

Agenda

Ordinary Meeting

Thursday, 12 December 2019

commencing at 9:00am

Council Chambers, Corner Currie and Bury Streets, Nambour

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1 DECLARATION OF OPENING

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

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

That the Minutes of the Ordinary Meeting held on 14 November 2019 and the Special Meeting (Region Shaping Projects) held on 14 November 2019 be received and confirmed.

5 INFORMING OF PERSONAL INTERESTS**5.1 MATERIAL PERSONAL INTEREST**

Pursuant to Section 175C of the *Local Government Act 2009*, a Councillor who has a material personal interest in an issue to be considered at a meeting of the local government, or any of its committees must –

- (a) inform the meeting of the Councillor's material personal interest in the matter and
- (b) leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on.

5.2 CONFLICT OF INTEREST / PERCEIVED CONFLICT OF INTEREST

Pursuant to Section 175E of the *Local Government Act 2009*, a Councillor who has a real or perceived conflict of interest in a matter to be considered at a meeting of the local government, or any of its committees, must inform the meeting about the Councillor's personal interest the matter.

The other Councillors must then decide

- (a) whether the Councillor has a real conflict of interest or perceived conflict of interest in the matter and
- (b) if they decide the Councillor has a real conflict of interest or perceived conflict of interest in the matter
 - (i) whether the Councillor must leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on, or
 - (ii) that the Councillor may participate in the meeting in relation to the matter, including by voting on the matter.

6 MAYORAL MINUTE**7 PRESENTATIONS / COUNCILLOR REPORTS**

8 REPORTS DIRECT TO COUNCIL

8.1 DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE OF PREMISES (RESIDENTIAL CARE FACILITY) AT 7-15 ILLUKA STREET, BUDERIM

File No: MCU19/0116

**Author: Development Planner
Customer Engagement & Planning Services Group**

This item was withdrawn from the Agenda by the Chief Executive Officer .

The applicant has provided notice in accordance with section 52 of the *Planning Act 2016* of a change to the application in response to submissions received during the public notification period. As a result, the officers report has been withdrawn from the agenda, and the changed application will be reassessed and presented to a future Council meeting.

8.2 DEVELOPMENT APPLICATION - PRELIMINARY APPROVAL FOR MATERIAL CHANGE OF USE TO ESTABLISH AN INTEGRATED TOURIST FACILITY AT NAMBOUR CONNECTION ROAD, AIRD LANE, AND GARRAD ROAD, WOOMBYE

File No:	MCU17/2064
Author:	Senior Development Planner Customer Engagement & Planning Services Group
Appendices:	App A - Recommended Conditions of Approval 5/259
Attachments:	Att 1 - Detailed Assessment Report 5/259 Att 2 - Concurrence Agency Response 97/257 Att 3 - Development Plans 197/259 Att 4 - Big Pineapple Master Plan 207/259

Link to Development.i:

<https://developmenti.sunshinecoast.qld.gov.au/Home/FilterDirect?filters=DANumber=MCU17/2064>

SUMMARY SHEET	
APPLICATION DETAILS	
Applicant:	Big Pineapple Corporation Pty Ltd
Owner:	Big Pineapple Corporation Pty Ltd
Consultant:	Place Design Group Pty Ltd
Proposal:	Preliminary Approval for Material Change of Use (Variation Request to vary the effect of the <i>Sunshine Coast Planning Scheme 2014</i>) to establish an integrated tourist facility.
Properly Made Date:	15/11/2017
Information Request Date:	22/11/2017
Information Response Received Date:	14/09/2018
Public Notification Dates:	The application was publicly notified for 30 days between 24 September and 6 November 2018 in accordance with the requirements of the <i>Planning Act 2016</i> .
Number of Submissions:	A total of 42 submissions were received of which 36 were Properly Made. Of the Properly Made submissions, 12 were against the proposed development, 23 were for the proposed development, and 1 was unable to be determined.
State Referral Agency Response Date:	9/9/2019
Decision Due Date:	29/10/2019
PROPERTY DETAILS	
Division:	5

Property Address:	6, 43, 55, 63, 76, 79, 84, 85, 91 and 104 Nambour Connection Road, 77, 83 (2 parcels), 87, 91 and 105 Aird Lane, and 52 Garrad Road, Woombye	
RP Description:	Lot 5 RP 205097 Lot 2 RP 111446 Lot 11 CG 2939 Lot 2 CG 2939 Lot 197 CG 2939 Lot 2 RP 154927 Lot 544 CG 3592 Lot 3 C 311179	Lot 1 RP 154927 Lot 2 RP 27899 Lot 2 RP 228921 Lot 2 RP 111181 Lot 1 RP 101860 Lot 1 RP 168426 Lot 2 RP 168426 Lot 1 RP 27796 Lot 1 RP 130151
Land Area:	170.45ha	
Existing Use of Land:	Big Pineapple tourist facility and associated agricultural land	
STATUTORY DETAILS		
Planning Scheme:	Sunshine Coast Planning Scheme 2014 (3 July 2017)	
SEQR Designation:	Regional landscape and rural production area	
Strategic Plan Designation:	Rural enterprise and landscape area	
Master Plan Area	Not applicable.	
Zone:	Rural zone and Tourism zone	
Assessment Type:	Impact – Variation Request	

PURPOSE

The purpose of this report is to seek Council's determination for a Development Application for Preliminary Approval for Material Change of Use (Variation Request to vary the effect of the *Sunshine Coast Planning Scheme 2014*) to establish an integrated tourist facility at 6, 43, 55, 63, 76, 79, 84, 85, 91 and 104 Nambour Connection Road, 77, 83, 87, 91 and 105 Aird Lane, and 52 Garrad Road, Woombye.

The application is before Council as the application involves a Variation Request under Section 61 of the *Planning Act 2016*.

EXECUTIVE SUMMARY

The application seeks a Preliminary Approval for Material Change of Use (Variation Request to vary the effect of the *Sunshine Coast Planning Scheme 2014*) to establish an integrated tourist facility.

The application was Impact Assessable and subject to a public notification period of 30 days (between 24 September to 6 November 2018), in accordance with the requirements of the *Planning Act 2016*.

The application seeks to provide an assessment framework for the future development of the site by introducing a new Master Plan, being the Big Pineapple Master Plan and Tables of Assessment for the Master Plan area, which make development within the Master Plan area code assessable. The application does not seek to authorise any assessable development to take place, and future development permits would be required for all future uses on the site in accordance with the Master Plan.

Assessment of the application has focused on the compatibility of the proposed land uses, and potential impacts arising from the proposed development on matters such as scenic amenity, building height, heritage protection and protection of neighbouring rural properties.

Appropriate parameters have been established and recommended in relation to the nature, scale and impacts of future development (including building height restrictions, building exclusion zones and generous building setbacks), and additional material change of use development applications will be required for the establishment of future uses on the site, in accordance with the Big Pineapple Master Plan. More detailed assessment and regulation would occur by Council at the time of each future application.

The proposal has been found to be sufficiently compatible with the existing rural and historic tourist related use of the site, and does not raise any significant issues that cannot be addressed by reasonable and relevant conditions.

The application is therefore recommended for approval.

