**Community land Permits
Best Value Review
Sunshine Coast Council**

May 2016

ORION Consulting Network

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Best Value Review
Sunshine Coast Council

</div>

May 2016

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ORION Consulting Network

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ORDINARY MEETING 21 JULY 2016

Item 8.2.5   Community Land Permits Team Best Value Service Review
Appendix A   Consultants Report - Community Land Permits Review

List of Acronyms

CEO	Chief Executive Officer
CLP	Community Land Permits
CLPT	Community Land Permits Team
CSO	Community Service Oblogation
CUCL	Commercial Use of Community Land
ELT	Executive Leadership Team (of Council)
FTE	Full Time Equivalent (staffing positions)
GCCC	Gold Coast City Council
MBRC	Moreton Bay Regional Council
MCC	Melbourne City Council
NRM	Department of Natural Resources and Mines
SCC	Sunshine Coast Council
SLO	Social Licence to Operate
TMR	Department of Transport and Main Roads

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1 Executive summary

- The Community Land Permits team is within the Community Services Department, and covers the full range of community land usage, unlike most Councils which split this across Council
- Council is progressively conducting Best Value Reviews of its functions, and Orion was engaged to conduct a BV review of the CLP function
- Best Value reviews apply the 4C's – Consult, Compare, Compete and Challenge
- The objective of the review is to assess if best value for the community is obtained from the allocated budget and resources, and identify achievable improvements where possible.
- The review has assessed the function against a range of relevant criteria:
- Community Issues
  o Place Making
  o Tragedy of the Commons
  o Social Licence to Operate
- Economic Issues/ Competition
  o Information Availability
  o Property Rights
  o Barriers to Entry
  o Externalities
  o Transaction Costs
- Legal Issues
  o Local Government powers
  o Land Act
  o Council Local Law
  o National Competition Policy
- Governance & Risk Management
  o Subsidiarity
  o Red Tape reduction
  o Risk Management
- Consultation was undertaken with a wide range of stakeholders including all Councillors, relevant Council management and affected staff, and external stakeholders including tourism & business representatives, and affected state agencies
- Although there was a range of opinions, the consensus was that the Council have an appropriate balance between community and permitted usage.
- The CLP team, and especially the Coordinator are highly regarded across the board, and the state agencies were particularly impressed. This is a significant improvement on the situation we observed in 2011.
- Permit holders again raised a preference for more flexibility and property rights, but this is problematic with the legal framework.
- Some concerns were raised about the process for new ideas, as experienced with seaplane and water park proposals.
- The CLP team deals a much wider range of land activities than other Councils which generally have a departmental approach.
- CLPT also provides a more facilitative than "tick and flick" regulatory approach, assisting applicants in developing compliant applications, so that few applications are rejected. The Team is also virtually the Council Event management coordinator across Council in terms of logistics to meet the regulatory requirements.
- The number of applications is increasing each year, both in application volumes and the more complex applications. Over 2,000 applications are processed annually, however 80-90% of these are low risk/low impact.

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- The wider range of permit types makes it difficult to benchmark staff levels, but they appear relatively low compared with the Councils consulted.
- The group has an operating budget of approx. $500,000 per year, recovers $322,00 in fee revenue, giving a cost-recovery ratio of 64%. However, most of the permits are for community groups which are not charged. An estimate of this lost revenue shows that full cost recovery would be achieved if fees were charged to all applicants. Therefore the $180,000 operating loss if effectively a Community Service Obligation.
- Gold Coast has waived its fees for most applications (not footpath dining)
- There is a growing imbalance in the staff resourcing compared with the complexity of tasks.
- The temporary Major Events Permits Officer position needs to be made permanent.
- Internal coordination within Council for most activities is very good, but needs to be improved with Economic Development.
- The other Councils compared had sophisticated online applications, whereas SCC's systems require downloading, printing, manual completion, sending to Council, scanning and data input. This is inefficient and provides a poor service. (A Customer request system review is under way).
- An SCC Events Calender needs to be developed and maintained on the website.
- The CLP team appears to achieve the desired result of the Council Policy, -*Limited complementary commercial activity that benefits the community has been accommodated while preserving the primary use of community land.*
- The CLP Team and process provides a high level of value to the community in its designated role and Council policy settings. However, best value would be achievable if this was part of a broader cycle of Council-wide process for precinct development and management, within an overall Place management framework.

Greater community value would also be achieved if:

- Online application processes are developed,
- An whole of Council area events calendar is created and provided on line,
- Staff resources are refocussed towards the higher risk activities, and self assessment processes are developed for lower risk activities, and
- The Local aw is revised to support the issues raised in this review,

Recommendation 1 – The Community Land and Complementary Commercial Activity Policy be reviewed to enable:

- Self Assessment of low use/low impact uses as determined by Council, and
- The ability to consider existing permits for use of the community land in an application (in order to address out-of-sequence applications)

Recommendation 2 – Online application and self-assessment facilities be developed in conjunction with the current review of the customer request system.

Recommendation 3 – An SCC-wide Events Calendar be developed and provided online for the community and stakeholders.

Recommendation 4 – The Major Events Permits Officer position be made permanent, and the resourcing levels and mix be reviewed to focus more staff resources on the the more complex matters.

Recommendation 5- Council consider conduct a trial self-assessment of self-assessment of some low impact/low risk community land usages (subject to implementation of recommendation 1)

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2 Background

Key points

- The Community Land Permits team is within the Community Services Department, and covers the full range of community land usage, unlike most Councils which split this across Council
- Council is progressively conducting Best Value Reviews of its functions, and Orion was engaged to conduct a BV review of the CLP function
- Best Value reviews apply the 4C's
  - Consult
  - Compare
  - Compete
  - Challenge

The objective of the review is to ensure that best value for the community is obtained from the allocated budget and resources, and identify achievable improvements where possible.

2.1 Purpose

Council has commenced a rolling series of Best Value reviews of key Council services. Within the Community Services Department, a Best Value review is being conducted into the Community Land Permits (CLP) function. Orion was engaged to conduct an independent Best Value review of this function. In 2011 Orion was engaged to resolve some issues in relation to commercial use of community lands, which is one of the CLP functions.

2.1.1 Community Land Permits Function

Sunshine Coast Council's CLP Team is responsible for administering approvals via the issuing of permits for the use of Council controlled/managed community land in accordance with Council policy, local laws and other relevant legislation. There are two main types of permits issued by Council for commercial use of community land

(1) High-use/high-impact permits; and

(2) Low-use/low-impact permits.

Other permit types that are issued by Council are listed below and respond to prescribed activities outlined in Council's local laws. A series of Council adopted fees and charges are currently in place, which are based on cost-recovery associated with the processing of applications for permits. However, community groups are not charged, but account for the majority of applications.

