated 27/10/2021) and FNQROC Development Manual from Emily Street to the property boundary. Future maintenance of the access is the responsibility of the body corporate.</li> <li>Construct of twelve (12) undercover car parking spaces. All car parking spaces must be in accordance with Australian Standards AS2890.1 – <i>Parking facilities (off-street car parking)</i> and designed and constructed in accordance with the FNQROC Development Manual. All works are to include appropriate drainage as. All car parking spaces are to be used exclusively for parking and maintained in a useable condition.</li> </ul>	<p>Prior to the commencement of the use on the site and to be maintained at all times</p>

4. Water Connection	
Condition	Timing
The applicant/owner must ensure that all units and common areas on the site connected to Council's reticulated water network in accordance with the FNQROC Development Manual (where applicable). The applicant/owner is to apply to Council's Water Section of the Infrastructure Services Department to install a water service fitted with an appropriate sized water meter at no cost to Council. The fee/charge for the water service connection and any associated upgrades required to be carried out by Council, are as per Council's Register of Regulatory Fees at the rate applicable on application are required to be paid and the works undertaken.	Prior to the commencement of the use

5. Sewerage Connection	
Condition	Timing
The applicant/owner must ensure that all units are connected to Council's reticulated sewerage network in accordance with the FNQROC Development Manual. The fee/charge for the sewerage service connection and any associated upgrades required to be carried out by Council, are as per Council's Register of Regulatory Fees at the rate applicable on application are required to be paid and the works undertaken	Prior to the commencement of the use

6. Electricity/Telecommunications Infrastructure Supply	
Condition	Timing
The applicant/owner is to ensure that all units and common areas on site are connected to electricity supply and telecommunications service (where applicable).	Prior to the commencement of use

7. Stormwater Drainage	
Condition	Timing
The applicant/owner must ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge, such that stormwater does not adversely affect surrounding properties, to the satisfaction of the Manager Planning Services.	Prior to the commencement of construction of internal works.

8. Erosion and Sediment Controls	
Condition	Timing
Effective erosion and sediment controls must be maintained during and after the construction, installation and maintenance of the site until there is adequate vegetation cover, paved or other controls to prevent any silt run-off from the site.	At all times

9. Helipad Operations at Innisfail Hospital
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Condition	Timing
Due to the sites proximity to the helipad at Innisfail Hospital, the applicant/owner must notify Queensland Health in writing at least five (5) business days prior to the commencement of construction works involving the use of a crane on the site.  Queensland Health can be contacted on: <a href="mailto:RotaryWingATA@health.qld.gov.au">RotaryWingATA@health.qld.gov.au</a> <a href="mailto:rsq.brisbane@health.qld.gov.au">rsq.brisbane@health.qld.gov.au</a>	Prior to the commencement of construction works involving the use of a crane on the site.

10. Public Infrastructure/Utilities	
Condition	Timing
Any relocation or alteration to any public utilities (including stormwater infrastructure) in association with building work must be undertaken as required by the relevant service provider and at no cost to Council.	At all times

11. Mechanical and Electrical Infrastructure	
Condition	Timing
The applicant/owner must ensure that mechanical and electrical infrastructure (e.g. pump stations, emergency generators) are above the 1% annual exceedance probability event level. Any components of the buildings that are likely to fail to function or may result in contamination when inundated by water (e.g. electrical switchgear and motors, lift motors, communications and data infrastructure, water supply pipeline air valves) must also be located above this level.	Prior to the commencement of the use and at all times

12. Odour	
Condition	Timing
The applicant/owner is to ensure that odour from the site must not emanate from the subject land to a degree that would, in the opinion Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

13. Waste	
Condition	Timing
The applicant/owner is to ensure that waste from the site must not emanate from the subject land to a degree that would, in the opinion Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

14. Building Material	
Condition	Timing
All buildings and structures associated with the use must be constructed from materials that are consistent with the character of the surrounding environment. Where materials are not consistent and/or require painting, they must be painted or similarly treated with paint or pigment of a low reflective quality which does not cause excessive glare (including flashing, guttering and downpipes), to the satisfaction of the Manager Planning Services.	At all times

15. Waste Bins and Storage Area	
Condition	Timing
The applicant/owner must provide a dedicated waste area for the storage of waste. The waste storage area must be imperviously sealed, appropriately designed and ventilated of the building and be located so it cannot be seen from the street by locating the area to the rear of the buildings or applying landscaping and fencing treatments to visually screen the area to the satisfaction of Manager Planning Services.	Prior to the commencement of the use and maintained at all times

16. Noise	
Condition	Timing
The applicant/owner is to ensure that noise from the site must not emanate from the subject land to a degree that would, in the opinion of the Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> , <i>Environmental Protection (Noise) Policy 2019</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

17. Street Numbering	
Condition	Timing
The applicant/owner is to ensure that the street numbers are erected to be clearly identifiable from Rankin Street and Emily Street to the satisfaction of the Manager Planning Services.	Prior to the commencement of the use and maintained at all times

18. Lighting	
Condition	Timing
The applicant/owner is to ensure that all lighting is designed and constructed to the satisfaction of the Manager Regulatory Services, so as to ensure that light emitted from the subject site does not create environmental nuisance in accordance with the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