OFFICER RECOMMENDATION

That Council:

- (a) **receive and note the report titled “Development Application - Preliminary Approval for Material Change of Use to establish an integrated tourist facility at Nambour Connection Road, Aird Lane, and Garrad Road, Woombye”**
- (b) **APPROVE application no. MCU17/2064 for Preliminary Approval for Material Change of Use to establish an integrated tourist facility at Nambour Connection Road, Aird Lane and Garrad Road, Woombye subject to reasonable and relevant conditions (Appendix A) and**
- (c) **delegate authority to the Chief Executive Officer to determine all future requests for a negotiated decision notice and requested changes to the Preliminary Approval where the changes would not have a material impact on the outcome of the original decision.**

FINANCE AND RESOURCING

Due to the proposed development representing a Preliminary Approval, it would not attract infrastructure charges at this stage. Subsequent Development Permits under the provisions of the Preliminary Approval would be subject to the relevant infrastructure charges.

CORPORATE PLAN

Corporate Plan Goal: *Service excellence*

Outcome: 4.4 - Service quality assessed by our performance and value to customers

Operational Activity: 4.4.2 - Deliver Planning and Development Services to ensure statutory requirements are met to achieve positive customer experiences and maintain strong industry engagement.

CONSULTATION

Councillor Consultation

The Divisional Councillor J McKay has been consulted during the assessment process for this application.

Internal Consultation

The application was forwarded to the following internal Council specialists:

- Principal Architect, Development Services Branch, Customer Engagement and Planning Services Group

- Urban Designer, Development Services Branch, Customer Engagement and Planning Services Group
- 3D Project Officer, Development Services Branch, Customer Engagement and Planning Services Group
- Principal Development Engineer, Development Services Branch, Customer Engagement and Planning Services Group
- Principal Ecologist, Development Services Branch, Customer Engagement and Planning Services Group
- Landscape Officer, Development Services Branch, Customer Engagement and Planning Services Group
- Environment Officer, Development Services Branch, Customer Engagement and Planning Services Group
- Strategic Planning Branch, Customer Engagement and Planning Services Group
- Plumbing Officer, Development Services Branch, Customer Engagement and Planning Services Group

Their assessment forms part of the Detailed Assessment Report (**Attachment 1**).

External Consultation

The application was referred to the Department of State Development, Manufacturing, Infrastructure and Planning for concurrence agency assessment in relation to the following matters:

- State Controlled Road matters
- Clearing native vegetation
- Heritage
- SEQ Regional Planning matters (Development outside the urban footprint).

The department responded by letter dated 9 September 2019 imposing conditions that must attach to any development approval (refer to **Attachment 2**).

Community Engagement

This impact assessable development application was subject to a public notification period of 30 days between 24 September 2018 and 6 November 2018 in accordance with the requirements of the *Planning Act 2016*.

A total of 42 submissions were received of which 36 were Properly Made. Of the Properly Made submissions, 12 were against the proposed development, 23 were for the proposed development, and one (1) was unable to be determined.

A summary of the issues raised by submitters together with a response is provided in the Detailed Assessment Report (**Attachment 1**).

PROPOSAL

The application seeks a Preliminary Approval for Material Change of Use (Variation Request to vary the effect of the *Sunshine Coast Planning Scheme 2014*) to establish an integrated tourist facility. A copy of the proposed plans of the development is provided as **Attachment 3** to this report.

The Variation Request covers the entirety of the site made up of the historic Big Pineapple tourist attraction and seeks to vary the planning scheme such that the whole of the site would be treated as though it were in the Tourism zone (rather than the Rural zone) for the purposes of the planning scheme. Variation to the range of uses ordinarily permitted in the Rural/Tourism zones is also sought, as well as variation to the building height and native vegetation maps contained in the planning scheme.

The proposal also seeks to include a Master Plan definition of a ‘*food tourism or produce related use*’ to ensure that industrial uses proposed for food manufacturing activities, are appropriately tied to food production/agri-tourism uses, rather than stand alone industrial activities.

The application seeks to provide an assessment framework for the future development of the site by introducing a new Big Pineapple Master Plan (**Attachment 4**), being the Big Pineapple Master Plan and Tables of Assessment for the Master Plan area, which make development within the Master Plan area code assessable. The application does not seek to authorise any assessable development to take place, and future development permits would be required for all future uses on the site in accordance with the Master Plan.

The Big Pineapple Master Plan Area (Plan Area) subject to the proposed Variation Request is comprised of those lots shown below in Image 1.

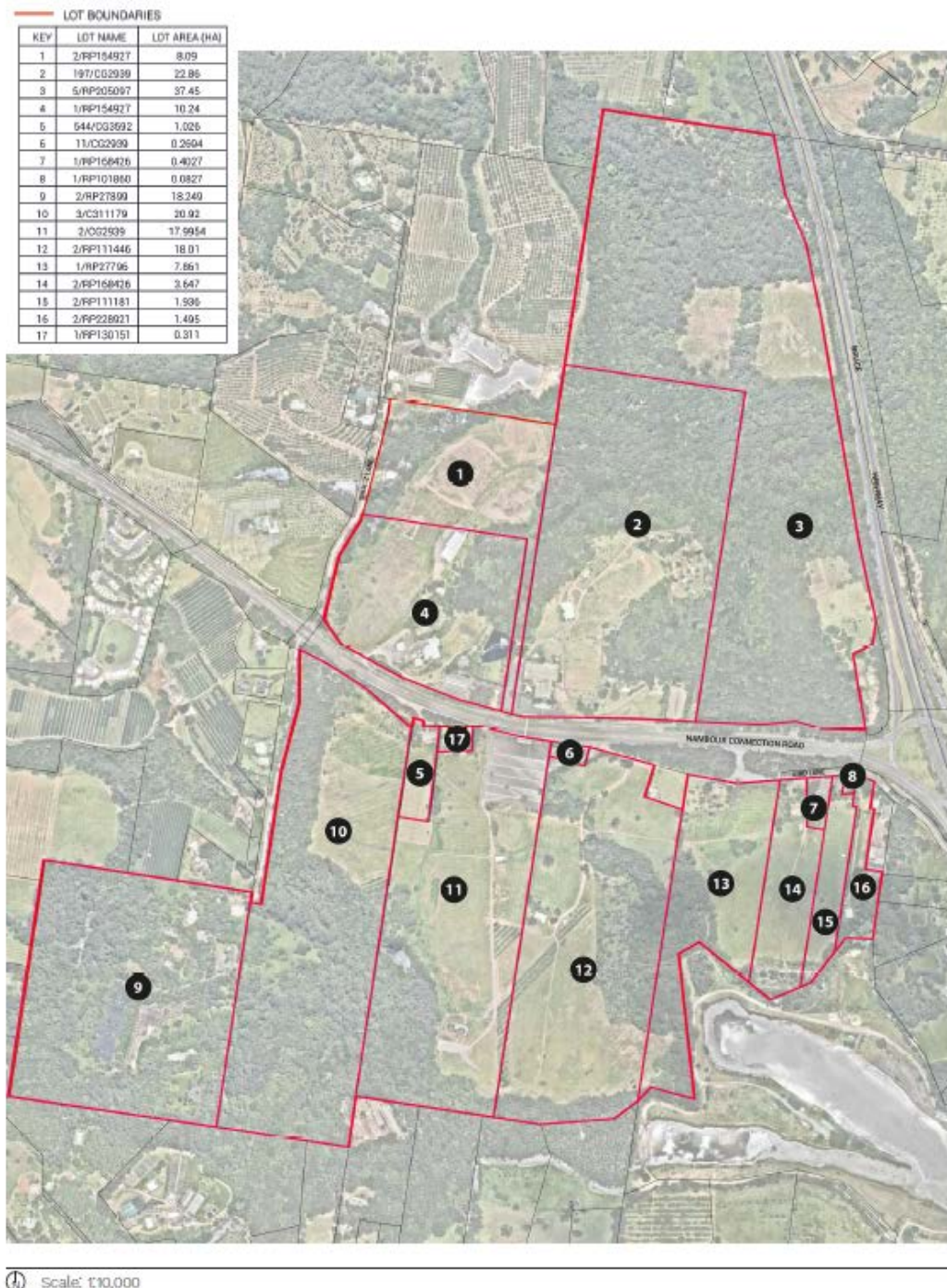


Image 1: Area subject to Variation Request

Master Plan Precincts

The overall development site has been broken into six (6) Precincts, each of which have a slightly different tourism or food production focus. The northern portion of the site includes Precincts 1 and 2 and is primarily focused around the Big Pineapple tourism experience within Precinct 1, and nature-based tourism uses within Precinct 2.