The Community Land Permits Team is responsible for processing applications for the following permit types. (These are shown with the general level of risk or complexity in brackets)

- Beach Access (Low risk)
- Ceremonies and Weddings (Low)
- Commercial Activities:
  - High-use / high-impact

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- o Low-use / low-impact, including (Low risk)
  - ▪ Commercial Fitness;
  - ▪ Itinerant Food Vendors;
  - ▪ Not for profit organisations; and
  - ▪ Other commercial activities.
- Commercial filming (High)
- Footpath Trading (Low risk);
  - o Outdoor Dining;
  - o Goods on Footpath;
- Infrastructure on council land   (Med)
- Liquor Licensing (Med)
- Markets (Med-High)
- Movable Advertising Devices (Low risk);
- Regulated activities (Low risk);
- Roadside Stalls (Low risk);
- Street Performance (Low risk);
- Street Stalls (Low risk);
- Temporary Events (public land) (Low risk);
- Temporary Events (private land) (High)

Over recent years, there has been an increase in the request for use of community land for a variety of activities. Further, Council's focus on attracting major events to the region as part of the Regional Economic Development Strategy 2013-2033 has resulted in an increased use of community land and the issuing of permits for this purpose.

The Community Land Permits is important because it has a major impact on a number of important areas, including:

- o Council's vision and strategic direction;
- o local businesses;
- o tourism and events;
- o requirements of Council's local laws and relevant legislation;
- o safety of the community;
- o risks to Council;
- o the region's infrastructure; and
- o protection of community land for use by the community.

Given the strategic focus of Council and the increase in requests for the use of community land for commercial purposes, a Best Value Service Review of the Team structure, functions and processes is timely. This Review is required to assess the purported benefits and value of a regulatory framework and its interface with Council's approach to economic development, community satisfaction and environmental goals.

The team currently has 7.2 Full Time Equivalent (FTE) positions including the Coordinator and one temporary position. However, the Coordinator also supervises other functions. The Team has the following structure:

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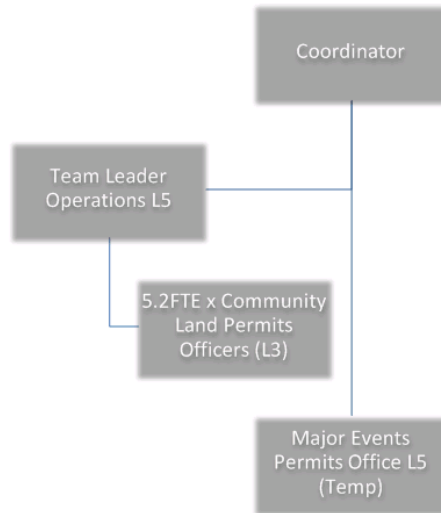
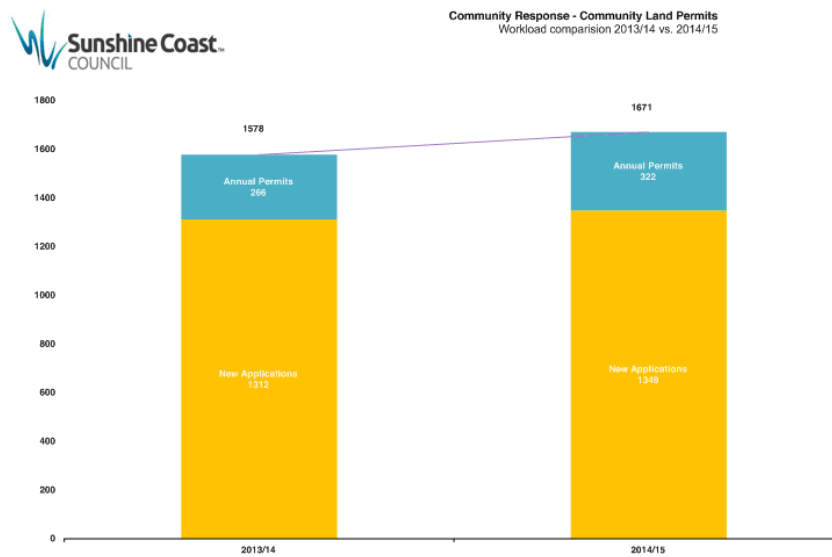Figure 1 – CLP Organisation Structure

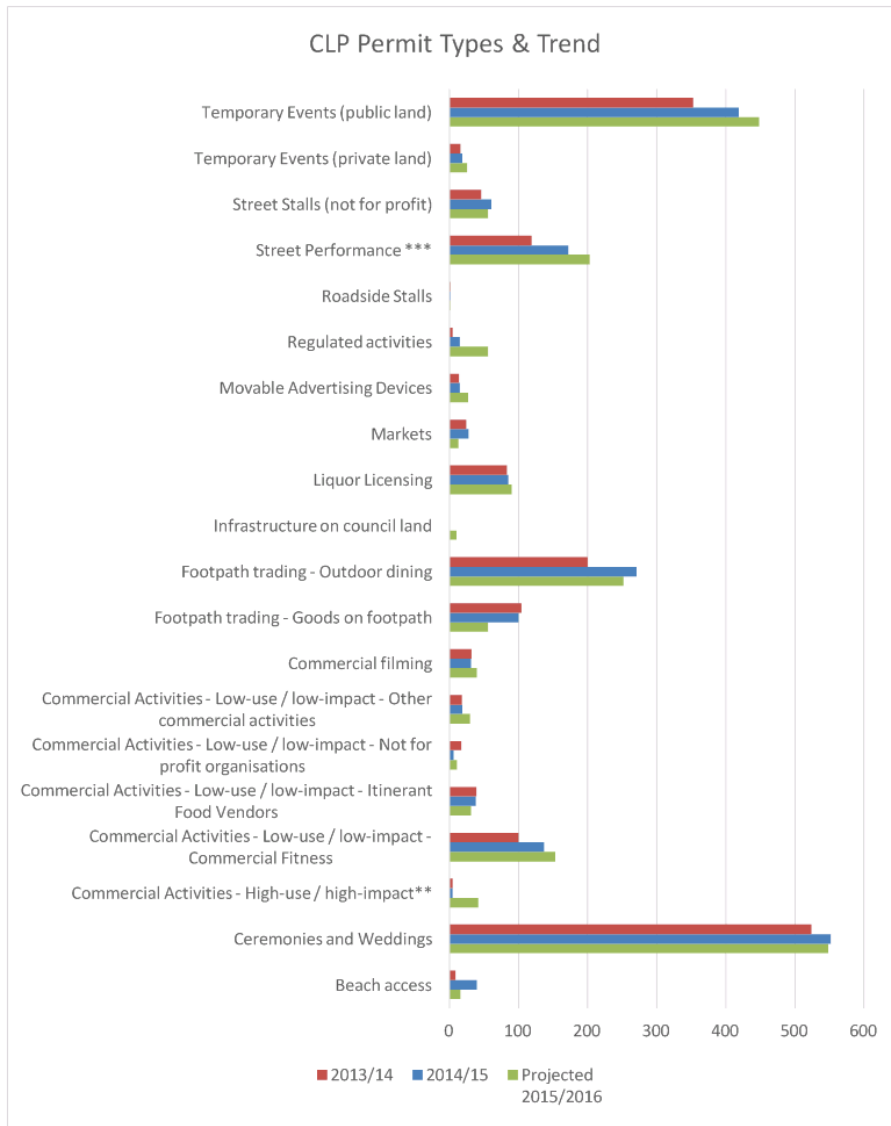Figure 2 – CLP Annual and New Permit Trends

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Figure 3 – CLP Permits Types & Trends

2.2 Best Value Review Methodology

Objective

To review the Community Land Permits operations to ensure that best value for the community is obtained from the allocated budget and resources, and identify achievable improvements where possible.

