

# Agenda

## **Ordinary Meeting**

**Thursday, 16 September 2021**

**commencing at 9:00am**



---

## TABLE OF CONTENTS

---

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF OPENING .....	5
2	WELCOME AND OPENING .....	5
3	RECORD OF ATTENDANCE AND LEAVE OF ABSENCE .....	5
4	RECEIPT AND CONFIRMATION OF MINUTES .....	5
5	MAYORAL MINUTE.....	5
6	INFORMING OF CONFLICTS OF INTEREST.....	5
	6.1 PRESCRIBED CONFLICTS OF INTEREST .....	5
	6.2 DECLARABLE CONFLICTS OF INTEREST .....	5
7	PRESENTATIONS / COUNCILLOR REPORTS.....	5
8	REPORTS DIRECT TO COUNCIL .....	7
	8.1 BUDGET REVIEW 1 2021/22 .....	7
	8.2 AUGUST 2021 FINANCIAL PERFORMANCE REPORT.....	9
	8.3 REBATE POLICY FOR INFRASTRUCTURE CHARGES FOR NOT- FOR-PROFIT ORGANISATIONS.....	15
	8.4 APPLICATION OF NATIONAL COMPETITION POLICY - OTHER ACTIVITIES 2021/2022.....	37
	8.5 EXCEPTION UNDER LOCAL GOVERNMENT REGULATION 2012 FOR DISPOSAL OF A COMMERCIAL LEASE WITHIN LOT 3 RP211081, BUDERIM.....	47
	8.6 EXCEPTION UNDER THE LOCAL GOVERNMENT REGULATION 2012 FOR THE DISPOSAL OF PROPERTY BEING LOT 11 ON RP883859, NAMBOUR .....	53
	8.7 QUEENSLAND AUDIT OFFICE - SECOND INTERIM MANAGEMENT REPORT FOR THE FINANCIAL YEAR ENDED 30 JUNE 2021 .....	59
9	NOTIFIED MOTIONS .....	75
10	TABLING OF PETITIONS .....	75
11	CONFIDENTIAL SESSION .....	75
12	NEXT MEETING.....	75
13	MEETING CLOSURE.....	75



**1 DECLARATION OF OPENING**

On establishing there is a quorum, the Chair will declare the meeting open.

**2 WELCOME AND OPENING****3 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE****4 RECEIPT AND CONFIRMATION OF MINUTES**

That the Minutes of the Ordinary Meeting held on 19 August 2021 be received and confirmed.

**5 MAYORAL MINUTE****6 INFORMING OF CONFLICTS OF INTEREST****6.1 PRESCRIBED CONFLICTS OF INTEREST**

Pursuant to section 150EL of the *Local Government Act 2009* (the Act), a Councillor who has a prescribed conflict of interest in an issue to be considered at a meeting of the local government must –

- (a) immediately inform the meeting of the prescribed conflict of interest including the particulars stated in section 150EL(4) of the Act and
- (b) pursuant to section 150EM(2) of the Act must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is being discussed and voted on.

**6.2 DECLARABLE CONFLICTS OF INTEREST**

Pursuant to section 150EQ of the *Local Government Act 2009*, a Councillor who has a declarable conflict of interest in a matter to be considered at a meeting of the local government, must stop participating in the meeting and immediately inform the meeting of the declarable conflict of interest including the particulars stated in section 150EQ(4) of the Act.

If the Councillor with a declarable conflict of interest does not voluntarily decide not to participate in the decision, pursuant to section 150ES(3)(a) of the Act the eligible Councillors must, by resolution, decide

- (a) whether the Councillor may participate in the decision despite the Councillors conflict of interest or
- (b) that the Councillor must not participate in the decision and must leave the place at which the meeting is being held, including any area set aside for the public and stay away while the eligible Councillors discuss and vote on the matter.

The Councillor with the declarable conflict of interest must comply with any conditions the eligible Councillors impose per section 150ES(4) and (5) of the Act.

**7 PRESENTATIONS / COUNCILLOR REPORTS**



**8 REPORTS DIRECT TO COUNCIL**

**8.1 BUDGET REVIEW 1 2021/22**

**File No: D2021/829780**

**Author: Coordinator Financial Services  
Business Performance Group**

---

**Report to be provided.**





## 8.2 AUGUST 2021 FINANCIAL PERFORMANCE REPORT

**File No:** D2021/829109

**Author:** Coordinator Financial Services  
Business Performance Group

**Attachments:** Att 1 - August Financial Performance Report .....13 [↓](#)

### PURPOSE

To meet Council's legislative obligations, a monthly report is to be presented to Council on its financial performance and investments.

### EXECUTIVE SUMMARY

This monthly financial performance report provides Council with a summary of performance against budget as at 31 August 2021 in terms of the operating result and delivery of the capital program.

#### Operating Performance

**Table 1: Operating Budget as at 31 August 2021**

	Original Budget \$000
Total Operating Revenue	498,433
Total Operating Expenses	478,817
<b>Operating Result</b>	<b>18,832</b>

Details of the monthly financial report are contained in Attachment 1.

### OFFICER RECOMMENDATION

**That Council receive and note the report titled "August 2021 Financial Performance Report".**

### FINANCE AND RESOURCING

This report sets out the details of Council's financial performance and investments for the month ending 31 August 2021 and meets Council's legislative reporting requirements.

### CORPORATE PLAN

**Corporate Plan Goal:** *Our outstanding organisation*  
**Outcome:** We serve our community by providing this great service  
**Operational Activity:** S28 - Financial and procurement services – financial and procurement management and governance, ensuring effective business management and legislative compliance, coordination and development of Council's budget process, administration of financial systems, sundry debtors, accounts payable, financial and asset accounting, treasury, procurement, contract and supply functions.

## CONSULTATION

### Portfolio Councillor Consultation

Consultation has been undertaken with the Portfolio Councillor, E Hungerford.

### Internal Consultation

This report has been written in conjunction with advice from:

- Group Executive Business Performance
- Chief Financial Officer

### External Consultation

No external consultation is required for this report.

### Community Engagement

No community engagement is required for this report.

### Legal

This report ensures that Council complies with its legislative obligations with respect to financial reporting in accordance with Section 204 of the *Local Government Regulation 2012*.

Investment of funds is in accordance with the provisions of the *Statutory Bodies Financial Arrangements Act 1982* and the associated Regulations and the *Local Government Act 2009*.

### Policy

Sunshine Coast Council's 2021/22 Investment Policy and  
Sunshine Coast Council's 2021/22 Debt Policy.

### Risk

Failure to achieve the budgeted operating result will negatively impact Council's capacity to complete its capital expenditure program.

### Previous Council Resolution

#### Special Meeting Budget 24 June 2021 (SM21/3)

That Council adopt Appendix A as tabled, pursuant to sections 169 and 170 of the Local Government Regulation 2012, Council's budget for 2021/22 financial year incorporating:

- i. the statement of income and expenditure*
- ii. the statement of financial position*
- iii. the statements of changes in equity*
- iv. the statement of cash flow*
- v. the relevant measures of financial sustainability*
- vi. the long term financial forecast*
- vii. the Debt Policy (adopted by Council resolution on 27 May 2021)*
- viii. the Revenue Policy (adopted by Council resolution on 27 May 2021)*
- ix. the total value of the change, expressed as a percentage, in the rates and utility charges levied for the financial year compared with the rates and utility charges levied in the previous budget*

- x. *the Revenue Statement*
- xi. *Council's 2021/22 Capital Works Program, endorse the indicative four-year program for the period 2023 to 2026, and note the five-year program for the period 2027 to 2031*
- xii. *the rates and charges to be levied for the 2021/22 financial year and other matters as detailed below in clauses 3 to 12 and*
- xiii. *endorse the 2021/22 Minor Capital Works Program*
- xiv. *establish a \$5 million internally restricted Disaster Rehabilitation Reserve.*

**Related Documentation**

2021/22 Adopted Budget

**Critical Dates**

There are no critical dates for this report.

**Implementation**

There are no implementation details to include in this report.

### 8.3 REBATE POLICY FOR INFRASTRUCTURE CHARGES FOR NOT-FOR-PROFIT ORGANISATIONS

<b>File No:</b>	<b>D2021/853570</b>
<b>Author:</b>	<b>Manager Transport and Infrastructure Planning Built Infrastructure Group</b>
<b>Appendices:</b>	<b>App A - Proposed Infrastructure Charges Rebates for Eligible Community Organisations Policy .....21 <a href="#">↓</a></b>
<b>Attachments:</b>	<b>Att 1 - Current Infrastructure Contributions Charges Rebates for Eligible Community Organisations .....31 <a href="#">↓</a></b>

#### PURPOSE

The purpose of this report is to seek Council's endorsement of amendments to the existing Infrastructure Contributions (Charges) Rebates for Eligible Community Organisations Policy, in adopting a revised policy titled Infrastructure Charges Rebates for Eligible Community Organisations.