The southern portion of the site includes Precincts 3 to 6 and is primarily focused around food, tourism and produce related uses (which could include markets, food and beverage manufacturing, warehousing and retail sale of produce), the major event space and a variety of supporting tourist accommodation uses. A service station is also proposed in Precinct 3c.

An excerpt of the Overall Precinct Plan is shown below in Image 2.

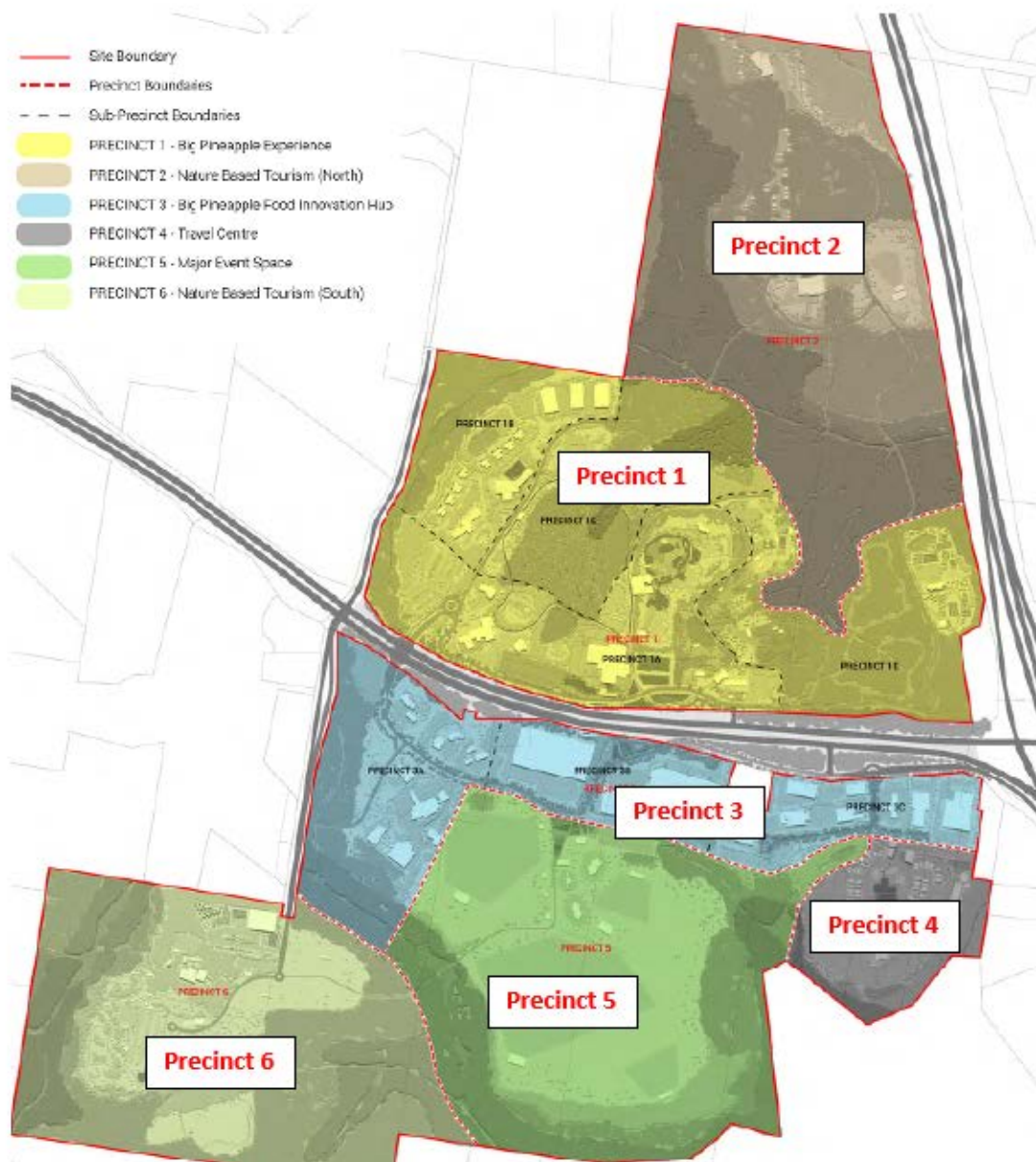


Image 1: Overall precinct plan

KEY ASSESSMENT MATTERS

The application has been assessed against the *Sunshine Coast Planning Scheme 2014*. The pertinent issues arising out of this assessment are discussed below and in more detail in the attached Detailed Assessment Report (**Attachment 1**).

South East Queensland Regional Plan

The development is located outside the Urban Footprint, within the Regional Landscape and Rural Production area of the South East Queensland Regional Plan. The *Planning Regulation 2017* prohibits 'urban activities' within the Regional Landscape and Rural Production area, and this aspect of the proposal has therefore been assessed by the Department of State Development, Manufacturing, Infrastructure and Planning.

The Department have determined that the extent of the floor area proposed for 'urban activities' (40,300m² within Precinct 3) is consistent with the outcomes expressed and sought to be achieved by the South East Queensland Regional Plan, notwithstanding the location of the site outside the urban footprint.

Changes to Categories of Assessment (Master Plan Uses and Land Use Compatibility)

The variation request seeks to treat the subject site as though it is located in the Tourism zone (instead of the Rural zone). The applicant has also proposed the introduction of a number of additional uses that would ordinarily not be permitted or expected in either zone.

Most of the applicant's proposed uses are already identified in the planning scheme as consistent uses, or potentially consistent uses for the Rural zone. Those that are not included in the Rural zone (as either consistent, or potentially consistent uses), but proposed at the Big Pineapple site are listed below:

- Office (Precincts 1 and 3)
- Shop (Precincts 1 and 3)
- Low impact industry (Precincts 1 and 3)
- Medium impact industry (Precincts 1 and 3)
- Warehouse (Precincts 1 and 3)
- Bar (Precincts 3 and 5)
- Major sport, recreation and entertainment facility (Precincts 3 and 5).

The main assessment focus relating to the proposed land uses has been regarding the proposed office, shop and industrial uses. The applicant proposes that these uses would be 'secondary uses' that support the 'primary uses' within the Master Plan area. It has been critical to appropriately link these proposed uses to agri-tourism activities through the Master Plan provisions in order to avoid these uses operating alone, and potentially creating a situation that conflicts with the activity centres hierarchy of the planning scheme. A detailed discussion of these matters is provided in **Attachment 1** to this report.