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Timeframe

The review will be conducted to enable completion of the Report by 15 April 2016, for subsequent presentation at ELT later April, and the new Council in May 2016.

Overall Methodology

The review will apply the Best Value Service Review 4C's methodology. This technique was developed by the UK Government:

- Consult
- Compare
- Compete
- Challenge

Consult key internal and external Stakeholders

Internal

- Councillors (individual consultation, subject to availability during election period)
- Community Land Permits Team (Community Services Department)
- Community Services Department (Community Facilities and Planning, Community Relations, Community Response)
- Regional Strategy and Planning Department (Development Services)
- Corporate Services Department (Corporate Governance, Property Management)
- Infrastructure Services Department (Civil Works Services, Environmental Operations, Parks and Gardens, Transport Infrastructure Management, Waste and Resource Management)
- Corporate Strategy and Delivery (Economic Development, Communication)
- Legal Services

External

- Industry Groups (business chambers, industry representatives)
- Visit Sunshine Coast
- Queensland Police Service
- Department of Transport and Main Roads
- A representative selection of current permit holders

Compare

- City of Melbourne
- Moreton Bay Regional Council
- Relevant benchmarking

Compete

- Consider impacts on competitive environments, including:
  o Other Sunshine Coast businesses, and
  o Other permit holders
- Consider impact of commercial activity on community activities
- Consider relevant literature,

Challenge

The review will consider community, business and organisational benefits and opportunities such as:

- Introduction of flexible permit regimes which appropriately supports local business on the Sunshine Coast
- Ongoing commitment to meeting Council's identified economic, community and environmental goals in relation to events held on community land on the Sunshine Coast
- Assessment of the team structure that builds on existing strengths and ensures adequate resourcing is in place

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- Meeting community expectations and needs in relation to the use of council-controlled land
- Ensuring community safety and amenity through the provision of local law approval
- Regulatory framework processes and timings for the issuing of permits
- Effectiveness of Councils Community Land and Complimentary Commercial Activity Policy
- Permit regime for all approvals for the use of public land
- Fees and charges levied based on cost recovery associated with applications for permits
- Team structure

Deliverables

- Collation of feedback from key stakeholders
- Benchmarking exercise
- Development of best value service review, including outcomes and recommendations

Project Steps

1. Project Planning and initiation (including confirmation of consultation contacts)
2. Stakeholder consultation by telephone
3. Benchmark comparisons
4. Review current processes and staffing structure
5. Prepare Best Value Service Review, Including Outcomes and Recommendations

Out of Scope

- Responsibilities outside the Community Land Permits Team
- Statutory framework for issuing permits (local laws endorsed by Council and relevant gazetted State Government legislation).

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3 Conceptual Framework

Key points
The review has assessed the function against a range of relevant criteria:

- Community Issues
  - Place Making
  - Tragedy of the Commons
  - Social Licence to Operate
- Economic Issues/ Competition
  - Information Availability
  - Property Rights
  - Barriers to Entry
  - Externalities
  - Transaction Costs
- Legal Issues
  - Local Government powers
  - Land Act
  - Council Local Law
  - National Competition Policy
- Governance & Risk Management
  - Subsidiarity
  - Red Tape reduction
  - Risk Management

3.1 Community Issues

Since the CLP process deals with use of community land, it has a direct impact on the community. There are several relevant concepts which need to be considered in this review:

- Place making,
- The tragedy of the Commons, and
- Social licence to operate,

3.1.1 Place Making

According to Wikipedia, *"Placemaking capitalises on a local community's assets, inspiration, and potential, with the intention of creating public spaces that promote people's health, happiness, and well-being."* Council Permits to use community land are clearly part of this process, but cannot be the whole process. Therefore, CLP's need to sit within a place-making framework.

This broad concept includes Urban Design principles as well as as the concepts of Jan Gehl, who stated "*First life, then spaces, then buildings - the other way around never works*".

Community Land Permits need to operate within the context of identifying appropriate uses for individual precincts.

3.1.2 The Tragedy of the Commons

The Tragedy of the Commons is an economic theory developed in 1833 by William Lloyd. (Commons refers to common land). The theory is that individuals sharing a public resource but acting independently and for their own self-interest will eventually deplete or damage the

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community resource. This theory was expanded by Hardin in 1968. Although the theory is not universally accepted, it highlights the risk of allowing unrestrained and unregulated use of community land. Hardin has stated that a better title would be "the Tragedy of the Unregulated Commons".

This theory explains why Council needs to have some form of regulation over the use of community land.

3.1.3 Social Licence to Operate

A Social Licence to Operate (SLO) is an emerging term used to indicate that businesses need to earn the community trust. In many ways, permits to use community land are a Social Licence to Operate – Council will permit the proposed activity provided it benefits the community and mitigates against negative impacts.

One governance consultant has developed the following conceptual diagram.

© On Common Ground Consultants Inc 2003
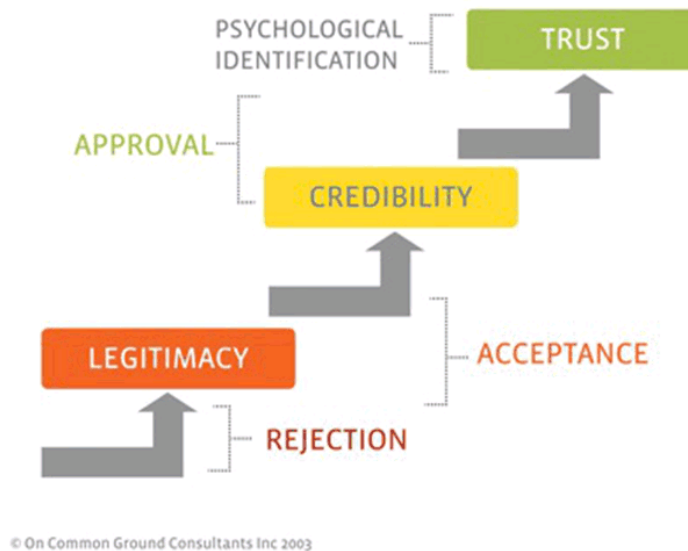
Figure 4 – Steps in Achieving a Social Licence to Operate

SLO's can be applied to a wide variety of activities, and are often used to discuss perceived breaches of the social licence, such as financial institutions and mining activities. However, the concept can also apply to Council activities. For example, Orion developed a Social Licence to Operate for the corporatised Gladstone Airport Corporation owned by the Council, to ensure that the commercial objectives were not achieved at the community's expense.

3.2 Economic Issues

Many of the CLP permits regulate economic activity in some way. It can also provide new opportunities for economic development and innovation. Community Land Permits can affect the level of competition, and economic development and innovation,

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3.2.1 Competition

In economic theory, perfect competition exists where the following conditions are met:

- Large number of buyers and sellers,
- Perfect information,
- Homogeneous products (substitutable products),
- Property rights,
- No barriers to entry or exit,
- No market dominance/market power,
- Sellers goal of profit maximisation,
- Rational buyers,
- No externalities,
- No transaction costs, and
- No economies of scale.

In the real world all of these conditions rarely, if ever exist. Ironically, Adam Smith developed the first theories of economics in the 1700's based on his observation of markets like those regulated by Councils CLP's. Many of these conditions are not affected by CLP's, however some are directly affected and need to be considered in a CLP review to ensure that they promote economic activity.