#### EXECUTIVE SUMMARY

A development application in the Sunshine Coast local government area attracts charges in accordance with Council's current Infrastructure Charges Resolution. The *Planning Act 2016* allows Council to levy charges up to a maximum charge as stated in the *Planning Regulation 2017*.

In 2009, Council adopted a policy which allows community organisations to apply for a waiver of the charges. The "Current Infrastructure Contributions (Charges) Rebates for Eligible Community Organisations Policy" - Attachment 1, recognises that community organisations operate a diverse range of facilities, programs and services for residents of the region, without which these services would not be available or would need to be provided by Government at all levels, at a significant cost. The "Proposed Infrastructure Charges Rebates for Eligible Community Organisations Policy" - Appendix A, retains this theme.

The aim of this report is to seek Council's endorsement of the revised rebate policy for Infrastructure Charges for eligible community organisations to improve clarity for those applying for the rebate as well as those administering the policy and to ensure the efficacy of decision making relating to the conferral of a public benefit at a cost to the ratepayer is best managed.

The granting of Infrastructure Charges Rebates ensures much needed funds remain with the organisations, whilst the cost of the rebate is spread across the whole community.

Eligible, not-for-profit community organisations generally qualify for a rebate for community services provided, which include for example, accommodation for disadvantaged groups, persons with a disability or addictions, provision of community halls and meeting facilities, community sporting venues and charity stores.

The main changes that have been made are:

- Non-State schools are no longer included as an eligible community organisation
- Removal of eligibility for a rebate for clubs where development is self-funded through commercial operations or liquor licences
- Organisations registered with the Australian Charities and Not-for-Profits Commission as eligible community organisations are to be included

- Lifesaving Clubs are not identified separately but are now included as community, sporting or recreation organisations

Clarity of the operation of the policy and application process, including a standardised Application Form and a rebate Assessment Guide.

## OFFICER RECOMMENDATION

That Council:

- receive and note the report titled “Rebate Policy for Infrastructure Charges for Not-for-Profit Organisations ” and
- endorse the “Proposed Infrastructure Charges Rebates for Eligible Community Organisations Policy” (Appendix A) and
- delegate to the Chief Executive Officer the authority to determine applications for Infrastructure Charges rebates for eligible community organisations that comply with the proposed policy.

## FINANCE AND RESOURCING

Processing of Rebate applications is accommodated in the everyday workings of the Infrastructure Policy and Charges team, which is funded through Council’s operational budget.

There is, however, a call on Council finances each time an application for Rebate is approved, and the associated development approval is given. Currently, the rebate is officially recognised as foregone revenue and is required to be ‘replaced’ with a transfer of funds from General Revenue, thereby preserving Council’s ability to fund Local Government Infrastructure Plan trunk infrastructure projects.

The level of community investment is just under \$600,000 per annum, averaged over the life of the current policy (refer to Table 1 below) and is exclusive of Noosa Shire Council statistics. Of this, approximately 33% was rebated to non-state schools. This report looks for endorsement of a revised policy removing this use for rebate, thereby seeing a commensurate reduction in average annual outlays. The basis for removal is provided in the body of the report.

It is likely that the future level of rebates will average around \$300,000 to \$400,000 annually, however, any one year could attract additional Rebates. For example, the level of assistance in providing support to social housing projects by eligible organisations could increase as a reflection of the current housing shortage here on the Coast for those on low incomes.

As has occurred in the past, adjustments to the Externally Restricted Cash reserve for Infrastructure Charges is captured through an end-of-financial-year reconciliation.

**Table 1 - Community Organisation Infrastructure Charge Rebates Approved (October 2009 to March 2021)**

Type of Development		Actual		
Rebate Subcategory	Typical Development	Rebate Amount	% of total	Note
SLSC-30	Life saver or sporting club with some element of social entertainment	404,322	18%	
SLSC-100	Life saver or sporting club without social entertainment	620,396		

**Table 1 - Community Organisation Infrastructure Charge Rebates Approved (October 2009 to March 2021)**

Type of Development		Actual		
Rebate Subcategory	Typical Development	Rebate Amount	% of total	Note
Education	Non-state schools	1,883,396	33%	50% Rebate
Education - Spec	Offices to support Training Adults with intellectual disabilities; Camping and training facilities for persons with disabilities; Special needs training for persons with disabilities	127,999	2%	100% Rebate
Community	Men's shed; Clubs; Special Care Facilities	49,054	4%	
Community - Church	Church hall, meeting facilities that are available to the community	376,008	7%	
Residential - Social	Residential accommodation for physically or intellectually disabled;	709,490	12%	
Residential - Aged	Residential accommodation for aged care	695,964	12%	
Health - Special	Eating Disorder Rehab; Qld Aids Council; Uniting Church Hospital	560,655	10%	
Commercial	Opportunity shop run by a Charity	90,343	2%	
<b>Total</b>		<b>5,717,627</b>	<b>100%</b>	

## CORPORATE PLAN

**Corporate Plan Goal:** *Our environment and liveability*

**Outcome:** We serve our community by providing this great service

**Operational Activity:** S14 - Sustainable growth and network planning – providing land use planning, social policy, infrastructure planning and charges, flood mapping, transportation planning and environmental initiatives.

## CONSULTATION

### Councillor Consultation

All Councillors were offered an opportunity to discuss the report, with nine provided with a presentation.

### Internal Consultation

Internal consultation to provide input into development of the proposed policy was undertaken with:

- Manager Environment & Sustainability Policy
- Co-ordinator Open Space & Social Policy
- Manager Community Planning and Development
- Co-ordinator Sports Venues & Development
- Head of Economic Development
- Coordinator Corporate Governance Process & Policy

**External Consultation**

There has been no external consultation undertaken in preparing this report.

**Community Engagement**

There has been no community engagement undertaken in preparing this report.

**PROPOSAL**

The aim of this report is to seek Council's endorsement of the revised Rebate Policy for Infrastructure Charges for eligible community organisations. The current Policy, "Infrastructure Contributions (Charges) Rebates for Eligible Community Organisations" has been in place since 2009 and it is timely to undertake a review.

**Background**

A development application in the Sunshine Coast region attracts Infrastructure Charges in accordance with Council's current Infrastructure Charges Resolution. The *Planning Act 2016* allows Council to levy charges up to a maximum charge as stated in the *Planning Regulation 2017*.

In 2009, Council adopted a policy which allows community organisations to apply for a waiver of the charges. These waived charges are funded from general revenue to acknowledge the contribution made by community organisations providing services to the Sunshine Coast community.

The "Current Infrastructure Contributions (Charges) Rebates for Eligible Community Organisations Policy" - Attachment 1, recognises that community organisations operate a diverse range of facilities, programs and services for residents of the region, without which these services would not be available or would need to be provided by Government at all levels, at a significant cost.

The granting of Infrastructure Charges Rebates ensures much needed funds remain with the organisations, whilst the cost of the rebate is spread across the whole community.

The current Policy has now been in place for nearly 12 years and it is both timely and relevant to undertake a review, directed at improved clarity for those applying for the rebate as well as those administering the Policy, and to ensure the efficacy of decision making relating to the conferral of a public benefit at a cost to the ratepayer is best managed.

The principles supporting the current Policy, as considered by Council in 2009 are as follows:

- Supports not-for-profit community-based organisations
- Recognises capital investment enabling the provision of services to the community that would otherwise fall back on government (Local, State and Federal).

These principles remain applicable in this Policy review.

**The current Policy (Attachment 1):**

- Applies to not-for-profit community organisations, (community-based organisations, charitable organisations, sporting and recreation clubs, lifesaving clubs), religious institutions and schools registered with the Queensland Department of Education.
- Allows a 100% rebate where the purpose of development is to construct new or extended community service, sporting, recreation or lifesaving facilities.
- Permits a 30% rebate for the social, entertainment, gaming, or liquor facilities component of the development on the basis that some of the profits generated from the commercial operations are directed towards the community, recreation, or lifesaving functions of the organisation.

- Applies a rebate of 50% for non-state schools (including religious schools) for construction of new or extended educational facilities.
- Allows for religious organisations a 100% rebate for community, youth or meeting facilities that are available to the general community and are non-denominational in their application and use.
- Clarifies the issues relating to transferability of a rebate(s) for leased premises.