Changes to Categories of Assessment (Overlays)

The application proposes to replace the below planning scheme maps with revised mapping provided by the applicant:

- Height of Buildings and Structures Overlay Map (within the Height of buildings and structures overlay code); and
- Native Vegetation Overlay Map (within the Biodiversity, waterways and wetlands overlay code).

Council's specialist technical staff have reviewed the revised building height and native vegetation mapping in detail and all relevant issues have been identified and discussed in **Attachment 1** to this report. The replacement mapping is site specific and has been considered suitable to replace the current planning scheme maps and be referenced within the Master Plan.

Scenic Amenity and View Protection

Preserving visual amenity, in particular views to the pineapple structure, as well as long range views from Nambour Connection Road to surrounding rural land and significant viewpoints has been a critical part of the assessment.

To protect significant views and manage scenic amenity, a multi-faceted approach has been utilised, using a combination of building height measures, building exclusion measures, building design measures, landscape buffering and screening and Master Plan provisions which provide high level protection for the retention of significant views. These matters are discussed in detail in **Attachment 1** to this report.

Heritage protection

The Big Pineapple structure, Plantation building and Macadamia Nut building are locally listed heritage items. The Big Pineapple structure and plantation buildings are also State listed items.

The State Government has issued a detailed concurrence agency response with conditions in relation to heritage protection. From a local perspective, the proposed Master Plan provisions contain sufficient regulating parameters to ensure the ongoing protection of heritage values on the site.

Landscaping and Ecology

The site contains State Government mapped vegetation, as well as significant stands of locally mapped native vegetation. Most of the significant vegetation is proposed to be protected through a vegetation protection covenant. Where clearing is proposed, it has been assessed by the relevant level of government and it has been agreed that vegetation offsets can be provided within the identified rehabilitation areas. The provision of vegetated buffers is also proposed, to assist with preserving scenic amenity and retaining the vegetated setting of the subject site and providing visual relief and screening buffers between uses. Overall, the proposed development results in a net environmental benefit.

Transport Infrastructure

The key components of the vehicle movement network are:

- Provision of a new four (4) way intersection with three (3) through lanes in either direction. The intersection is to be constructed in two stages:
 - Three (3) leg intersection with northern, eastern and western legs, prior to the commencement of any use north of Nambour Connection Road that exceeds 15% of the estimated visitation targets. The northern leg would flow into Schulz Road through the development site, and the existing Schulz Road intersection would be closed. This section of the road would be a public road.
 - Four (4) leg intersection (as above, plus inclusion of a southern leg to connect to Aird Lane which would be continued through the development site). This section of the road would also be a public road.
- The continuation of Aird Lane through the development site to connect to the new signalised intersection, and provision of internal access from this road to Precinct 6.
- A number of internal access roads (private roads) are also proposed.

The site would also contain a number of car parking facilities, the detailed locations of which are not known at this stage. As discussed above, one potential carpark location is in the location of the previous hydroponic growing structure along Nambour Connection Road. It is expected that other facilities will be interspersed around the site as the need arises.

Water Supply and Sewerage Management

The site has a reticulated water connection but is outside Unitywater's connections area for reticulated sewer connection.

In terms of sewage management, whilst the development represents an urban outcome, the site is located within the Regional Landscape and Rural Production Area under the South East Queensland Regional Plan and is included in the Tourism Zone/Rural Zone (and outside the Urban Growth Management Boundary) under the *Sunshine Coast Planning Scheme 2014*.

Despite the nature of the development, given the current strategic land use intent for this locality (to remain largely rural in nature), it is not recommended to require the development to connect to sewer.

Conditions are recommended to ensure all onsite treatment and disposal systems are proposed in accordance with best practice environmental standards. Each system would require separate plumbing and environmental licences from Council and the State Government respectively.

Legal

There are currently no legal implications relevant to this report, however this matter can be appealed to the Planning and Environment Court by the applicant. Council will proceed with any required actions resulting from any legal action.

Policy

The application has been assessed against the *Sunshine Coast Planning Scheme 2014* and all relevant Council policies.

Risk

This matter can be appealed to the Planning and Environment Court by the applicant. Council will proceed with any required actions resulting from any legal action.

Previous Council Resolution

There is no previous Council resolutions relevant to this application.

Related Documentation

- Officers full and detailed assessment report (Attachment 1).
The detailed assessment report contains all the specific assessment details under the planning scheme considered in Council's assessment of this application.
- Concurrence agency response (Attachment 2)
- Proposed plans of the development (Attachment 3)
- Big Pineapple Master Plan document referred to in the recommended conditions of approval (Attachment 4).
- Recommended conditions of approval (Appendix A).

Critical Dates

Council's decision for the application was due on 29 October 2019. Given a decision has not been made by this date, the applicant may elect to take a deemed refusal of the application.

Implementation

Council officers will communicate the outcome of Council's resolution to the applicant and submitters as appropriate.

8.3 EXTENSION TO THE SCHEDULED ROAD RESEAL WORKS ON IMAGE FLAT ROAD, IMAGE FLAT

File No:	Council meetings
Author:	Manager Civil Asset Management Built Infrastructure Group
Attachments:	Att 1 - Location Map103

PURPOSE

This report responds to Councillor G Rogerson's Notice of Motion tabled at the Ordinary Meeting 14 November 2019, seeking Council endorsement for the extension of the currently scheduled road reseal work planned for Image Flat Road, Image Flat to include that part of the road reserve, previously sealed by Council, which acts as a driveway for a private property.

EXECUTIVE SUMMARY

Councillor G Rogerson sent a request to Group Executive Built Infrastructure, on behalf of Mr Lanham of 172 Image Flat Road requesting an upgrade to his driveway and access. Councillor G Rogerson stated, "In light of them being exceptionally good neighbours to Council, I believe their request should be given favourable consideration". Councillor G Rogerson raised a Notice of Motion after officers advised this request was not supported and not within the delegated authority of officers to approve.

Council will be undertaking asphalt overlay works of Image Flat Road in early 2020 directly in front of the property at 172 Image Flat Road. Undertaking the driveway works as part of this project would cost approximately \$8,000. This is unfunded in the current year's reseal program. If the works are not carried out in conjunction with the reseal program the cost will increase to \$16,000-\$19,000.

Council officers have considered this requests under the authority of the *Local Government Act*, specifically Section 92(2):

General rates are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person).

It is recognised that the former Maroochy Shire Council (MSC) constructed the driveway when reconstructing Image Flat Road. It is recognised that there is no evidence to date that indicates that MSC entered into an agreement to continue to maintain the driveway or recognise the driveway as an asset.

There is a risk that if approved, future owners of this property will request the same. Further this is a risk that any driveways located on road reserve may also request Council undertaken maintenance works on their driveways.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled "Extension to the scheduled road reseal works on Image Flat Road, Image Flat"**
- (b) undertake the renewal of the fence chainwire and**
- (c) not undertake the requested asphalt overlay works of the driveway, located on road reserve at 172 Image Flat Road, Image Flat.**

FINANCE AND RESOURCING

The proposed works are unplanned and not funded within the current year capital works program. However, asphalt reseal works are programmed on the connecting Image Flat Road within the current year's program. If the requested works are undertaken as an extension of the reseal works, there are savings in the form of reduced mobilisation cost and traffic control costs. The Image Flat Road overlay project is currently programmed for the first quarter of 2020.