Perfect Information - Council needs to ensure that information on its conditions/requirements and awarding of longer term permits are widely accessible.

Property rights – In effect, CLP's provide limited property rights to the permit holders. For example, footpath dining permits give a food establishment the right to expand its seating and services to the footpath.

Barriers to Entry and Exit – Where a limited number of permits are granted, for example high use beaches, there will necessarily be a limitation to future businesses conducting business in that location. If preference is given to existing rather than new entrants, this is a barrier to entry. Ideally the CLP process should consider each application on its merits and minimise barriers to entry unless there is a community benefit (eg. tragedy of the commons effects).

Externalities - An externality is a cost or benefit affecting other parties. For example, if traffic is closed or an area is littered because of markets, these are externalities on the wider community. The extent to which a permit limits external costs on the wider community, the more it restricts this negative externality. However, increased economic activity could be a positive externality by providing increased employment and income to the area.

Transaction Costs – The cost of application and permit fees, as well as the cost of preparing applications/Expressions of Interest, and compliance with the permit requirements are transaction costs.

Taking these factors into account, ideally:

- Council conditions and opportunities to obtain permits are easily accessible,
- The permits provide appropriate rights to use the property while mitigating against negative external impacts on the wider community,
- Barriers to entry only applied to avoid the negative externalities/tragedy of the commons, and
- The cost of Council fees, application requirements and compliance costs should be the minimum sufficient to recover costs and to assess and mitigate against negative impacts on the community.

If these are achieved, Council should be able to encourage economic activity and the vibrancy of the community.

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3.3 Legal Issues

CLP's are issued under a complex legal framework. These include Local Government powers and local laws, and Queensland legislation.

3.3.1 Local Government Powers

Extensive legal advice was obtained during the CUCL review and the Council's Chief Legal Officer was consulted. Council's policy in relation to use of community land draws its powers from a complex legislative framework.

Council manages community land that falls into four categories:

1. Freehold land owned by council,
2. Reserves the control or management of Council as trustee under the *Land Act 1994*,
3. Roadways (formed and unformed) other than State controlled roads (*Local Government Act 2009* and the *Transport Operations (Road Use Management) Act 1995*), and
4. Pathways, footpaths, bathing reserves and foreshores (Local Laws).

The holding of the land determines the legal framework that applies. Local laws can apply to Council freehold and roads, foreshores and bathing reserves and the *Land Act 1994* applies to reserves under that Act that Council holds as trustee.

Because of this legislative complexity, Legal advice indicates that the Land Act only applies to Reserves. Provided Council permits do not have features of a lease (occupancy, exclusive use, transferability etc) the Land Act does not apply to foreshores, bathing reserves or road reserves. The complexity is increased because parts of some beaches and foreshores controlled by Council are within Reserves.

Where the Land Act does not apply, Council can make its own policies and determinations, however these must be by Local Laws or Subordinate Local Laws. Previously there are six Local Laws established by the former Councils which applied to the CUCL permits. This was rationalised to a single policy as recommended in our 2011 review.

Therefore, the locations on which Council wishes to grant a permit come under a myriad of different legislative settings.

3.3.2 The Land Act

The Land Act is administered by the Department Natural Resources and Mines (NRM). Under this Act, Council can issue permits for up to one year, and must register permits with NRM for permits for more than one year. The Land Act has a number of requirements, which were incorporated into the Council policy. However, these requirements are expressed in the following high level policy principles:

- Sustainability,
- Evaluation,
- Development,
- Community purpose,
- Protection,
- Consultation, and
- Administration.

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These principles provide guidance on whether it is appropriate to issue a permit for land governed by the Land Act, but it does not provide any guidance on selection of the operator to be issued with a permit.

Nothing in the Land Act required Council to use a competitive process such as tendering in the awarding of permits.

3.3.3 Council Local Law

As a result of our 2011 review, Council adopted a single Community Land and Complimentary Commercial Activity Policy, which replaced six former Local Laws. Key elements of the Local Law are:

POLICY STATEMENT   *Council acknowledges that the purpose of community land is primarily for community use. Council is committed to ensuring that land set aside for the community is preserved for such community use in accordance with its obligations under the Land Act 1994 and the Local Government Act 2009 and relevant Local Laws. The preservation of community land for its primary purpose is paramount; however it is recognised that in some circumstances, a secondary use such as commercial use of community land may enhance the use of community land and provide a benefit to the community. Council may consider granting the commercial use of community land in limited circumstances, in alignment with the principles set out in this policy.*

GUIDING PRINCIPLES   *The following principles apply to all commercial use of community land in accordance with this policy.*

1. Community Use Takes Precedence   *When making decisions about commercial use of community land, the primary purpose of the land is the first consideration. The uses and users of community land that take precedence over commercial use include, but are not limited to:*
  * *Informal social gatherings and celebrations*
  * *Formal events and celebrations*
  * *Quiet reflection*
  * *Passive recreational activities*
  * *Residents and tourists*
  * *Community groups*

Amenity of the local area   *An assessment of whether the land can accommodate and sustain an ongoing commercial use will consider the above examples. Where a proposed commercial use conflicts with or cannot be accommodated without detriment to the primary purpose, the proposal will not be approved. Commercial use of community land for individual gain alone is not in accordance with the purpose for which the land has been set aside. If a commercial activity can be operated from private land, it should occur on private land.*

2. Alignment with Council's Vision   *Proposals for the commercial use of community land must align with Council's vision and strategic direction as articulated in Council's Corporate Plan.*

3. Community Benefit   *Commercial use of community land must provide benefits to the community, and may include commercial activities that:*
  * *promote the primary purpose of the land; or*
  * *support or service the needs of the users of that land, where they are unable to be serviced from adjoining private land; or*
  * *contributes to Sunshine Coast tourism; and*
  * *will not diminish the purpose of the land or level of service provided, i.e. will not have an unreasonable adverse effect on free and equitable access to the land or its use; and*
  * *cannot operate anywhere other than the community land, such as aquatic activities.*

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4. Limited Impact   Commercial use of community land must not unduly impact on the primary users of the community land, local businesses, the environment or Council assets and maintenance. To assess the potential impact on the community land, the following will be considered:

- noise and other pollution,
- visual impacts,
- flora and fauna,
- access,
- safety,
- increased use and degradation of the space,
- the local community's desire and tolerance for the proposed activity,
- local area's population and growth, and the ability for the location to support various types of   activities.

5. Compliance with other agencies' requirements   Depending on the location, some applications may also specify special requirements such as the following:

satisfactory land management plans, and

approval of other authorising agencies such as the Department of Environment and Resource   Management and the Department of Transport and Main Roads.   Assessment of proposals for commercial activities are subject to native title and community consultation.