The main changes that form part of the “Proposed Infrastructure Charges Rebates for Eligible Community Organisations Policy” - Appendix A are:

- Schools are no longer included as an eligible community organisation and have been removed from the rebates table. This is in recognition of the amendments to legislation that allow non-state schools to avoid paying Infrastructure Charges through securing a Ministerial designation for community infrastructure, thus removing the need for inclusion in the Policy.
- Organisations registered with the Australian Charities and Not-for-Profits Commission as eligible community organisations are to be included.
- Lifesaving Clubs were previously identified separately but are now included as community, sporting or recreation organisations.
- Clarity that rebates will be assessed for the use that is approved by a Development Permit and that ancillary uses will be considered as part of the primary use. Application of the rebate can only be applied where the approval wording aligns with the policy eligibility guidelines, e.g. an application that has a mix of eligible and ineligible components needs to have these clearly worded in the application and the consequent approval.
- Provide clarity on what will and will not qualify for a rebate, including a guide on the various services that are eligible or otherwise for a rebate.
- Social, entertainment, gaming and liquor facilities associated with community sporting and recreation clubs, which previously attracted a 30% rebate, are excluded. Commercially based operations such as these are self-funded and not considered to be consistent with the Policy’s purpose to provide support for community service facilities.
- Simplify and reduce duplication of the Policy contents and in particular, the table of rebates.

It is intended that these amendments will improve the interpretation of the policy for community organisations and consultants who are assisting with the applications. There has been a number of complexities which are simplified and clarified in the proposed policy. An attempt to provide clarity through provision of a tracked change version was considered, however the result served to confuse rather than clarify and as such, has not been included with this report. For example, the layout of the revised Policy is different to the 2009 version such that the changes could not be provided as a simple adjustment to wording or currency of topic.

The proposal also includes the adoption of a standardised Application Form to simplify the application process for the community organisation and a Rebate Assessment Guide to assist in understanding eligibility. The Form would be submitted with the Development Application. It is anticipated that, together, these will clarify the process for the application and assessment of “Infrastructure Charges rebate for eligible organisations. The Form and Guide are appendices to the “Proposed Infrastructure Charges Rebates for Eligible Community Organisations Policy” - Appendix A.



**Legal**

Advice was sought from Council's Legal Services Branch and the continued application of providing a rebate to identified eligible parties, as described in this report, is confirmed as appropriate.

**Policy**

This policy update does not conflict with current policies linked to the application of Infrastructure Charges.

**Risk**

It is considered that there are no substantial risks associated with this report, however it is recognised that the annual value of rebates and their timing are unknowns. As stated above, it is likely that the future level of rebates will average around \$300,000 to \$400,000 annually.

**Previous Council Resolution****Ordinary Meeting 29 October 2009 (OM09/315)**

*That Council:*

- (a) *endorse the proposed policy for infrastructure contributions rebates for eligible community organisations, (Appendix A as amended namely that Queensland Life Saving Association be replaced with Royal Life Saving Association Queensland), for use in the former Council areas of Caloundra City, Maroochy Shire and Noosa Shire;*
- (b) *require that the proposed policy, (Appendix A as amended namely that Queensland Life Saving Association be replaced with Royal Life Saving Association Queensland), replaces Policy Number 785 'Policy – Infrastructure Contributions for Community Organisations' of the former Caloundra City Council and the relevant sections of the former Noosa Council policy 'Rate Rebates and Waiver of Fees for Community Organisations'; and*
- (c) *delegate to the Chief Executive Officer the authority to determine applications for infrastructure contributions rebates for eligible community organisations that comply with the proposed policy (Appendix A as amended namely that Queensland Life Saving Association be replaced with Royal Life Saving Association Queensland).*

**Related Documentation**

There is no related documentation that applies to this report or proposed Policy.

**Critical Dates**

There are no critical dates that apply to this report or proposed Policy.

**Implementation**

Should the recommendation be accepted by Council, it is proposed that the new Policy becomes effective immediately.

The Chief Executive Officer will determine applications for Infrastructure Charges rebates which comply with the proposed Policy.

Officers will provide information on the amended policy to the industry upon adoption.

**8.4 APPLICATION OF NATIONAL COMPETITION POLICY - OTHER ACTIVITIES 2021/2022**

**File No:** D2021/829114  
**Author:** Coordinator Commercial Analysis  
Business Performance Group

---

**PURPOSE**

The purpose of this report is to make recommendations on the application of National Competition Policy (NCP) reforms to off-street parking and festivals for the 2021/2022 financial year.

**EXECUTIVE SUMMARY**

Council must consider and resolve the application of National Competition Policy (NCP) on an annual basis.

At the Ordinary Meeting of 24 June 2021, Council considered the application of National Competition Policy for the 2021/2022 financial year. At the meeting, Council requested that the Chief Executive Officer to revert to Council with a further report on the application of the National Competition Policy to 'other activities' of Council. The other activities to be considered were off-street parking and festivals.

Council Officers considered these business activities with the assistance of external lawyers.

Council Officers and external lawyers have engaged with Councillors on the application of National Competition Policy including:

- Key elements of the National Competition Policy legislative regime
- Confirmation that Council's application of National Competition Policy reform was compliant with the *Local Government Act 2009* and *Local Government Regulation 2012* for the following:
  - Waste & Resources Management
  - Holiday Parks
  - Quarries
  - International Broadband Submarine Cable Network
- Information about and options for applying National Competition Policy to:
  - off-street parking
  - festivals.

Council Officers have considered the feedback provided from Councillors and from the external lawyers in preparing this report.

**OFFICER RECOMMENDATION**

**That Council:**

- (a) receive and note the report titled "Application of National Competition Policy - Other Activities 2021/2022"**
- (b) not apply the Code of Competitive Conduct to the off-street parking business activity in accordance with section 47 of the *Local Government Act 2009* as:**

- (i) While some private sector parking providers may provide off-street parking, they are at different locations (not proximate to those of Council), provided for different purposes and/or provided for free.
  - (ii) The market for parking services is heavily influenced by location (the market can generally be narrowly defined as the region in which the car park is located and the distance that people are willing to walk from their car to their destination). If there are no private off-street parking facilities within close proximity (e.g. within reasonable walking distance) to Council's parking facilities, it is arguable that private sector competition is currently low.
  - (iii) Council provides off-street parking to help achieve the objectives of the Mooloolaba Local Area Parking Plan.
  - (iv) Council is providing services traditionally provided by a Local Government.
  - (v) The Covid-19 pandemic has arguably distorted the market for tourism (and therefore demand for parking) such that any application of the reforms under the code (particularly assessments about the market and pricing) may not be accurate if conducted during the height of a pandemic and could quickly cease to be appropriate when (and if) the pandemic comes to an end.
  - (vi) If Council did not provide these services, there would be a clear gap in supply leading to negative outcomes such as traffic congestion in major precincts.
  - (vii) Prices charged by Council are benchmarked against private sector providers, so that no price advantage that exists due to government ownership and
  - (viii) Council has not received any competition or competitive neutrality complaints regarding its parking facilities from the private sector and
- (c) not apply the Code of Competitive Conduct to the festivals business activity in accordance with section 47 of the *Local Government Act 2009* as:
- (i) Council's festival events are an integral part of delivering on the objectives of the Sunshine Coast Arts Plan.
  - (ii) The market for festival events is heavily influenced by time rather than territory. Other private sector festival organisers are not constrained from starting up or visiting the Sunshine Coast because Council's festivals are each conducted over a discrete period of time (over a number of days at most). Like most major events, the date for Council's festivals are also published well in advance and tend to happen at approximately the same time each year, allowing private sector festival organisers to plan their own events at dates and times that do not conflict with those of Council. In addition, Council is not aware of its existing festivals competing with any private sector events on or near the dates that Council's events are conducted.
  - (iii) Council is providing a cultural and community service in the form of festivals for community and visitors of all ages and diversities – applying the code (particularly the pricing provisions) may detrimentally impact of the ability of all ages and diversities to attend and enjoy such cultural and community events.