Council officers have inspected the driveway and determined the scope of works. The cost of these works to be carried out at the same time as the Image Flat Road asphalt overlay project is estimated at \$8,000.

If these works are not carried out in conjunction with the reseal program the cost to undertake the full scope of works will increase to be between \$15,840 and \$19,000 due to the relatively low quantity of asphalt to be placed and the different methodology used.

The renewal of the fence chainwire has been quoted at approximately \$2,200 which would be funded from operational maintenance budget and the installation of a new guardrail is estimated at \$20,000, which would need to be a new capital budget request under the Road Safety sub-program. This request would then need to be assessed and prioritised against other projects in this program.

CORPORATE PLAN

Corporate Plan Goal: *A strong community*

Outcome: We serve our community by providing this great service

Operational Activity: S8 - Road network management - providing road transport infrastructure planning, design and delivery, road safety and traffic management, public education programs, streetscapes planning and place making.

CONSULTATION

Councillor Consultation

Councillor G Rogerson is supportive of the proposal to reseal the driveway servicing a single property that is located on road reserve under the custodianship of Sunshine Coast Council. Councillor G Rogerson has stated that the property owners have been exemplary neighbours of the (Council) Image Flat Quarry for over 50 years and considers it justifiable for Council to favorably consider their request. Councillor G Rogerson has noted that the former Maroochy Shire Council undertook major roadworks in 1976 including a major road cutting, which resulted in the property access to 172 Image Flat Road being severed and a much longer and steeper driveway being subsequently constructed by Council.

Internal Consultation

Office Mayor and CEO

- Executive Manager

Built Infrastructure

- Group Executive Built Infrastructure
- Manager Transport Infrastructure Management
- Quarry Manager

The above officers were requested to review the analysis, risk assessment and decision making undertaken by the Civil Asset Management Branch to the request from the property owner at 172 Image Flat Road, Image Flat for:

- Renewal of the existing fence located between the driveway on road reserve and the cutting face
- Installation of a new guardrail directly in front of fence and
- Reseal of the existing sealed driveway.

External Consultation

There has been no external consultation undertaken in relation to this report.

Community Engagement

Council officers have spoken with the property owner, who has expressed a desire for the driveway to be resealed by Council.

PROPOSAL

In August 2019, Councillor G Rogerson sent a request to Group Executive Built Infrastructure, on behalf of Mr Mal Lanham to undertake maintenance on the fence between the driveway and the weighbridge that runs along the top of the “cliff face” and upgrade to his driveway and access. A plan of the area has been included as an addendum to this report. Councillor G Rogerson stated, “In light of them being exceptionally good neighbours to Council, I believe their request should be given favourable consideration”.

On initial investigation it was identified that the driveway and fence are located on a road reserve and a further investigation would be required to determine the ownership of the driveway. This investigation identified that while the driveway was located on road reserve, the driveway was not identified as a Council asset.

Given the fence separates the road reserve and another Council parcel of land where the quarry weighbridge is located, the fence was identified as a Council responsibility. The investigation of the fence noted the deteriorated state of the chainwire but the fence posts were in sound condition. Councillor G Rogerson was advised that officers would arrange for maintenance of the fence in the short term of any unsafe areas with the view of renewal of the fence chainwire as budget allows.

In relation to the driveway as it was not a Council asset to maintain and as such, remains the responsibility of the property owner. This is consistent with Council’s practice of maintaining road access to the nearest boundary point and the property owner is then responsible to connect from there. Image Flat Road itself meets this commitment.

This position has been based on the *Local Government Act 2009 S92(2)*

General rates are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person).

It is recognised that around 1976 Council undertook works to lower the road crest at Image Flat Road, which resulted in the original access to 172 Image Flat Road being severed and a new driveway was constructed along the road reserve. Council officers have not discovered any records that would indicate the Council of the day entered into a maintenance agreement with the owners of 172 Image Flat Road to continue to maintain the driveway into the future.

Council’s Transportation Asset Management Plan outlines how the road reseal program list of works is determined. For the sealed road network a condition survey is undertaken to collect information on pavement roughness, surface texture, rutting and cracking. This information has been input into the Pavement Management System (PMS) and has been used to prioritise sections of road for treatment under the reseal and rehabilitation program. The PMS grades roads based on a variety of different defects and parameters and gives

each segment a pavement condition index (PCI). The way the PCI operates is that it assumes a ranking of 10 for a road without defects (perfect) and deducts points from this ranking depending on the level and types of distresses present in the pavement.

It is highlighted that, whilst the PCI value for any particular road section can be calculated, this does not mean that road sections with low PCI values will automatically be treated first (i.e.; on a treat worst first basis). This is because the PMS utilises a “rule base” to assess which different treatment options should be analysed and compared for each different road section. The ‘rule base’ is a stored procedure which selects road sections and treatments based on a set of parameters or rules. When running a network analysis, it also depends on which optimisation methods is chosen.

This affects the way a works program is generated and hence which particular road segments may be triggered for treatment before others in any given year. Once a works program is generated from the PMS it is verified by field inspection. Roads listed on the PMS works program are then assessed and rated using the simple condition gradings. During the field inspection, detailed measurements of defects are recorded to enable accurate budget estimates to be calculated. Any roads that are identified as requiring a pavement rehabilitation treatment during field inspection are subjected to a detailed geotechnical investigation, detailed pavement design and construction estimate. These budget estimates, together with the simple condition gradings, are then used to generate the final Reseal Works Program.

If the driveway was put through the PMS, it would have a low PCI due to its deteriorated condition, however, as noted above this does not guarantee its inclusion into the reseal program.

A risk assessment of the driveway was undertaken. The primary users of the driveway are long term residents, so they are familiar with the condition of the driveway and the speed environment is low. The risk of vehicles losing traction on the existing driveway was assessed as low. The greatest hazard at this location is the drop from the top of the cutting, however, the existing chain wire fence reduces the risk of pedestrians from inadvertently falling over this drop. The risk of vehicles driving over this can be further reduced by installing guardrail. This has been preliminary estimated at \$20,000 and will be considered for funding in future year capital works programs.

Based on the low risk identified above, if the driveway was a Council owned asset, it would not likely be included in the reseal program.

The primary guiding principle considered when deliberating requests of this nature is the *Local Government Act 2009*, specifically Section 92(2) General rates are for services, facilities and activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person). It is recognised that the former Maroochy Shire Council (MSC) constructed the driveway when reconstructing Image Flat Road. It is recognised that the driveway is located on a section of road reserve for Image Flat Road. It is recognised that there is no evidence to date that indicates that MSC entered into an agreement to continue to maintain the driveway or recognise the driveway as an asset. It is recognised that the request to resurface the driveway benefits only a single property.

Legal

The *Local Government Act 2009* s92(2) requires that General rates are for services, facilities an activities that are supplied or undertaken for the benefit of the community in general (rather than a particular person). It is understood that this road reserve is only used for access to the individual property.

Under the *Civil Liability Act 2003*, Council may be liable if it fails to take appropriate remediation action where it has knowledge of a specific risk. In the absence of any such risk, there is no particular obligation nor minimum standard to be delivered in relation to establishment, upgrade or repair of road reserves.

Policy

There is no policy that specifically addresses this issue.