6. Permit-based Approval - No Exclusive Use or Ongoing Rights   Council has a preference for diversity and competition amongst permit-holders, and the potential for market dominance will be taken into account when awarding permits.   Applicants should be aware that permits do not grant exclusive use to the land and do not confer ongoing occupation rights. Further, permits are not transferrable and a permit may be revoked without compensation in specified circumstances such as unsatisfactory safety standards or lack of compliance with permit conditions. At the end of each permit term, a new application must be made, regardless of whether that activity has previously operated in that location or not.   Applicants must address the required assessment criteria and be able to meet the requirements of the permit as issued. Applicant must meet the following minimum requirements:

- Commitment to giving priority to community use;
- Commitment to non-exclusive use of community land;
- Commitment to non-transferability of permits;
- Providing and undertaking to meet industry safety standards;
- Possess the required level of public liability insurance;
- Not competing with fixed local businesses;
- Commitment to commence full operations within three months from Permit being granted;
- Commitment to providing local employment;
- Pay required permit fee; and
- x. Adhere to all conditions of the permit.
- Assessment of applications will be in terms of the following qualitative areas:
- Professionalism of operator, including track record;
- Additional safety standards based on local weather and geographic conditions;
- Quality of equipment, including replacement cycle; and
- Any additional contribution to Sunshine Coast tourism and the community

The Local Law states that the measure of success of this policy is that *"Limited complementary commercial activity that benefits the community has been accommodated while preserving the primary use of community land."*

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Council's current policy in relation to use of community land is a great improvement on the previous complexity. However, there are some important considerations which are relevant to this review. Firstly, the policy is expressed in term of an application being made and approved, which does not enable self-assessed activities. Secondly, the Policy does not enable the rejection of an application because it is outside a three-year application cycle and the limited number of places have already been taken.

3.3.4 Competition Policy/Cost Recovery

Under the National Competition Policy (NCP), which was enshrined in the Local Government Act, Councils are required to ensure that their local laws do not contain anti-competitive provisions unless there is a public benefit.

3.4 Governance & Risk Management

Several Governance concept are relevant to this review, including:

- Subsidiarity,
- Community consultation/engagement
- Red tape reduction, and
- Risk management

3.4.1 Subsidiarity

The concept of subsidiarity is that social and political issues should be dealt with at the most local or immediate level possible. It was originally the organising principle developed by the Catholic Church by Oswald von Neil-Breuning which held that governments should only undertake activities which exceed the capacity of individuals or private groups acting independently. Within a Council this requires effective use of delegated powers under a well-defined policy framework. It also means that regulatory activities are minimised where individuals or the community can self-regulate.

3.4.2 Red Tape reduction

There have been a number of attempts by governments to reduce or eliminate regulatory requirements. The general concept is that the benefits of regulation need to greatly outweigh the costs to the community. The Queensland Treasury recently issued Guidelines on Estimating he Benefits of Regulatory Reform. In these guidelines the costs of any regulatory regime include:

- Compliance costs,
- Fees imposed, and
- Delay costs,

3.4.3 Risk Management

A key issue of increasing importance in Local Government is risk management. Managing risks associated with use of community land is one of the most important aspect of CLP's. The Council policy is framed in risk management terms where activities are described in terms oof their impact and use.

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3.5 Summary of Ideal Service Criteria

The following are the attributes which we have drawn from the above analysis from which to assess whether the CLP process is providing best value. This will be assessed in Section 6.

Attribute
Enhances Social Activity
Minimises/Mitigates Negative impacts
Information on requirements
Property Rights
Competitive barriers
Externalities
Transaction Costs
Local Laws not Anti-competitive
Legislative Compliance
Subsidiarity
Regulatory Cost/Benefit
Risk Management

Table 1 – Service Assessment Criteria

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4 Consultation Feedback

Key points

- Consultation was undertaken with a wide range of stakeholders including all Councillors, relevant Council management and affected staff, and external stakeholders including tourism & business representatives, and affected state agencies
- Although there was a range of opinions, the consensus was that the Council have an appropriate balance between community and permitted usage.
- The CLP team, and especially the Coordinator are highly regarded across the board, and the state agencies were particularly impressed. This is a significant improvement on the situation we observed in 2011.
- Permit holders again raised a preference for more flexibility and property rights, but this is problematic with the legal framework.
- Some concerns were raised about the process for new ideas, as experienced with seaplane and water park proposals.

4.1 Consultation Undertaken

Consultation was undertaken with stakeholders and comparative Councils:

- The Mayor and all Councillors
- SCC CEO
- Internal Council stakeholders across relevant departments
- Moreton Bay Regional Council (equivalent Team)
- Melbourne City Council (Equivalent Team)
- Gold Coast City Council (City Events)
- Permit Holders and representative bodies
- Relevant government agencies (eg. Police and TMR)

4.2 Consultation Issues

4.2.1 Overall Balance

There was a range of opinions as to whether the balance between community and other use was being achieved, however the overall consensus seems to be that the balance is about right. As there has been a continual increase in the number and size of activities and events on community land, this is a good result. The lack of any significant complaints supports the consensus stakeholder feedback.

There was also a consensus that the increasing number of events was good to the local economy and community.

4.2.2 Team Performance

The consistent feedback from the people consulted was of a very high regard for the CLP group. The feedback was consistently positive from all quarters. This is especially important, because our 2011 review of CUCL found that there was a mistrust between the Councillors and stakeholders, and the Council staff. The Team and the Manager and Director have clearly made a significant improvement in stakeholder relationships, and this should be highly commended.

4.2.3 Responsiveness

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Some feedback from (higher impact) permit-holders indicated that SCC's event application process was more onerous than other Councils such as Noosa. However our research indicated that Noosa uses a form based on the SCC form and requires a similar amount of information. Noosa's fees are generally higher. However, we observed that many other Councils have better online application facilities and information than SCC.

State agencies raised some concerns about the initial attraction of major events had significant flaws, but noted that the CLP Team consistently resolved issues, coordinated across Council and stakeholders and communicated effectively with all parties and took a lead role in ensuring successful outcomes. They also raised concerns that the upcoming Ironman event will occur on Fathers' day, and were critical of this poor timing, since some communities will need to be 'locked down', and therefore adversely affected. We understand that the timing of this event was arranged from another part of Council. However, it reflects the importance of wider consultation within Council to ensure that the logistic practicalities and timing are considered before events are finalised, and this requires the involvement of the CLP team at the gestation period.

4.2.4   Permit-holder preferences

As was raised identified in the previous review on commercial use of community land, many permit-holders would prefer to have greater tenure and security, and the ability to sell the permit. However these options are not legally available to Council. These preferences would require a lease under state legislation, which is much more difficult to obtain.

Some valid concerns were raised on technical requirements, eg for the need for toilets for short events.

Many permit-holders and some other stakeholders raised concerns about the limited flexibility in the process, and perceived barriers to entry, particularly in relation to the three year commercial use activities. Against this, there were some concerns raised by other stakeholders that the permit-holders pay negligible fees (except footpath dining) and don't pay a tourism levy yet benefit greatly from Council tourism spending. There were also issues raised that many of the permit holders compete on a lower cost structure with shops and other businesses which pay rates and the tourism levy.

4.2.5   New Ideas

One aspect raised consistently was the example of the Seaplane. In our 2011 review we recommended that new ideas for use of community land was a policy matter and should be referred to Council. Council received a poorly conceived proposal for a seaplane which was reviewed, presented to Council, and rejected by Council. Under the wording of the Council policy, this reject created a precedent on this type of activity. Therefore, a subsequent proposal was rejected at officer level, but called in for consideration approval by Council. Many stakeholders stated that this was poorly handled. Our research indicates that the key weakness is in the wording of the policy, which really does not cater for significantly different types of activity. In our view, all different ideas for use of community land should be put to Council unless Council adopts a policy in relation to those activities.

A similar issue was raised with water slide approvals. Much of these issues could be addressed by improved internal communication especially between Economic Development and CLP when new opportunities first emerge.