- (iv) The Covid-19 pandemic has arguably distorted the market for tourism and, therefore, the ability to hold large festivals (for example, Council's Horizon Festival was recently cancelled due to the pandemic). The application of reforms under the code (particularly assessments about the market and pricing) may not be accurate if conducted during the height of a pandemic and could quickly cease to be appropriate when (and if) the pandemic comes to an end.
- (v) Private sector organisers of large-scale festivals would generally not be interested in delivering the type of cultural and community service festival events that are run by Council (namely, the Caloundra Music Festival and the Horizon Festival) - it is therefore arguable that the festivals do not directly compete with the type of events that would normally be conducted by the private sector.
- (vi) Council is providing festivals, some of which are free or below cost of delivery. This pricing has been established to reflect social objectives, such as enabling a diverse range of ages and diversities to attend, promoting local talent, generating economic activity and encouraging tourism and
- (vii) Community based events attract a strong community involvement in the form of a large volunteer base. Similarly, other groups, such as school groups and not-for-profit organisations rely upon festivals for unique fundraising opportunities.

## FINANCE AND RESOURCING

The finance and resourcing implications of applying the National Competition Policy reforms primarily relate to competitive neutrality and cost reflective pricing for Council's business activities.

## CORPORATE PLAN

**Corporate Plan Goal:** *Our outstanding organisation*

**Outcome:** 5.1 - Maintain a financially sustainable organisation that balances the needs of our growing region.

## CONSULTATION

### Councillor Consultation

- Councillor consultation occurred in August 2021.

### Internal Consultation

- Group Executive, Business Performance
- Group Executive, Economic and Community Development
- Group Executive, Built Infrastructure
- Chief Financial Officer
- Manager Business and Innovation
- Manager Transport Infrastructure Management
- Parking and Transport Manager.

**External Consultation**

James Cameron – Corrs Chambers Westgarth Lawyers

**Community Engagement**

No community engagement occurred in preparation of this report.

**PROPOSAL**

In April 1995, the Australian Government and all states and territories agreed to the implementation of a National Competition Policy. The National Competition Policy represents a commitment from governments to reduce restrictions to competition to enhance the overall efficiency of Australia's economic performance.

At the local government level, the underlying philosophy is to improve service delivery efficiency and reduce costs to both government and the community through competitive neutrality, while removing any competitive advantage enjoyed by Council purely due to its nature.

Council must consider and resolve the application of National Competition Policy on an annual basis.

At the Ordinary Meeting of 24 June 2021, Council considered the application of National Competition Policy for the 2021/2022 financial year. At the meeting, Council requested that the Chief Executive Officer to revert to Council with a further report on the application of the National Competition Policy to 'other activities' of Council. The other activities to be considered were off-street parking and festivals.

Council Officers considered these business activities with the assistance of external lawyers.

Council Officers and external lawyers have engaged with Councillors on the application of National Competition Policy including:

- Key elements of the National Competition Policy legislative regime
- Confirmation that Council's application of National Competition Policy reform was compliant with the *Local Government Act 2009* and *Local Government Regulation 2012* for the following:
  - Waste & Resources Management
  - Holiday Parks
  - Quarries
  - International Broadband Submarine Cable Network
- Information about and options for applying National Competition Policy to:
  - off-street parking
  - festivals.

Council Officers considered these business activities with the assistance of external lawyers.

**Matters for consideration in applying NCP to off-street parking and festivals**

Council is yet to apply National Competition Policy reforms to its off-street parking and festival activities. These activities are regarded as "business activities" of Council because they involve Council trading in goods and services (parking and ticket sales, respectively). Expenditure by each of these business activities exceeds the \$340,000 prescribed business activity threshold set out in the *Local Government Regulation 2012*.

Under the *Local Government Act 2009*, Council must therefore decide by resolution whether or not to apply the code of competitive conduct to each business activity.

**Implications of applying the code of competitive conduct**

The code of competitive conduct requires the application of competitive neutrality principles, including adjustments to take account of the advantages and disadvantages of local government ownership. The code is intended to be a less onerous way for smaller business activities to comply with competitive neutrality principles.

The code of competitive conduct is:

- the application of the competitive neutrality principle by:
  - removing any competitive advantage or competitive disadvantage, wherever possible and appropriate
  - promoting efficiency of the use of resources to ensure markets are not unnecessarily distorted and
  - if any net advantage over competitors remains, which exist only because Council is in competition with the private sector, and which cannot be eliminated then:
    - Council must ensure that when setting the price of goods or services, the individual advantages and disadvantages that make up the net advantage are taken into account in deciding the required revenue in relation to the pricing provisions.
- the pricing provisions
  - the projected total revenue from conducting the business activity must cover the projected total costs of conducting the activity over a projected period of more than 1 year, but not more than 5 years
  - total costs include:
    - operational costs
    - administration and overhead costs
    - cost of resources
    - depreciation
    - equivalent amounts for taxes Council is not liable to pay
    - equivalent amounts for any cost of funds advantage Council obtains over commercial interest rates because of State guarantees on borrowings and
    - return on capital which must be determined using the rate at which, in the Council's opinion, a comparable private sector business conducting the activity would be able to obtain the capital in the market
  - goods or services may be priced at an amount that could reasonably be charged by an entity conducting the activity with the primary object of making a profit.
- The cost of performing community service obligations, less any revenue received from carrying out those obligations, must be treated as revenue for the business activity when deciding what to charge for goods or services provided.
- An offer or competitive tender for a roads activity on a State-controlled road must not include community service obligations.
- The Budget must contain an Estimated Activity Statement for each business activity.
- The annual financial statements must contain an Activity Statement for each business activity.

**Discretion on whether to apply the code of competitive conduct**

While Council has discretion not to apply the code of competitive conduct to a prescribed business activity, it is recommended that any decision not to apply the code is reasonable and defensible, takes into account competition with the private sector, and considers principles similar to the public benefit assessment.

Should Council decide not to apply the code to either off-street parking or festivals, it is required to provide its reasons for not doing so.

Outlined below are the implications for both applying and not applying the code. In each instance Council Officers have also provided some reasons which might be considered for not apply the code.

**Applying the NCP reforms to off-street car parking**

Council has the eight-storey "ParknGo" car park at Mooloolaba and is proposing future paid parking facilities in the Maroochydore City Centre. For the purposes of applying National Competition Policy reforms, the parking facilities above should be assessed together as a single activity because:

- the clear intent of the National Competition Policy reforms is that they be applied to overall activities, not individual assets or facilities comprising those activities
- the relevant off-street parking facilities comprise the delivery of the same type of services, albeit through multiple facilities and
- only applying National Competition Policy reforms to particular facilities within an overall activity would be a way of avoiding the application of National Competition Policy reforms because the expenditure thresholds for those reforms are less likely to be reached with respect to individual facilities.

The off-street parking activity is a business activity of Council for the following reasons:

- Council is trading in commercial parking services that are delivered to the public through agreements with parking management companies such as Wilson Parking and from which Council receives funds from paying customers
- Council controls the prices at which those services are offered and supplied and
- section 43(4) of the *Local Government Act 2009* expressly acknowledges off-street parking as an example of a business activity that might be engaged in by a local government.

The off-street parking activity will incur financial year expenditure above the \$340,000 threshold for a prescribed business activity but below the \$9.7 million threshold for a significant business activity. The off-street parking activity is therefore a prescribed business activity of Council.

Council has the alternative with respect to its off-street parking activity is to either:

- decide by resolution whether or not to apply the code of competitive conduct to that business activity and
- if it decides not to apply the code to the business activity, provide its reasons for not doing so.

Regardless of whether Council resolves this financial year to apply the code of competitive conduct to its off-street parking activities, it must revisit that decision each subsequent financial year and make its resolution putting its decision into effect.

Applying the pricing provisions to the off-street parking business activity would require increased parking charges by setting a price path to full cost recovery over the next five years.

**Reasons to not apply Code of Competitive Conduct**

Reasons the code of competitive conduct may not be applied to off-street parking include:

- (i) While some private sector parking providers may provide off-street parking, they are at different locations (not proximate to those of Council), provided for different purposes and/or provided for free.
- (ii) The market for parking services is heavily influenced by location (the market can generally be narrowly defined as the region in which the car park is located and the distance that people are willing to walk from their car to their destination). If there are no private off-street parking facilities within close proximity (e.g. within reasonable walking distance) to Council's parking facilities, it is arguable that private sector competition is currently low.
- (iii) Council provides off-street parking to help achieve the objectives of the Mooloolaba Local Area Parking Plan.
- (iv) Council is providing services traditionally provided by a Local Government.
- (v) The Covid-19 pandemic has arguably distorted the market for tourism (and therefore demand for parking) such that any application of the reforms under the code (particularly assessments about the market and pricing) may not be accurate if conducted during the height of a pandemic and could quickly cease to be appropriate when (and if) the pandemic comes to an end.
- (vi) If Council did not provide these services, there would be a clear gap in supply leading to negative outcomes such as traffic congestion in major precincts.
- (vii) Prices charged by Council are benchmarked against private sector providers, so that no price advantage that exists due to government ownership and
- (viii) Council has not received any competition or competitive neutrality complaints regarding its parking facilities from the private sector.