Risk

Council officers have undertaken a risk assessment of the road reserve and the steep drop between the driveway and the quarry weighbridge and have determined that the old chain wire fence needs renewal and consideration should be given for a guardrail to be installed. The driveway was assessed as a low risk.

Previous Council Resolution**Ordinary Meeting 14 November 2019 (OM19/182)**

That item 9.2 'Extension of scheduled road reseal works planned for Image Flat Road, Image Flat', lay on the table to allow the Chief Executive Officer to prepare a report to the December 2019 Ordinary Meeting.

Related Documentation

There is no related documentation relevant to this report.

Critical Dates

The asphalt overlay of Image Flat Road is programmed in the first quarter of 2020 and confirmation of if the proposed works is to be incorporated into this scope will be required prior to these works being approved for contractor delivery.

Implementation

As the recommendation is not supported. No works to undertake the driveway reseal are scheduled at this time.

8.4 BUSINESS PARKING PERMITS

File No: D2019/113741
Authors: Parking and Transport Manager
Built Infrastructure Group
Coordinator Community Land Permits & Parking
Customer Engagement & Planning Services Group

PURPOSE

The purpose of this report is to address the Notion of Motion from the 14 November 2019 Ordinary Meeting which requested a report to Council regarding local business owners and staff permits being allowed unlimited timed car parking in Council's car park located on the corner of Howard and Sydney Streets in Nambour.

EXECUTIVE SUMMARY

This report is relation to a property located 64-66 Howard Street, Nambour. This office building was approved in 1973 by the previous Maroochy Shire Council (MSC) and a one off payment of \$3,000 was provided to MSC as a cash-in-lieu for the equivalent of 10 parking spaces. In turn, no car parking spaces were provided on-site for the building or its tenants. There were no conditions imposed on this parking arrangement.

Through raising the Notice of Motion in November 2019, Councillor G Rogerson is seeking to grant this property with parking permits which would allow employees of the building to park all day within 2 hour parking spaces.

To lawfully allow for the provision of a business employee parking permit scheme a Local Law amendment would be required to *Local Law No. 5 (Parking) 2011* and *Subordinate Local Law No. 5 (Parking) 2011*. Council officers are not are not able to issue permits (parking or otherwise) without a lawful head of power, which in this case is the Local Law.

As per the *Local Government Act 2009*, to make, amend or repeal a local law is now classified as a 'major policy decision'. Accordingly, this matter cannot be progressed until after the March 2020 election.

Furthermore, granting local business owner or their staff parking permits would be in contravention with Council's Local Laws, the endorsed principles of the Sunshine Coast Parking Management Plan (PMP) and the Community Land and Complementary Commercial Use Policy. Accordingly, the implementation of business 'employee' parking permits is not supported by officers.

The car park on the corner of Howard Street and Sydney Street experiences high parking demands with the timed restricted spaces in place to provide turnover for customers and visitors to the Nambour centre. Alternative parking options are available, with unrestricted parking located within a 400m to 600m walking distance of the building and parking is available at the C-Square car park for a fee.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled "Business Parking Permits" and
- (b) not progress the introduction of a Business Parking Permit scheme or other private arrangements for employee parking at 64-66 Howard Street, Nambour.

FINANCE AND RESOURCING

Based on the recommendation to not support the proposal there are no additional costs to Council or impacts on resourcing as the officer is not recommending a change to the current arrangements.

If Council were to pursue any allowance for business employee parking permits there would be additional costs incurred based on:

- required changes to signage to incorporate permits exemption wording at \$75 per sign
- an additional 1 full time equivalent resource (FTE) depending scale of the scheme and number of permit applications
- consideration would need to be given to the procurement and established electronic permitting system to allow for process efficiencies to reduce potential resourcing needs.

Currently the limited number of parking permits issued by Council are processed by the Supervisor Regulated Parking within the Customer Response Branch. Any increased workload with processing permits would impact the key duties of this officer or otherwise generate the need for additional resources.

A business 'employee' parking permit will take additional resource hours to that of a residential parking permit, based on the additional evidence and review time required to confirm eligibility.

The Supervisor Regulated Parking's key responsibility is to monitor the day to day activities of Council's Regulated Parking program and supervise, coach and mentor officers engaged in delivering Council's Regulated Parking program. Ultimately, additional workload for parking permit applications would detract from officer's ability to provide a high level of service that is expected by businesses in our local centres to ensure the turnover of parking and support public safety in deterring illegal and unsafe parking behaviour.

CORPORATE PLAN

Corporate Plan Goal:	<i>Service excellence</i>
Outcome:	We serve our community by providing this great service
Operational Activity:	S21 - Local amenity and local laws - maintaining and regulating local amenity through local laws, regulated parking, community land permits and management of animals, overgrown land and abandoned vehicles.

CONSULTATION

Councillor Consultation

There has been no Councillor consultation in regards to this report.

Internal Consultation

- Coordinator, Community Land Permits & Parking
- Manager. Customer Response
- Manager, Transport and Infrastructure Planning

External Consultation

No external consultation has been undertaken in relation to this matter.

Community Engagement

No community engagement has been undertaken in relation to matter.

PROPOSAL

Background

The request for this report has been triggered in relation to a property at 64-66 Howard Street, Nambour as highlighted in Figure 1. The office building was approved in 1973 by the Maroochy Shire Council subject to the development achieving provision of alternative car space in lieu of providing off-street parking on-site through the following two options:

- 1) alternate accommodation of cars on nearby site; or
- 2) payment in lieu to Council.

Figure 1 – Map showing 64-66 Howard Street, Nambour



The owner (L & A Investments Pty Ltd) elected to make a one off payment of \$3,000 as a cash-in-lieu to Council for the equivalent of 10 parking spaces. In turn, no car parking spaces were provided on-site for the building or its tenants.

Based on available building records the building has a lettable floor spaces is 513sq.m. Subsequent approved building records have been for Building and Plumbing Approval for fit-outs. Accordingly, the land uses and density is understood to be as per the original approval.

The current tenants of the building (at the time of writing this report) are:

- Subdivisions (Queensland) Pty Ltd
- Dixon Insurance

Though 'payment-in-lieu' of parking was paid, there is no evidence of any agreement pertaining to the property having rights to parking at the Howard Street car park nor Council being obligated to provide a higher level of access to public parking spaces.

It is important to note, there has not been a lawful mechanism for Business Parking Permits (to overstay timed parking limits) being able to be granted since 2011 when Sunshine Coast adopted the *Local Law No. 5 (Parking) 2011* and *Subordinate Local Law No 5 (Parking) 2011*. The existing parking signage is non-compliant to allow vehicles to be exempt from time limits, by permit or otherwise.

The car park on the corner of Howard Street and Sydney Street experiences high parking demands with the timed restricted spaces in place to provide turnover for customers and visitors to the Nambour centre. Alternative parking options are available, with unrestricted parking located within a 400m to 600m walking distance of the building and parking is available at the C-Square car park for a fee. Early bird prices at this car park are \$6 per day,

monthly parking is available for around \$100 per month or pre-booked online parking for as low as \$3 per day, subject to availability.

Business Parking Permits

Historically, MSC implemented a Business Parking Permit scheme, however it was limited to a few select locations and purposes (i.e. Maroochydore CBD). In Nambour there is an arrangement on private land for the Nambour Plaza, however this forms part of the development approval whereby the permit supports a Council function of regulating parking on the private property on behalf of the shopping centre operators and are issued under the agreement, rather than the Local Law.