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5 Resourcing & Activity Levels

Key points

- The CLP team deals a much wider range of land activities than other Councils which generally have a departmental approach.
- CLPT also provides a more facilitative than "tick and flick" regulatory approach, assisting applicants in developing compliant applications, so that few applications are rejected. The Team is also virtually the Council Event management coordinator across Council in terms of logistics to meet the regulatory requirements.
- The number of applications is increasing each year, both in application volumes and the more complex applications. Over 2,000 applications are processed annually, however 80-90% of these are low risk/low impact.
- The wider range of permit types makes it difficult to benchmark staff levels, but they appear relatively low compared with the Councils consulted.
- The group has an operating budget of approx. $500,000 per year, recovers $322,000 in fee revenue, giving a cost-recovery ratio of 64%. However, most of the permits are for community groups which are not charged. An estimate of this lost revenue shows that full cost recovery would be achieved if fees were charged to all applicants. Therefore the $180,000 operating loss if effectively a Community Service Obligation.
- Gold Coast has waived its fees for most applications for commercial ratepayers and recovers the cost through commercial rates (not footpath dining)
- There is a growing imbalance in the staff resourcing compared with the complexity of tasks.
- The temporary Major Events Permits Officer position needs to be made permanent.
- Internal coordination within Council for most activities is very good, but needs to be improved with Economic Development.
- The other Councils compared had sophisticated online applications, whereas SCC's systems require downloading, printing, manual completion, sending to Council, scanning and data input. This is inefficient and provides a poor service. (A Customer request system review is under way).
- A Council area wide Events Calender needs to be developed and maintained on the website.

5.1 Workload Factors

SCC's CLP team provides a broader range of services than similar teams in other Councils. This is both in terms of the range of matters dealt with, and the degree of involvement. By comparison, Gold Coast CC has at least three areas issuing permits – Parks (for park related activity), Environmental Health (for food establishments, markets, footpath dining etc), and City Events for major events. Moreton Bay RC has a coordinating Community Events team which coordinates the application process across Council departments, but even then does not deal with footpath dining, markets and similar. Feedback from within Council and with external stakeholders indicates that the wider range of matters dealt with by the CLP team is preferable.

As well as receiving and approving community land permits, the CLP team take a more facilitative approach rather than a "tick and flick" regulatory approach. Applications are rarely rejected; rather the team assists applicants in ensuring that their applications meet the requirements so that the application can be approved. The CLP team is now responsible for coordinating Council logistic arrangements for major events which is a major involvement and essential for their success. The external stakeholders were highly complimentary as to the facilitative role undertaken, apart from a few isolated issues.

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Our 2011 review of the commercial use permits raised the need for increased Councillor and stakeholder consultation. This appears to have been successfully implemented given the exceptionally high level of positive feedback received in the current review.

Each of these factors increases the resourcing required to perform the function effectively. It appears that the staffing has generally evolved to focus on the lower impact general applications, while the current work demand are more driven by events, markets and commercial use. This places a high demand on the Coordinator and the temporary Major Event Permits Officer. The performance to date seems to be very high, but is reliant on the extraordinary efforts of a few individuals, rather than organisational processes and resourcing.

5.2 Activity Levels

Figure 5 below shows that the number of applications is steadily increasing. In addition, Council has a major goal of attracting more events to the sunshine coast in order to remote economic development and employment. This has created a large increase in the more complex applications.
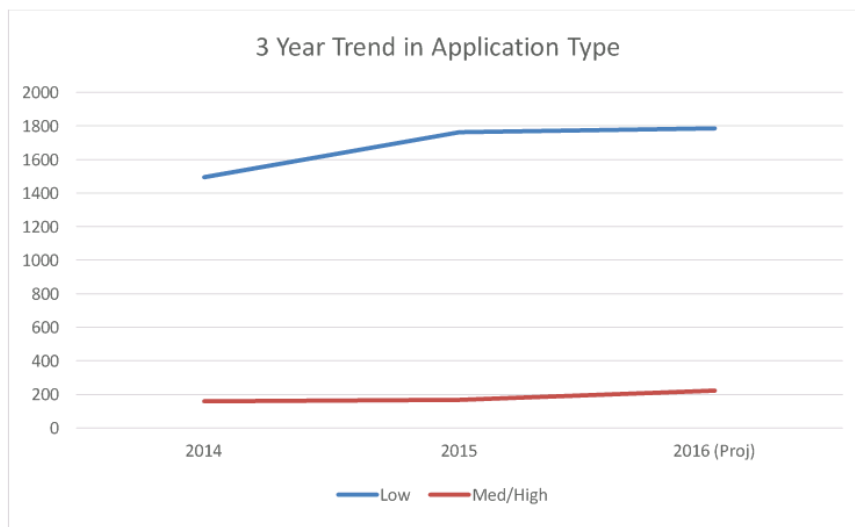

Figure 5 – CLP Application Complexity Trend
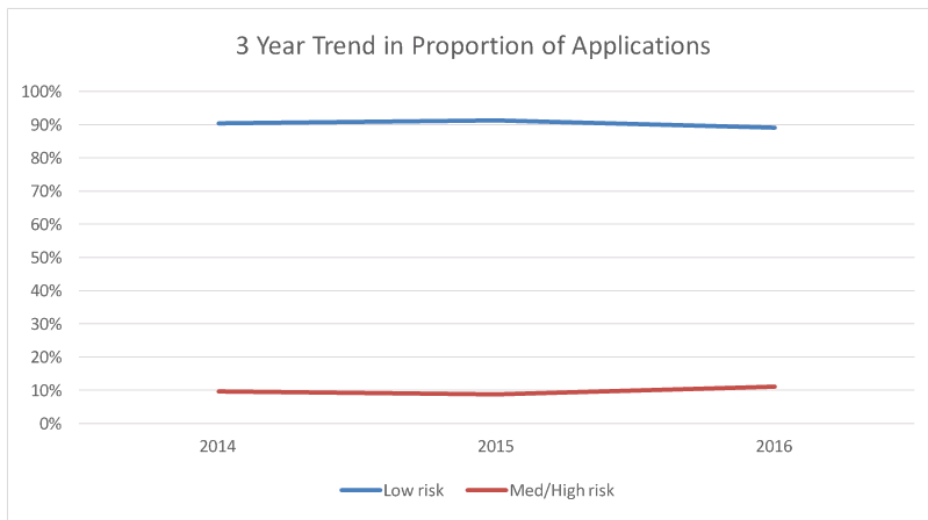
3 Year Trend in Proportion of Applications

Figure 6 – CLP Application Proportion Trend

The above graphs show that the number of applications are increasing for both low and higher risk activities. However, the proportion of higher risk applications is increasing. It should be noted that the level of low, medium and high risk was assigned to each application type, although there would invariably some more complex applications amongst the low risk types of applications which have needed to be escalated and addressed at higher levels. The above graph shows that low risk applications account for around 90% of applications, but it is likely the escalated applications would change this mix closer to 80% low risk, and 20% medium and high risk.

If that is the case, it is a classic demonstration of the Pareto Principle also called the 80/20 rule). Under the Pareto Principle, 20% of the applications would be expected to provide 80% of the benefit and require 80% of the time. The reverse would be true for the remainder.