**Applying the NCP reforms to festivals**

Council currently runs two festivals on a regular basis the Caloundra Music Festival and the Horizon Festival.

For the purposes of applying the National Competition Policy reforms under the *Local Government Act 2009*, these festivals should be assessed together as a single activity. This is because they both comprise trade in cultural/music festival/event services. It is irrelevant for the purposes of the determining whether each of these festivals (or any new cultural or music festival run by Council) should be assessed as an "activity" under the National Competition Policy framework that they attract quite different attendees or performers, charge different fees (or no fees) or are conducted at different times of the year or for different periods of time.

Festivals are a business activity of Council because:

- Council sells tickets to some or all aspects of each festival
- Council sells beverages at the festivals (noting that in FY2019, revenue from beverage sales alone was \$467,000) and
- Council sells advertising at each festival to sponsors.

These activities all involve Council trading in goods and services.

Council's festivals (in aggregate) will incur financial year expenditure above the \$340,000 threshold for a prescribed business activity but below the current \$9.7 million threshold for a significant business activity. The festivals are therefore a prescribed business activity of Council.



Council must decide by resolution whether or not to apply the code of competitive conduct to the business activity and, if it decides not to apply the code to the business activity, provide its reasons for not doing so.

Regardless of whether Council resolves this financial year to apply the Code of Competitive Conduct to its festival activities, it must revisit that decision each subsequent financial year and make its resolution putting its decision into effect.

Applying the pricing provisions to festivals business activity would require increased ticket charges by setting a price path to full cost recovery over the next five years.

### **Reasons to not apply Code of Competitive Conduct**

Reasons the code of competitive conduct may not be applied to festivals include:

- (a) Council's festival events are an integral part of delivering on the objectives of the Sunshine Coast Arts Plan
- (b) The market for festival events is heavily influenced by time rather than territory. Other private sector festival organisers are not constrained from starting up or visiting the Sunshine Coast because Council's festivals are each conducted over a discrete period of time (over a number of days at most). Like most major events, the date for Council's festivals are also published well in advance and tend to happen at approximately the same time each year, allowing private sector festival organisers to plan their own events at dates and times that do not conflict with those of Council. In addition, Council is not aware of its existing festivals competing with any private sector events on or near the dates that Council's events are conducted.
- (c) Council is providing a cultural and community service in the form of festivals for community and visitors of all ages and diversities – applying the code (particularly the pricing provisions) may detrimentally impact of the ability of all ages and diversities to attend and enjoy such cultural and community events.
- (d) The Covid-19 pandemic has arguably distorted the market for tourism and, therefore, the ability to hold large festivals (for example, Council's Horizon Festival was recently cancelled due to the pandemic). The application of reforms under the code (particularly assessments about the market and pricing) may not be accurate if conducted during the height of a pandemic and could quickly cease to be appropriate when (and if) the pandemic comes to an end.
- (e) Private sector organisers of large-scale festivals would generally not be interested in delivering the type of cultural and community service festival events that are run by Council (namely, the Caloundra Music Festival and the Horizon Festival) - it is therefore arguable that the festivals do not directly compete with the type of events that would normally be conducted by the private sector.
- (f) Council is providing festivals, some of which are free or below cost of delivery. This pricing has been established to reflect social objectives, such as enabling a diverse range of ages and diversities to attend, promoting local talent, generating economic activity and encouraging tourism; and
- (g) Community based events attract a strong community involvement in the form of a large volunteer base. Similarly, other groups, such as school groups and not-for-profit organisations rely upon festivals for unique fundraising opportunities.

### **Competitive neutrality complaints process**

Council has a process for resolving concerns about how competitive neutrality is applied to business activities before a formal complaint is made.

Complaints may be made only about business activities to which competitive neutrality principles apply, such as where business activities have been subjected to corporatisation,

commercialisation, full-cost pricing or the Code of Competitive Conduct. Only competitors or prospective competitors may make complaints.

Under the *Local Government Regulation 2012*, complaints may be made in writing to Council or to the Queensland Competition Authority. If Council receives a complaint, it must pass the complaint on to the Queensland Competition Authority. The Queensland Competition Authority must investigate and report on the complaint. The report must be given to Council, and Council must decide by resolution whether to implement the recommendations in the Queensland Competition Authority's report.

### Legal

In accordance with Chapter 3 of the *Local Government Act 2009* and the *Local Government Regulation 2012*, Council is required each year to identify any new 'financially significant' business activities and to identify its business activities.

### Policy

The organisational policy on Competition Reform Compliance sets out a framework outlining annual compliance requirements in relation to the application of competition policy principles to Council's nominated business activities in accordance with applicable legislative requirements.

### Risk

Failure to conduct the assessments required in the *Local Government Act 2009* and the *Local Government Regulation 2012* could leave Council exposed to competitive conduct complaints in respect of its business activities that are competing with the private sector, including potential legal and reputational risks for Council.

### Previous Council Resolution

Council resolved at the Ordinary Meeting of 24 June 2021 as follows:

#### Ordinary Meeting 24 June 2021 (OM21/49)

*That Council:*

- (a) *receive and note the report titled "**Application of National Competition Policy 2021/2022**"*
- (b) *apply Full Cost Pricing to the Waste and Resource Management significant business activity for the 2021/2022 financial year in accordance with section 44(1)(b) of the Local Government Act 2009*
- (c) *apply the Code of Competitive Conduct to the following business activities, for the 2021/2022 financial year, in accordance with section 47 of the Local Government Act 2009:*
  - (i) *Sunshine Coast Holiday Parks; and*
  - (ii) *Quarries*
- (d) *not apply the Code of Competitive Conduct to the International Broadband Submarine Cable Network, in accordance with section 47 of the Local Government Act 2009 as:*
  - (i) *Council considers this an economic development project being a mechanism to future proof telecommunications capacity and access on the Sunshine Coast*
  - (ii) *Council will not be able to influence price setting and*
  - (iii) *costs and prices of the project are already isolated, documented, and transparent and*

- (e) *request the Chief Executive Officer to provide a further report to Council by the end of September 2021 on the outcome of the current assessments of other business activities of Council.*

**Related Documentation**

There is no related documentation relevant to this report.

**Critical Dates**

This recommendation needs to be adopted each financial year per legislative requirements.

**Implementation**

Should the recommendation be accepted by Council, it is noted that the Chief Executive Officer will not apply National Competition Policy reforms for remainder of the 2021/2022 financial year to off-street parking and festivals.

## 8.5 EXCEPTION UNDER LOCAL GOVERNMENT REGULATION 2012 FOR DISPOSAL OF A COMMERCIAL LEASE WITHIN LOT 3 RP211081, BUDERIM

File No: D2021/829118

Author: Senior Property Officer  
Business Performance Group

Attachments: Att 1 - Lease A SP248167 in Lot 3 RP211081 .....51 [↓](#)  
Att 2 - Proposed commercial Lease terms (*Under Separate Cover*) - *Confidential*

---

### PURPOSE

The purpose of this report is to seek an exception from Council in accordance with the *Local Government Regulation 2012* from the tender or auction process to enter into a new commercial Lease agreement with the existing tenant of the land, being Sugar Snap Pty Ltd.

### EXECUTIVE SUMMARY

Sugar Snap Pty Ltd (formally known as Bellett Pty Ltd) trading as 'Harry's on Buderim' ('the Tenant') have a current Lease agreement with Sunshine Coast Regional Council ('the Council') until 31 March 2022 over part of Council freehold land legally described as Lot 3 RP211081, located 11 Harrys Lane, Buderim as shown on **Attachment 1 – Lease A SP248167 in Lot 3 RP211081 aerial map**.

The Tenant has approached Council's Property Management Branch seeking Council's agreement to enter into a new Lease agreement beyond the current expiry date to allow them to continue to trade from the premises. Council's Property Management Branch has sought the expert opinion of a registered Valuer to establish the new Lease agreement terms and determine the current annual rental in accordance with the current market conditions. It is proposed to offer the Tenant a further 10-year term at the market assessed rental rate.

### OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled "Exception under Local Government Regulation 2012 for Disposal of a Commercial Lease within Lot 3 RP211081, Buderim" and
- (b) resolve in accordance with section 236(2) of the *Local Government Regulation 2012*, that an exception to dispose of an interest in land (Lease) over part of Lot 3 RP211081, other than by tender or auction applies, as the disposal is pursuant to section 236(1)(c)(iii) to the existing tenant of the land, being Sugar Snap Pty Ltd.