Following amalgamation, the Local Laws were amended and adopted in 2012 to incorporate the most current definition of permit use. The Sunshine Coast Council's defined purpose under the *Subordinate Local Law No 5 (Parking) 2011* is that a business parking permit refers to 'access to a designated parking space and adjacent footpath for commercial or fundraising purposes'.

During amalgamation application forms were updated, and it appears that references to the specific areas and criteria where permits applied was diluted with forms only referring to a generic 'Business Parking Permit'.

These changes appear to have led to some confusion where some Business Parking Permits were issued in error. In turn some applicants over time gained permits for purposes that were not in alignment with the Local Law and were not re-evaluated as part of yearly renewals. All Business Parking Permits which did not conform with the Local Law definitions have since been rescinded and the assessment process for Parking Permits has been reviewed to ensure decisions align with the current Local Law

This category of permit was not designed to allow for day to day staff/commuter parking to overstay a timed parking limit. Provision of parking permits to business or staff to exceed timed parking limits both generally and in this Howard Street situation conflicts with the basic principles of good parking management to support local centres. Parking time limits are in place to ensure the turnover and availability of parking to support visitation and customers of our local centres.

Parking Permits Schemes

No Queensland local government authority offers a business parking permit that grants an employee of a business or business owners to overstay signed time limits in public parking.

The only permits offered by Queensland local government authorities to overstay a timed parking limit are residential and residential visitor parking permits. These in practice are implemented in areas where a timed parking limit has been installed to reduce impacts from overflow parking into residential streets from local centres or special use precinct (i.e. stadium, major sporting events, airports, hospitals and/or university precincts). These time limits are entirely different to those installed in centres and commercial precincts whereby turnover of parking is required to support parking availability and business visitation.

Parking permits are charged based on a cost recovery fee of \$57 per permit. A permit fee is only for the cost of processing a permit application. It does not factor in all the cost of Council for the ongoing maintenance (signs, lines and surfacing) nor the value of a car parking space.

Payment/cash-in-lieu and encumbrances of property

The concept of a payment or cash-in-lieu contributions for car parking is based on a town planning mechanism where commercial developments had a shortfall of car parking, it was reasonable for the Council to assist by accepting money for this shortfall to provide car parking bays in an nearby existing or proposed public 'carpark'.

A payment in lieu is contributed to a fund set aside by Local Government for the purposes of providing public car parking areas. The policy is not seen as replacing the developer's

responsibility to provide on-site parking but rather as a means for Council to accommodate the parking demand created in a particular locality by the developer's shortfall. By electing to make the payment in lieu the property effectively forfeited any rights to the parking.

To be able to have ongoing entitlements over another parcel land (public or private) a license, lease and/or easement would need to be in place.

None of these mechanisms were established when the payment in-lieu to Council was made. In turn there is no obligation on Council to provide increased access to public parking.

If the owner had pursued the alternate option of car park accommodation to a payment in-lieu, they could have met their car parking needs through establishing a long-term lease of another site for car parking purposes for example.

There are numerous examples in other parts of Australia whereby this has occurred through a 40 to 99-year leases being established. The lease then can only be surrendered through the encumbered property paying out the lease or in the case of redevelopment the parking supply being re-provided.

Legal

The provision of parking permits is defined in *Subordinate Local Law 5 (Parking) 2011* and *Subordinate Local Law 1 (Administration) 2011*, Schedule 16: Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee.

The defined purpose under the Local Law is that a business parking permit refers to 'access to a designated parking space and adjacent footpath for commercial or fundraising purposes'.

Schedule 16 of *Local Law 1 (Administration) 2011* outlines the additional criteria in which a person must include in their application to obtain a parking permit.

Council officers cannot issue permits under the current Local Law as there is no head of power to allow for the activity.

As per the *Local Government Act 2019* to make, amend or repeal a local law is now classified as a 'major policy decision'. Accordingly, this matter cannot be progressed until after the March 2020 election and when the new Council is established.

A proposed change to the Local Law which would allow for this activity would be contrary to Council's adopted Sunshine Coast Parking Management Plan and Community land and Complementary Commercial Use Policy.

Policy

Actions outlined in the adopted Sunshine Coast PMP provides the direction for the phase out of the provision of a Business Parking Permit. Council's policy direction under the PMP is that a '*permit will only be issued where an applicant can demonstrate a clear community benefit, no alternative parking solution is available, and a continuous high parking utilisation exists*'.

Progression of this action effectively commenced with the 11 April 2019 Council workshop on parking permits whereby it was proposed to remove the Business Parking Permit category and replace with Health and Community Services Parking Permit.

A Council report for Local Law amendments was submitted in August 2019 and the Local Law changes publicly advertised. No objections to the removal of the existing Business Parking Permits were received nor was there feedback suggesting that a business employee permit should be provided.

The allowance of parking permits for business employees does not align with the six (6) guiding principles under Council's *Community Land and Complementary Commercial Use Policy* for the commercial use of Council-controlled land as:

- the decision does not align with Council's overall vision or strategies (Principle 2)
- the local community will be impacted by the decision, with no complementary community benefit (Principle 1, 3 and 4)
- there is no head of power for the approval of such a permit (Principle 5).

If Council were to consider any form of additional parking permits (beyond existing categories) or parking concessions in the region it should be incorporated as a broader process to be able to assess key considerations including lifecycle costs, resourcing implications and technology requirements.

Risk

There is limited to no risk in not proceeding with Business Parking Permits.

If a Business Parking Permit arrangement for 64-66 Howard Street, Nambour was to be allowed this would create precedents for wide ranging exceptions to timed parking areas across the region. This would have potentially significant impacts on the availability and turnover of timed public parking which are in place to support customers and visitation to businesses in local centres.

Previous Council Resolution

Ordinary Meeting 14 November 2019 (OM19/183)

That Council request the Chief Executive Officer to prepare a report to Council regarding local business owners and staff permits being allowed unlimited timed car parking in Council's car park located on the corner of Howard and Sydney Streets in Nambour, reflective of historical arrangements recently revoked.

Related Documentation

- Sunshine Coast Parking Management Plan
- Nambour Local Area Parking Plan
- Local Law No 5 (Parking) 2011 and Subordinate Local Law No 5 (Parking) 2011
- Subordinate Local Law 1 (Administration) 2011
- Sunshine Coast Planning Scheme
- Community Land and Complementary Commercial Use Policy

Critical Dates

There are no critical dates related to this report as Council officers are not recommending any change to the Local Law or Council's adopted policies and plans.

However it should be noted that, if the proposal to allow a Business Parking Permit was supported, the Local Law process requires a minimum of six months to complete. As per the *Local Government Act 2019* this would be classified as a 'major policy decision'. Accordingly, this matter cannot be progressed until after the March 2020 election and when the new Council is established.

Implementation

There is no implementation associated with this report if the recommendation is endorsed. If the recommendation is not endorsed, Council officers will provide an implementation plan to achieve the desired outcome.

8.5 REGIONAL ARTS DEVELOPMENT FUND ANNUAL REPORT - 2018/2019 PROGRAM

File No: Council meetings
Author: Coordinator Creative Arts & Events
Economic & Community Development Group

PURPOSE

The purpose of this report is to provide a summary of the outcomes of Sunshine Coast Council's 2018/19 Regional Arts Development Fund (RADF) program.