5.3 Staffing Levels

Because of the relatively unique nature of the CLP function in SCC, it is virtually impossible to accurately benchmark the staffing levels with other Councils.

The Group currently has 7.2 FTE's plus a temporary Major Events Permits Officer which is resourced until the end of the current year. The group also is responsible for parking regulation enforcement, including sub-contracted enforcement for other agencies such as the Sunshine Coast University. It is estimated that management of parking would take one third of the Coordinator's time. Therefore, the permanent staff resources devoted to CLP's is 6.9 FTE's, or 7.9 including the temporary position.

Melbourne City Council (approx. 125,000 population) has a similar team in Engineering Services. Although it handles a narrower range of applications it has 7 staff and a Team Leader. That team rarely undertakes consultation with Councillors except for major events and markets.

Moreton Bay Regional Council has a Community Bookings Team, within Sport and Recreation, in the Community Services Directorate. This Team of five coordinates the assessment of applications but does not undertake any assessment itself. It also does not undertake the full range of CLP functions, such as Footpath Dining which is handled by the regulatory Services area.

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Gold Coast City Council has a City Events Team of 12 staff, which attracts, approves and coordinates events in the City. This would equate to 6 staff in SCC. This area is not responsible for low impact activities in parks, or for food related activities such as footpath dining and markets.

Overall, the staffing levels in CLP group appear to be modest or even on the low side given the wider range of applications processed, increasing involvement in major event logistics, and the higher level of consultation undertaken.

The feedback from the state stakeholders was that the frequency and quality of communications and coordination noticeably improved when the Major Events Permits Officer commenced, and considered that continuation of this role was vital for the increasing number of major events.

At some point in the future it is likely that Council will need to establish an events coordination function for the major impact activities.

5.4 Financial Resources

The CLP Group has an operating budget of approximately $0.5m per year. Revenue for fees amounts to $322,000, which gives an operating deficit of $183,000. This is a cost recovery ratio of 64 percent or nearly two-thirds. The operating deficit is primarily due to Council's policy of not charging fees for community groups, even when they are undertaking commercial activities such as markets or major events. Non-fee applications are the majority of applications processed. It is understood that an officer recommendation was made in a recent budget process to apply a fee to community group of 50% of the standard fee, but this received a very adverse media and community group reaction and was not implemented. However, it is clear that the function could operate on a full cost recovery basis if fees were applied to all applicants. Ultimately it is Council's policy choice as to the level and method of support it provides to community groups, and not a reflection of the cost-effectiveness of this function. In effect, the $183,000 operating deficit should be considered to be a Community Service Obligation (CSO) and appears to provide high value for money given the not-for-profit activities which it facilitates.

Figure 7 below shows that over half of the revenue comes from footpath dining permits. The cost recovery ratio is only 27 percent if footpath dining is excluded from the cost recovery calculation. However, two-thirds of the staffing is associated with the lower risk activities including footpath dining, and footpath dining is the main area involving on-site inspections.

CLP Fee Revenue

- High-use High-impact Commercial Permits, $25,000 , 8%
- Weddings, $22,000 , 7%
- Temporary Events, $35,149 , 11%
- Goods on Footpath, $8,937 , 3%
- Footpath Dining, $185,000 , 57%
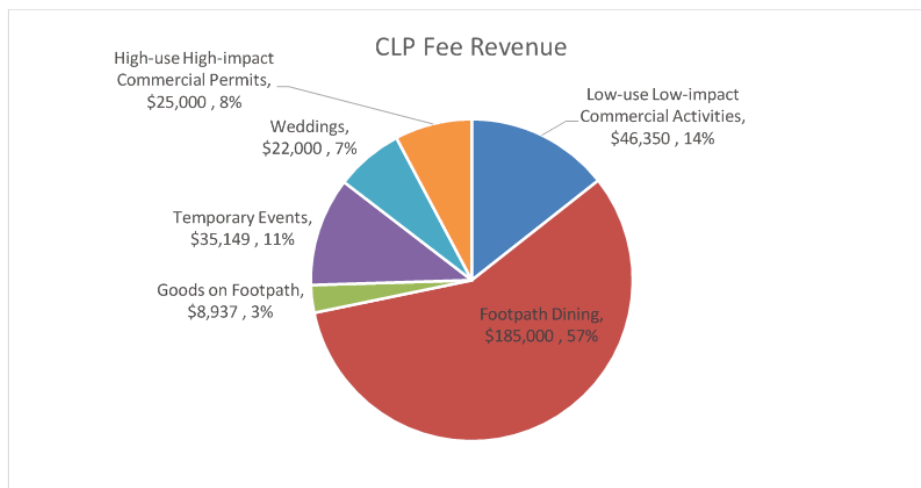- Low-use Low-impact Commercial Activities, $46,350 , 14%

Figure 7 – CLP Fee Revenue

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Council could also consider the approach taken by Gold Coast City Council (GCCC) eliminating the fees for most activities, especially all low impact activities. Gold Coast waives the fees for permits-holders who operate from premises which pay commercial rates. The cost is funded by a small increase in commercial rates. This overcomes one of the sources of complaints that there is not a level playing field between commercial ratepayers and some permitted usage such as market. Fees are still levied for activities such as footpath dining. However, the level most of the current fees could be regarded as being more of a nuisance than a revenue raiser. Waiving all fees except footpath dining would cost the Council budget approximately $200,000 per year.

Gold Coast Fee-free Permits

The licence and permit types included in fee-free initiative are as follows:

- food premises
- food vehicles
- temporary food stalls
- high risk personal appearance (skin penetration)
- environmentally relevant activities (motor vehicle workshops/boat repairs)
- commercial swimming pools
- water carriers
- campgrounds and caravan parks
- advertising devices (signs)
- mobile roadside vending
- animal and human-powered transport (e.g. horse and cart, pedicabs)
- commercial vehicles
- removable fixtures on pavement (umbrellas in roadside dining)
- rental accommodation hostels & backpackers
- entertainment venues
- filming on public land
- stationary roadside vending
- keeping of animals
- heavy vehicle parking
- helicopter landing on public land.

A variation on this approach would be to waive fees for all renewals, since the new applications take much more work than renewals, and would create a reward to permit holders for complying with the conditions.

An analysis of the number of applications, revenue and staffing levels is similar to the Pareto Principle (80/20 Rule).

81% of applications are low risk in nature, and generates 89% of revenue, while using 66% of staff resources (Level 3 staff). This analysis includes the temporary Level 4 Major Events Permits Officer as resourcing the medium to high risk applications.

Therefore, the 80/20 rule seems to be very applicable for the number and complexity of the applications, but is not fully reflected in resourcing. Full application of the 80/20 rule would indicate that 80% of the resources should be applied to the more complex, medium and high risk 20 % of applications.

The simpler, low risk permits are mainly handled by 6 Level 3 officers (5.2 FTE's) who are assigned to geographic areas so that they can develop local knowledge of the areas. This provides a relatively high service level, and greater confidence and certainty to the community and Councillors. However it is not likely to provide the best value for the use of scarce Council

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resources since it does not focus the resources on the applications with the greatest impact and risk.