### FINANCE AND RESOURCING

The proposed Lease terms and annual rental has been assessed in accordance with the current market conditions by a registered Valuer as at the commencement of the new Lease term, proposed to be 1 April 2022 in accordance with the expiry of the current Lease agreement.

## CORPORATE PLAN

**Corporate Plan Goal:** *Our service excellence*

**Outcome:** We serve our community by providing this great service

**Operational Activity:** S21 - Property management – comprehensive management of Council's land and building assets to ensure that Council's property dealings are optimised, centrally managed, and support Councils objectives.

## CONSULTATION

### Councillor Consultation

- Councillor E Hungerford – Division 7 Divisional Councillor
- Councillor T Landsberg – Economic Development Portfolio Councillor
- Councillor J O'Pray – Economic Development Portfolio Councillor

### Internal Consultation

- Property Management
- Legal Services
- Development Services
- Environment & Sustainability Policy
- Transport & Infrastructure Planning
- Transport Infrastructure Management
- Project Delivery
- Civil Asset Management
- Parks & Gardens
- Environmental Operations
- Strategic Property
- Customer Response
- Community Development
- Sport & Community Venues
- Economic & Community Development
- Design & Placemaking Services
- Urban Growth Projects

### External Consultation

Council's Property Management Branch has liaised with Sugar Snap Pty Ltd in relation to this report.

### Community Engagement

Due to the administrative nature of this report no community engagement has been undertaken or is required in relation to this report.

## PROPOSAL

Sugar Snap Pty Ltd (formally known as Bellett Pty Ltd) trading as 'Harry's on Buderim' ('the Tenant') have a current Lease agreement with Sunshine Coast Regional Council ('the Council') until 31 March 2022 over part of Council freehold land legally described as Lot 3 RP211081, located 11 Harrys Lane, Buderim as shown on **Attachment 1 – Lease A SP248167 in Lot 3 RP211081 aerial map** and **Figure 1. Lease A SP248167 in Lot 3 RP211081 aerial map** below.



**Figure 1. Lease A SP248167 in Lot 3 RP211081 aerial map**

The current Lease agreement is a five (5) year Lease term, from 1 April 2012 to 31 March 2017 with an additional five (5) year option, which was exercised to extend the Lease agreement to the current expiry date. The Tenant has approached Council's Property Management Branch seeking Council's agreement to enter into a new Lease agreement beyond the current expiry date to allow them to continue to trade from the premises. Council's Property Management Branch has sought the expert opinion of a registered Valuer to establish the new Lease agreement terms and determine the current annual rental in accordance with the current market conditions. It is proposed to offer the Tenant a further 10-year term at the market assessed rental rate.

An internal request for comments process has been undertaken seeking feedback from Council officers in relation to a new 10-year Lease agreement and was generally supported by Council officers.

The Tenant is currently compliant with the current Lease terms, including rental payments, and currently has no outstanding rental arrears. Any new Lease agreement will be drafted in

accordance with Council's standard commercial Lease terms and in accordance with current Council policies.

In accordance with the *Local Government Regulation 2012* an exception from Council is required to enter into a new commercial Lease agreement with the existing tenant of the land. If no exception is granted the premises will be offered for Lease agreement via a tender process at the expiry of the current Lease agreement term.

**Legal**

Council's Legal Services department have been consulted in relation to the preparation of the Form 7 – Lease/Sublease documentation.

**Policy**

This report has been prepared in accordance with Council's Procurement Policy relating to the disposal of Council assets.

**Risk**

There are no risks relevant to Council in relation to this report.

**Previous Council Resolution**

There are no previous Council Resolutions relevant to this report.

**Related Documentation**

There is no related documentation relevant to this report.

**Critical Dates**

There are no critical dates relevant to this report, however, any new Lease documentation should be executed and registered at the Titles Office prior to the expiry of the current Lease agreement, being 31 March 2022.

**Implementation**

Should Council resolve that an exception to the *Local Government Regulation 2012* applies, Council's Properties Lawyer will prepare the Form 7 – Lease/Sublease documentation for execution by Sugar Snap Pty Ltd and Council's Delegated Officer and arrange for the registration of this documentation at the Titles Office.

**8.6 EXCEPTION UNDER THE LOCAL GOVERNMENT REGULATION 2012 FOR THE DISPOSAL OF PROPERTY BEING LOT 11 ON RP883859, NAMBOUR**

**File No:** D2021/829120  
**Author:** Principal Property Officer  
Office of the CEO

---

**PURPOSE**

The purpose of this report is to seek an exception from Council in accordance with the *Local Government Regulation 2012* from the tender or auction process. The purpose of which is to facilitate the sale of a Council owned property located at the Nambour train station in Currie Street, Nambour legally described as Lot 11 on RP883859 to Queensland Rail.

**EXECUTIVE SUMMARY**

Council owns in freehold a property on Currie Street, Nambour legally described as Lot 11 on RP883859. **Refer Figure 1 - Lot 11 on RP883859 Locality Map.** The 102m<sup>2</sup> subject property comprises a small regular shaped internal tenancy allotment which does not have any direct street frontage and is attached to the Nambour train station, located within the Nambour Central Business District.

The site is improved with a circa 1960's freestanding brick building comprising a community hall. Suncare Community Services currently hold a license over the premises until March 2022 to conduct community activities.

Queensland Rail (QR) directly approached Council in February 2021 regarding the potential acquisition of the site. The request came about due to the impact Cross River Rail has had on Queensland Rail operations. Queensland Rail now requires additional sites to support business operations and provide additional train crew facilities.

As a result, this report seeks an exception from Council to dispose of Lot 11 on RP883859 to Queensland Rail (QR). The *Local Government Regulation 2012* provides that a disposal, other than by tender or auction, may occur if an exception applies. Section 236(1)(b)(i) provides for an exception if the disposal is to a government agency, in this instance, Queensland Rail. Section 236(2) provides that a Local Government must decide by resolution that an exception applies. Section 236 (3) stipulates that the disposal of land or an interest must be disposed of for a consideration equal to, or more than, the market value.

Strategic Property and Queensland Rail have engaged a joint valuation of the property to determine its value. That valuation was \$175,000. If Council agrees to dispose of the property, it would be in accordance with this valuation. It should be noted however, that a sale of the property at valuation will not provide enough funds for Council to purchase a replacement building. It is important to note that Queensland Rail has the power (through Department of Transport and Main Roads) to compulsorily acquire property and may seek to do so should Council choose not to dispose of the site via negotiation.



**OFFICER RECOMMENDATION**

That Council:

- (a) receive and note the report titled “Exception under the Local Government Regulation 2012 for the disposal of property being Lot 11 on RP883859, Nambour”
- (b) resolve, pursuant to section 236(2) of the *Local Government Regulation 2012*, that an exception to dispose of an interest in land at Lot 11 RP883859, other than by tender or auction applies, as the disposal is pursuant to section 236(1)(b)(i) to a government agency and
- (c) note that Queensland Rail is a government agency.

**FINANCE AND RESOURCING**

The subject property was valued on Council’s behalf by Horrigan Kamitsis Valuers who valued the property at \$175,000, Queensland Rail (QR) have agreed to purchase the land for this amount (excluding GST). Queensland Rail has also agreed to cover any costs associated with the sale of the subject land. This includes costs such as legal fees, survey plans and relocation costs for Suncare Community Services.

**CORPORATE PLAN**

**Corporate Plan Goal:** *Our service excellence*

**Outcome:** We serve our community by providing this great service

**Operational Activity:** S21 - Property management – comprehensive management of Council’s land and building assets to ensure that Council’s property dealings are optimised, centrally managed, and support Councils objectives.

**CONSULTATION****Councillor Consultation**

Division 10 Councillor- Councillor D Law has been briefed on this matter.