19. Excavating and Filling	
Condition	Timing
The applicant/owner is to ensure that all excavating and filling works are carried out in accordance with 9.4.3 Excavating and Filling Code of the Cassowary Coast Regional Council Planning Scheme 2015, to the satisfaction of the Manager Planning Services.	At all times

**Assessment Manager's Advice:**

1. Currency Period
<p>The currency period for the development approval (Material Change of Use) shall be six (6) years starting the day the approval is granted or takes effect. In accordance with section 85 of the <i>Planning Act 2016 (PA)</i>, the development approval for Material Change of Use lapses if the building work under the approval is not complete within the abovementioned currency period.</p> <p>An applicant may request Council extend the currency period provided that such request is made in accordance with section 86 of <i>PA</i> and before the development approval lapses under section 85 of <i>PA</i>.</p>
2. Further Approvals Required
<p>An application for a Development Permit for Building Works and Plumbing/Drainage Works is required for the proposed development. This application/s are required to be approved prior to any works commencing on site.</p>
3. Cultural Heritage
<p>The applicant/owner is to ensure compliance with the requirements of the <i>Aboriginal Cultural Heritage Act 2003</i> and in particular 'the duty of care' that imposes landowners, developers and the like.</p>
4. Engineering Works
<p>The applicant/owner is to ensure that the engineering works involved in the proposed development are designed and constructed in accordance with the FNQROC Development Manual.</p>
5. Compliance with Laws
<p>The approval does not negate the requirement for compliance with all other relevant local Laws and other statutory legislation.</p>
6. Environmental Nuisance
<p>The <i>Environmental Protection Act 1994</i> states a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and</p>

practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard persons and entities, involved in the civil, earthworks and construction phases of this development, are to adhere to their "general environmental duty" to minimise the risk of causing environmental harm.

Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Council to cause undue disturbance or annoyance to persons or affect property not connected with the use.

#### **7. Adopted Infrastructure Charges**

The applicant/owner must contribute in accordance with Council's Infrastructure Charges Resolution (No.1) 2019, which came into effect on and from 16 December 2019. The adopted infrastructure charge is payable prior to the endorsement of the Plan of Survey.

Item 6.5 MCU21/0046

Annexure 1 - Assessment Manager's Conditions:

1. Approved Plans and Supporting Documentation	
Condition	Timing
The development must be undertaken generally in accordance with the application, documentation received by Council on 3 November 2021 and plans in the table below, which forms part of this approval, except where varied by the following conditions.	At all times

Plan/Drawing Number	Plan Name	Date
SKETCH 1582-1	Vehicle turn path onsite parking	24 November 2021

2. Car Parking	
Condition	Timing
<p>The applicant/owner is to ensure that the development provides a minimum of two (2) carparks on the subject site.</p> <p>All Circulation and turning areas, queuing and set down areas, parking bays, manoeuvring areas, driveways, and vehicle loading and unloading bays are designed and constructed in accordance with Australian Standard AS2890.1 – <i>Parking Facilities (off-street car parking)</i> and Australian Standard AS2890.2 – <i>Parking Facilities (off street commercial vehicle facilities)</i>.</p> <p>All car parking spaces, accesses and loading bays must be sealed and drained to a lawful point of discharge.</p>	Prior to the commencement of the use and maintained at all times

3. Advertising Devices	
Condition	Timing
The applicant/owner is to ensure that all advertising devices erected on site are in accordance with 9.4.1 Advertising Devices Code of the Cassowary Coast Regional Council Planning Scheme 2015 to the satisfaction of the Manager Planning Services.	At all times

4. Stormwater Discharge	
Condition	Timing
The applicant/owner must ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge, such that stormwater does not adversely affect surrounding properties, to the satisfaction of the Manager Planning Services.	At all times



5. Public Infrastructure/Utilities	
Condition	Timing
Any relocation or alteration to any public utilities (including stormwater infrastructure) in association with the proposed use must be undertaken as required by the relevant service provider and at no cost to Council.	At all times

6. Waste	
Condition	Timing
The applicant/owner is to ensure that odour from the site must not emanate from the subject land to a degree that would, in the opinion Manager Regulatory Services, create an environmental nuisance having regard to the provisions of the <i>Environmental Protection Act 1994</i> and <i>Environmental Protection Regulation 2019</i> .	At all times

**Referral Agency Conditions:**

Department of State Development, Infrastructure, Local Government and Planning - State Assessment Referral Agency (SARA) Response (2110-25883 SRA) dated 13 December 2021.

**Assessment Manager's advice:**

1. Currency Period
<p>The currency period for the development approval (Material Change of Use) shall be six (6) years starting the day the approval is granted or takes effect. In accordance with section 85 of the <i>Planning Act 2016 (PA)</i>, the development approval for Material Change of Use lapses if the building work under the approval is not complete within the abovementioned currency period.</p> <p>An applicant may request Council extend the currency period provided that such request is made in accordance with section 86 of <i>PA</i> and before the development approval lapses under section 85 of <i>PA</i>.</p>

2. Cultural Heritage
<p>The applicant/owner is to ensure compliance with the requirements of the <i>Aboriginal Cultural Heritage Act 2003</i> and in particular 'the duty of care' that imposes landowners, developers and the like.</p>

3. Compliance with Laws
<p>The approval does not negate the requirement for compliance with all other relevant local Laws and other statutory legislation.</p>