In simple terms, if Council is aiming to attract more major events, and even become the Events Capital of Australia, more resources will need to be on the activities with the most impact and risk, which is increasing.
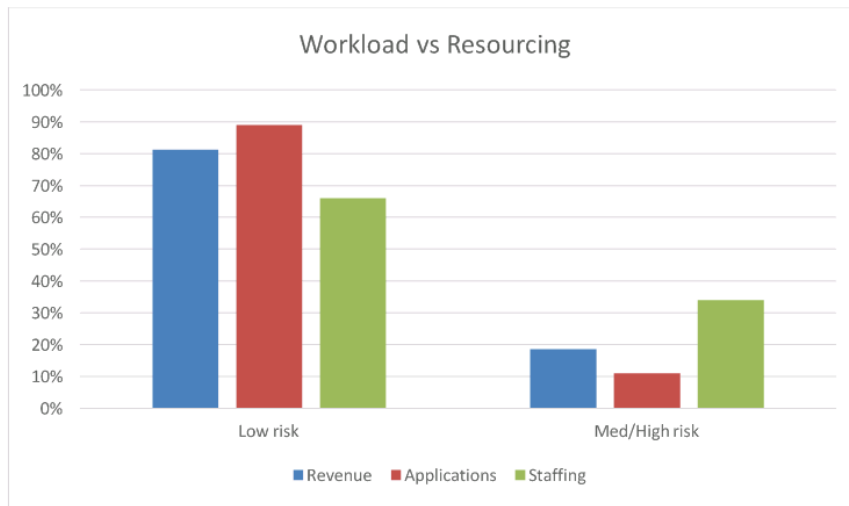

Figure 8 – CLP Revenue/Applications vs Staffing

Staff Levels	Current FTE's	80/20 Rule Mix
Level 3 (Low Risk Applications)	5.2	1.5
Level 5+ (Medium/High Risk Applications)	2.7 (1.7 excl temp)	6.3 (5.3 excl temp)

Table 2 – Staffing vs Application Complexity

5.5 Internal Support (Including Systems)

During the review, we had a meeting of the available internal Council stakeholders who are involved in CLP's in some way. There was a high level of enthusiasm, contentiousness and cooperation with these staff.

However, there appears to be some areas where the Council is not organised to provide best value to the community, as follows.

A clear weakness with Councils CLP service is the outdated approach of requiring written application forms, which must be downloaded from the website, printed, completed, and physically returned to Council, where it is scanned, and data is manually entered into systems. By contrast, Gold Coast, Moreton Bay and Melbourne City all have online application processes. This is a whole-of-Council issue, which we understand is currently being addressed by Council.

Another weakness is the lack of an overall community and events calendar. Several areas have their own calendars, and the existence of a comprehensive calendar, available to the community online, which provide additional value in avoiding problems and conflicting activities.

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Finally there appears to be scope for increased involvement of CLPT in the initial concept ad design of major events. Although this is an Economic Development role, feedback from Police and TMR indicated that internal Council better liaison required so that practical details could be addressed upfront. Therefore, it would be worthwhile to review the role delineation between Economic Development and CLP teams.

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6 Conclusion and Recommendations

The CLP team appears to achieve the desired result of the Council Policy, which has the following success measure:

Limited complementary commercial activity that benefits the community has been accommodated while preserving the primary use of community land.

The CLP Team and process provides a high level of value to the community in its designated role and Council policy settings. However, best value would be achievable if this was part of a broader cycle of Council-wide process for precinct development and management, within an overall Place management framework.
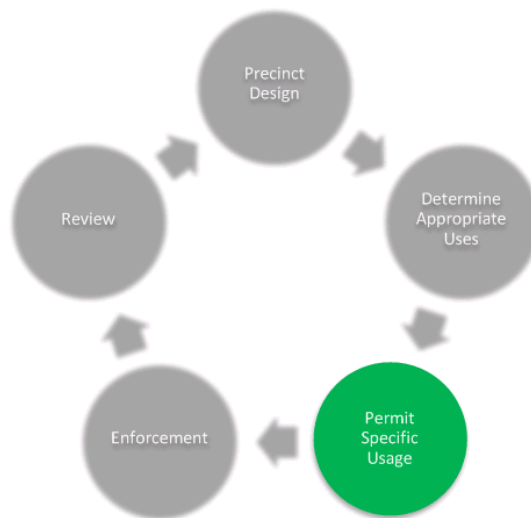

Figure 9 – CLP Role in Place Making

Greater community value would also be achieved if:

- Online application processes are developed,
- An whole of Council area events calendar is created and provided on line,
- Staff resources are refocussed towards the higher risk activities, and self assessment processes are developed for lower risk activities, and
- The Local aw is revised to support the issues raised in this review,

6.1 Assessment of Best Value

Against the criteria we developed in section 3, we have assessed the performance of the CLP Team and process as follows:

Attribute	Assessment
Enhances Social Activity	High

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Minimises/Mitigates Negative impacts	High
Information on requirements	Moderate improvements possible
Property Rights	Medium. Limited by legislation to max 3 yr permits. More self-assessment on low risk activities is possible to give similar effect on low risk activities.
Competitive barriers	Local Law and Policy minimise competitive barriers. Application of 3 year cycle for some applications is perceived as a barrier, but need not be.
Minimise Negative Externalities	High
Transaction Costs	Could be reduced/simplified with software support
Local Laws not Anti-competitive	High – to extent possible
Legislative Compliance	Full
Subsidiarity	Could have more self assessed or delegated permits
Regulatory Benefit/Cost	High Benefit/Cost for Medium & High use/risk activities
Risk Management	Appears effective

Table 3 – Assessment Against Criteria

6.2 Options

There appear to be three main options to address the changing demand for CLP's.

1. Maintain current level of application assessment and consultation, while the number of major events increases – additional staffing and budget resources are required immediately (including making the temporary position permanent).
2. Review the Local Law to enable low risk activities to be self-assessable (perhaps on a trial basis for some permits and locations). Change the staffing mix within current budget for fewer, more senior staff levels to focus on more complex applications.
3. Increase resourcing for additional senior roles, funded from broader use of application fees on a full cost recovery basis.

Option 2 would provide the best value for the community, however it is dependent on the viability of reducing the resourcing on the lower risk activities. From the Councillor consultation, it appears that most Councillors would be reluctant to significantly reduce the level of scrutiny currently given. Therefore we suggest a phased, trial approach be undertaken.

While the Brief for this review was specifically limited to the CLP Team, the consultation and research has identified issues which are out of scope. Issues which could be considered on a broader basis include:

- Greater strategic reviews across Council and with Councillors as to the identification and development of precincts for relevant activities (eg. Weddings etc),
- Consideration of waiving application fees in a similar way to Gold Coast, and
- The range of responsibilities managed along with community land permits.

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6.3 Recommendations:

Recommendation 1 – The Community Land and Complementary Commercial Activity Policy be reviewed to enable:

- Self Assessment of low use/low impact uses as determined by Council, and
- The ability to consider existing permits for use of the community land in an application (in order to address out-of-sequence applications)

Recommendation 2 – Online application and self-assessment facilities be developed in conjunction with the current review of the customer request system.

Recommendation 3 – An SCC-wide Events Calendar be developed and provided online for the community and stakeholders.

Recommendation 4 – The Major Events Permits Officer position be made permanent, and the resourcing levels and mix be reviewed to focus more staff resources on the the more complex matters.

Recommendation 5- Council consider conduct a trial self-assessment of self-assessment of some low impact/low risk community land usages (subject to implementation of recommendation 1)

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