**Internal Consultation**

- Senior Property Officer, Land Management
- Director, Major Projects and Strategic Property
- Manager Community Planning & Development
- Coordinator Stormwater Services
- Manager, Transport & Infrastructure Planning Branch
- Project Officer, Environmental Operations

**External Consultation**

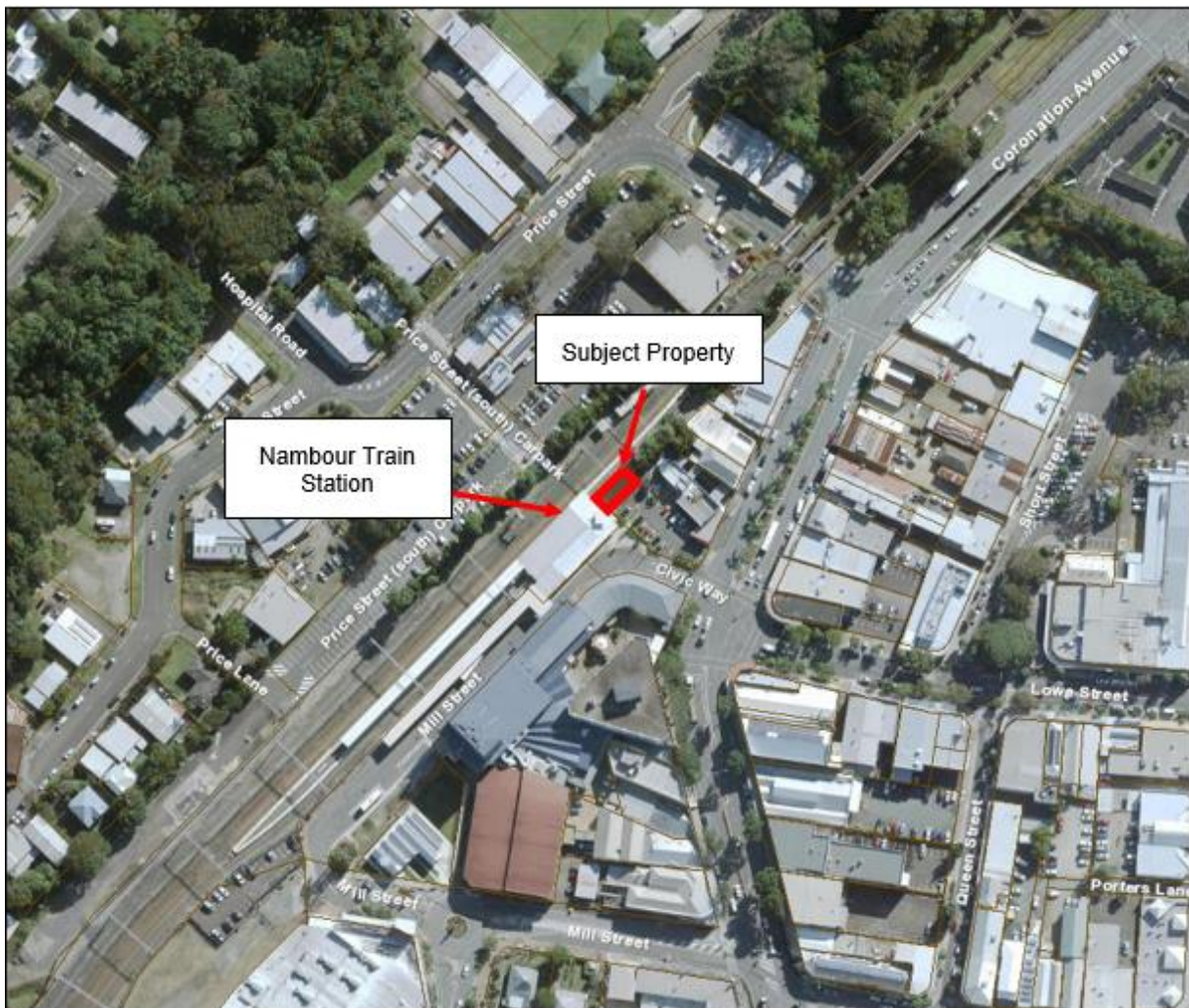
- Suncare Community Services (license holder)
- Consultation has occurred between Queensland Rail representatives and Council Officers
- Horrigan Kamitsis Valuers produced a valuation report for the subject property

## Community Engagement

Due to the administrative nature of this report, no community engagement has been undertaken.

## PROPOSAL

Council owns in freehold a property on Currie Street, Nambour legally described as Lot 11 RP883859. **Refer Figure 1 – Lot 11 on RP883859.** The 102m<sup>2</sup> subject property comprises a small regular shaped internal tenancy allotment which does not have any direct street frontage. The immediate surrounding development comprises a mixture of retail and commercial land uses. Directly adjoining the subject is the Nambour Train Station with the railway line immediately to the rear. The McDonalds Restaurant car park and drive-through adjoins to the front and side of the property.



**Figure 1 – Lot 11 on RP883859 Locality Map**

The site is improved with a circa 1960's freestanding brick building comprising a community hall. **Refer Figure 2 – Frontage of Site.** Suncare Community Services currently hold a license over the premises until March 2022 to conduct community activities.



**Figure 2 – Frontage of site**

Queensland Rail (QR) directly approached Council in February 2021 regarding the potential acquisition of the site. The request came about due to the impact Cross River Rail has had on Queensland Rail operations. Queensland Rail now requires additional sites to support business operations and provide additional train crew facilities.

This property is a component of the social infrastructure network and has been leased to a variety of community groups over the years.

The potential disposal of this property has been subject to an internal Request for Comment process. The disposal is generally supported by Council officers with the following comments to note:

- Environment and Sustainability advised that while the subject site is located in the centre of Nambour and adjacent to the Nambour rail station, it does not meet the current standard of community facility as per the Environment and Liveability Strategy requirements (i.e. there is no carparking, it is not disability compliant and there are no toilets and minimal functional spaces).
- Coordinator Stormwater Services identified that there is existing stormwater infrastructure running through the site from Mill Street and upstream private properties. It will therefore require an appropriate drainage easement in gross in favour of Council to be registered prior to any disposal.
- Community Development have no issues with the proposal and are currently in discussions with Suncare Community Services in regard to relocating to them Old Drill Hall in Nambour which should be more suitable for their activities.

Based on the feedback from officers, this report seeks an exception from Council to dispose of Lot 11 on RP883859 to Queensland Rail.

The *Local Government Regulation 2012* provides that a disposal, other than by tender or auction, may occur if an exception applies. Section 236(1)(b)(i) provides for an exception if the disposal is to a government agency, in this instance, Queensland Rail. Section 236(2) provides that a Local Government must decide by resolution that an exception applies.

Section 236 (3) stipulates that the disposal of land or an interest must be disposed of for a consideration equal to, or more than, the market value.

Strategic Property and Queensland Rail have engaged a joint valuation of the property to determine its value. That valuation was \$175,000. If Council agrees to dispose of the property, it would be in accordance with this valuation. It should be noted however, that a sale of the property at valuation will not provide enough funds for Council to purchase a replacement building. It is important to note that QR has the power (through Department of Transport and Main Roads) to compulsorily acquire property and may seek to do so should Council choose not to dispose of the site via negotiation.

It should also be noted, that at the expiry of the current licence, Queensland Rail has agreed to relocate the Suncare Community Services to another site. At this stage Council's Community Development team are discussion with Suncare in regard to them relocating to the Old Drill Hall in Nambour, which is seen to be more suited to their activities.

### **Legal**

Legal Services have been consulted in relation to this report and no issues have been identified.

This report has been prepared in accordance with Council's Procurement Policy relating to the disposal of Council assets.

### **Risk**

If Council don't resolve to dispose of the land to Queensland Rail, then Queensland Rail may use their powers of compulsory acquisition.

### **Previous Council Resolution**

There are no previous Council Resolutions relevant to this report.

### **Related Documentation**

There is no related documentation relevant to this report.

### **Critical Dates**

Assuming a resolution is passed, the settlement of this property will occur 60 days after the contract date.

### **Implementation**

If Council resolves that an exception under Section 236(2) of the *Local Government Regulation 2012* applies, Strategic Property will register easements over the stormwater assets and then finalise the disposal of Lot 11 on RP883859 to Queensland Rail.





**8.7 QUEENSLAND AUDIT OFFICE - SECOND INTERIM MANAGEMENT REPORT FOR THE FINANCIAL YEAR ENDED 30 JUNE 2021****File No:** D2021/829121**Author:** Coordinator Financial Accounting  
Business Performance Group**Attachments:** Att 1 - Queensland Audit Office 2021 Second Interim Report .65 [↓](#)

---

**PURPOSE**

The attached report from the Queensland Audit Office (QAO) outlines the results of the second interim audit which was conducted in June this year.

This Queensland Audit Office Second Interim Management Report was presented to the 6 September 2021 Audit Committee.

Section 213(3) of the *Local Government Regulation 2012* requires that the report be presented at the next Ordinary Meeting of Council.

**EXECUTIVE SUMMARY**

Council has a statutory obligation to prepare "General Purpose" Financial Statements on an annual basis, culminating in audit certification in October, before publication in Council's Annual Report.

The Queensland Audit Office audit Council's annual financial statements to ensure the statements give a true and fair view of Council's financial position, financial performance and cash flows for the relevant year, and that they comply with the *Local Government Act 2009*, the *Local Government Regulation 2012* and Australian Accounting Standards.

The annual audit process for the 2020/21 financial year consists of 5 parts as follows:-

- Planning (December 2020)
  - Confirmation of deliverables and timelines for the audit process
- 1st Interim Audit (March 2021)
  - Includes an assessment of the control environment to determine whether it supports an audit strategy that can rely upon these controls
  - Covers the period July 2020 to February 2021
- 2nd Interim Audit (June 2021)
  - Covers the period March 2021 to May 2021
- Audit of Asset Valuations to ensure they reflect fair value (scheduled for July 2021 – deferred to September 2021)
- Final audit of financial statements (September 2021)

Following the final audit, Queensland Audit Office provide their Closing Report, Certification and Final Management Report in October 2021 which includes their audit opinion as well as a summary and status of any issues identified during the course of the audit.

Council has consistently received an unmodified audit opinion meaning the annual financial statements, in all material aspects, give a true and fair view of Council's financial position, financial performance and cash flows for the relevant year, and that they comply with the applicable legislation and Australian Accounting Standards.

The results of all Queensland local government audits are included in the Auditor General's annual report to Parliament on the results of local government audits.

### 2nd Interim Audit

This report details the outcome of the Second Interim Audit for 2020/21 conducted in June 2021, which covered the period March 2021 to May 2021. During the audit, Queensland Audit Office confirmed the operating effectiveness of Council's key financial internal controls, and performed further substantive procedures.

One new deficiency has been raised in relation to a comprehensive revaluation not being performed for the Other Infrastructure class of assets within the past 5 years as per Council policy. This revaluation will be conducted during 2021/22.

Results of the second interim audit are summarised as follows:-

Item	Result
1. Internal control assessment	Partially effective
2. Financial reporting issues	Nil
3. Areas of audit focus	On track
4. Other matters	Resolved subject to audit verification
5. Milestones	On track

Based on the results of the testing completed to date and the resolution of prior year issues, Queensland Audit Office (QAO) have confirmed that Council's internal control environment is partially effective, meaning that while the outstanding matters are still being addressed, the environment supports an audit strategy that can rely on these controls.

The Second Interim Audit is the third audit visit in Queensland Audit Office's annual external audit plan for Council's 2020/21 financial statements. Queensland Audit Office returned to Council in September 2021 to review the asset valuations and finalise the audit of the 2020/21 financial statements.

## OFFICER RECOMMENDATION

**That Council receive and note the report titled "Queensland Audit Office - Second Interim Management Report for the financial year ended 30 June 2021".**

## FINANCE AND RESOURCING

The estimated audit fee for the financial year is \$250,000 and this is provided for in Council's budget.

## CORPORATE PLAN

**Corporate Plan Goal:** *Our outstanding organisation*  
**Outcome:** We serve our community by providing this great service  
**Operational Activity:** S28 - Financial and procurement services – financial and procurement management and governance, ensuring effective business management and legislative compliance, coordination and development of Council's budget process, administration of financial systems, sundry debtors, accounts payable, financial and asset accounting, treasury, procurement, contract and supply functions.

## CONSULTATION

### Portfolio Councillor Consultation

The Portfolio Councillors have received advice of this report through the Audit Committee process.

### **Internal Consultation**

Internal consultation was held with the following areas:

- People and Culture
- Digital and Information Services
- Finance
- Business and Innovation
- Audit Committee.

### **External Consultation**

External consultation has been held with Queensland Audit Office as well as external members of Council's Audit Committee.

## **PROPOSAL**

The Queensland Audit Office performed their second interim audit of Council's financial systems and processes during June 2021. The Second Interim Report (Attachment 1) provides the overall status of the audit and summarises the principal matters that arose during the course of the audit. This audit involved confirmation of the operating effectiveness of Council's key financial internal controls and performance of further substantive procedures.

Detailed results of the audit are as follows:-

### **1. Internal control assessment**

Queensland Audit Office categorise internal control issues as either Significant Deficiencies (requiring immediate action to resolve), Deficiencies (requiring resolution in a timely manner), or Other Matters (business improvement opportunities which may be implemented at management's discretion).

- Queensland Audit Office identified one new Deficiency during the Second Interim Audit in relation to a comprehensive revaluation not being performed for the Other Infrastructure class of assets within the past 5 years as per Council policy. Indexation has been applied in the past 5 years where material, and a full comprehensive revaluation of this asset class is scheduled for the 2021/22 financial year.
- Issues and status identified during the First Interim Audit are:
  - 1 Significant Deficiency (Payroll) – resolved
  - 3 Deficiencies (2 Payroll; 1 System Access) – resolved pending Queensland Audit Office verification
  - 1 prior year Deficiency (Contributed Assets) – in progress

### **QAO consider the overall control framework to be partially effective.**

The "partially effective" rating is the result of one significant deficiency being identified. This issue has now been resolved.

### **2. Financial reporting issues**

Financial reporting issues are identified and assessed based on their risk of causing a material misstatement in one or more components of the financial statements.

The risks of potential misstatement are categorized as:-



- High – requiring immediate management action to resolve
- Medium – management action is expected to be taken in a timely manner
- Low – action is taken at management’s discretion.

**Queensland Audit Office have not identified any financial reporting issues.**

### **3. Areas of audit focus**

Queensland Audit Office have identified items that they consider to be significant risks to the financial statements, due to their size or complexity, and as such will undertake specific targeted testing of these items which are as follows:

- 1) Valuation of infrastructure assets
- 2) Revenue recognition of infrastructure charges and contributed assets
- 3) Occurrence and appropriateness of procurement
- 4) Valuation of investment in associate
- 5) Accounting for major projects and transactions.

**Progress against these areas is on track.**

### **4. Other Matters**

Queensland Audit Office also identified three Other Matters which Council is committed to resolving. These relate to finance system user access review, contracts, and active directory password setting.

**These Other Matters were all resolved during April.**

### **5. Milestones**

The Queensland Audit Office external audit plan contains a series of measurable milestones in terms of Council’s financial reporting and audit deliverable deadlines. The Asset Valuation audit has been deferred until September 2021 by mutual agreement between Council and Queensland Audit Office.

**Apart from the Asset Valuation audit, all other agreed key financial reporting and audit deliverable milestones have been met.**

If issues are identified as the audit progresses, they will be included in Queensland Audit Office’s future reports.

**The second interim audit result confirmed Council’s overall control framework as partially effective meaning that while the outstanding matters are still being addressed, the environment supports an audit strategy that can rely upon these controls.**

### **Legal**

Section 213(3) of the *Local Government Regulation 2012* requires this Queensland Audit Office Interim Report to be presented at the next available Ordinary Meeting of Council.

### **Policy**

There are no internal policy documents relating to this report. It is a legislative requirement – refer Sections 212 and 213 of the *Local Government Regulation 2012*.

### **Risk**

Council has a statutory obligation to prepare general purpose financial statements that are subject to audit by the Auditor-General or their contracted representative.

**Previous Council Resolutions****Ordinary Meeting 24 June 2021 (OM21/52)**

*That Council receive and note the report titled “Queensland Audit Office – Interim Management Report for the financial year ended 30 June 2021”.*

**Audit Committee Meeting 24 May 2021 (AC21/15)**

*That the Audit Committee receive and note the report titled “Annual Financial Statement Risk and Planning Assessment”.*

**Audit Committee Meeting 21 January 2021 (AC21/3)**

*That the Audit Committee receive and note the report titled “Planning for the 2020/21 Financial Statements Audit Process”.*

**Critical Dates**

Queensland Audit Office returned to Council in September 2021 to review the asset valuations and finalise the audit of the 2020/21 financial statements.

Council certification of the 2020/21 financial statements and current year financial sustainability statement is due by 7 October 2021.

**Implementation**

All identified issues will be stored in Council’s corporate reporting system with resolution to be monitored by the Audit Committee.

**9 NOTIFIED MOTIONS**

**10 TABLING OF PETITIONS**

Petitions only eligible for submission if:

- \* Legible
- \* Have purpose of the petition on top of each page
- \* Contain at least 10 signatures
- \* Motion limited to:
  - Petition received and referred to a future meeting
  - Petition received and referred to the Chief Executive Officer for report and consideration of recommendation
  - Petition not be received

**11 CONFIDENTIAL SESSION**

**12 NEXT MEETING**

The next Ordinary Meeting will be held on 14 October 2021.

**13 MEETING CLOSURE**