EXECUTIVE SUMMARY

The Regional Arts Development Fund is an annual partnership between the Queensland Government, through Arts Queensland and Council. RADF promotes the role and value of arts, culture and heritage as key drivers of diverse and inclusive communities and strong regions.

Sunshine Coast Council's RADF program consists of:

- a competitive arts grants program
- Council initiated projects including Horizon Festival and *fabric – slow fashion, artful living* program
- professional and industry development initiatives, and
- an annual partnership with the region's peak creative industry body, Sunshine Coast Creative Alliance.

In the 2018/19 financial year, the RADF program:

- created paid employment opportunities for 438 artists
- provided meaningful arts engagement for 3,226 direct participants
- reached audiences exceeding 31,000
- provided 196 arts experiences for Sunshine Coast communities, and
- supported the development of over 200 new works.

The 2018/19 RADF Competitive Arts Grants Program awarded \$170,179 in funding to 55 applicants. The program created paid employment opportunities for 246 artists and reached audiences exceeding 18,540 community members.

Partnerships are integral to the delivery of the RADF program. Council partnered with over 30 Sunshine Coast based organisations in 2018/19 including Advance Queensland through SCRIPT, SunCentral Maroochydore, University of the Sunshine Coast, Sunshine Coast Environment Council, Experience Eumundi and Creative Enterprise Australia.

RADF has significantly supported the development of the Horizon Festival during its establishment over the last three years. In 2019, RADF designed and supported [In]Place for the Horizon Festival, engaging lead artist Helena Papageorgio to work with five local visual artists to form an augmented reality art trail and exhibition in Nambour along with a live performance art event and panel discussion about the role of technology in the arts. [In]Place attracted audiences and participants of over 1,670 people.

The 2019 RADF program also included the second year of *fabric – Slow Fashion, Artful Living*, highlighting the region's values in sustainability and celebrating the unique local textile industry and artists on the Sunshine Coast. *fabric* included 48 events, attracted meaningful

participation of more than 1,185 people and reached audiences of over 8,000 community members.

RADF supported the region's first creative industries incubator, The Refinery, in partnership with SunCentral Maroochydore and the region's peak industry body, Sunshine Coast Creative Alliance. In its inaugural year, The Refinery supported 15 creative businesses and delivered industry events for over 1,000 local creatives.

In partnership with Council's Creative Spaces program, RADF supported three artist residencies including LJ Projects Dance Development at The Events Centre and two First Nations residencies at the Arts and Ecology Centre.

Council's partnership with the Sunshine Coast Creative Alliance focuses on local creative and cultural leadership. This year, the Sunshine Coast Creative Alliance hosted eight regional industry networking events attended by approximately 800 people with 57 local, national and international guest speakers and showcased ten artists, as well as delivering a range of local advocacy events in partnership with other arts groups engaging approximately 1,100 people.

OFFICER RECOMMENDATION

That Council receive and note the report titled "Regional Arts Development Fund Annual Report - 2018/2019 Program".

FINANCE AND RESOURCING

The Regional Arts Development Fund budget is jointly funded by the Queensland Government (Arts Queensland) and Sunshine Coast Council on a 40:60 basis. In 2018/19, Arts Queensland contributed \$100,000 and Council contributed \$165,000.

The budget of \$265,000 supports a combination of the RADF Competitive Arts Grants Program and Council initiated projects that align with the Sunshine Coast Arts Plan 2018-2038.

The key initiatives for 2018/19 included:

- *fabric* – Slow Fashion Artful Living program
- The Refinery creative incubator
- Creative Spaces artist residencies
- [In]Place for 2019 Horizon Festival
- Sunshine Coast Creative Alliance – Creative and Cultural Industry Partnership

RADF 2018/19 Income	
<i>RADF Budget 2018/19</i>	\$265,000
<i>fabric – workshop revenue</i>	(\$15,700)
<i>Returned grant funds RADF 2017/18</i>	(\$7,050)
Total Income	\$287,750

RADF 2018/19 Expenditure	
RADF Competitive Arts Grants Program	
Arts Grants – Project & Individual	\$170,179
Council Initiated Projects	

Horizon Festival – [In]Place	\$49,236
Sunshine Coast Creative Alliance Partnership	\$20,000
fabric – slow fashion, artful living	\$23,578
Creative Spaces Residencies	\$7,030
The Refinery – Creative Incubator	\$15,000
RADF Committee Training & Development	\$2,727
Total Expenditure	\$287,750

Table 1. RADF 2018/19 Income and Expenditure

RADF 2018/19 Competitive Arts Grants Program Expenditure Breakdown	
November 2018	\$51,075
March 2019	\$73,513
July 2019	\$45,591
Total	\$170,179

Table 2. RADF 2018/19 Competitive Arts Grants Program Expenditure Breakdown

CORPORATE PLAN

Corporate Plan Goal: *A strong community*

Outcome: 1.3 - A shared future that embraces culture, heritage, diversity

Operational Activity: 1.3.7 - Implement priority activities from the Sunshine Coast Arts Plan 2018-2038.

CONSULTATION

Portfolio Councillor Consultation

Councillor R Baberowski - Portfolio Councillor for Transport, the Arts and Heritage and Chair of RADF Committee.

Internal Consultation

- Manager Arts, Heritage and Libraries
- Creative Arts and Events Team, Economic and Community Development Group
- Creative Development and RADF Liaison Officer, Economic and Community Development Group
- Team Leader Community Connections, Economic and Community Development Group
- Team Leader Creative Development, Economic and Community Development Group
- Senior Management Accountant, Business Performance

External Consultation

- Industry Partners
- RADF Assessment Panel
- Sunshine Coast Creative Alliance

8.10 NOVEMBER 2019 FINANCIAL PERFORMANCE REPORT

File No: Financial Reports
Author: Coordinator Financial Services
Business Performance Group

Late report to be provided.

8.11 BUDGET REVIEW 2

File No: Council Meetings
Author: Coordinator Financial Services
Business Performance Group

Late report to be provided.

8.12 SUNSHINE COAST CITY HALL - PROJECT UPDATE

File No: Council meetings
Author: Project Director (Workplace)
Business Performance Group

Late report to be provided.

8.13 MAKING AMENDMENT LOCAL LAW NO. 2 (MISCELLANEOUS) 2019 AND AMENDMENT SUBORDINATE LOCAL LAW NO. 3 (MISCELLANEOUS) 2019

File No:	Council meetings
Author:	Manager Corporate Governance Office of the CEO
Appendices:	App A - Amendment Local Law No. 2 (Miscellaneous) 2019..... 171 App B - Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019 181
Attachments:	Att 1 - Summary of Submissions 211 Att 2 - Public Interest Review Report 233

PURPOSE

The purpose of this report is to seek a Council resolution to make Amendment Local Law No. 2 (Miscellaneous) 2019 and Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019.

EXECUTIVE SUMMARY

Since the Sunshine Coast Council suite of local laws came into effect on 1 January 2012, a number of amendments have been presented to Council for consideration. As part of the five (5) year local law review, Corporate Governance have undertaken a series of stakeholder meetings to determine what further amendments were required to ensure the local laws remain current and responsive to community and environmental needs.

Following a series of workshops, information sessions, individual stakeholder meetings and a rigorous decision making process, several amendments to the local laws and subordinate local laws were presented to Council at the Ordinary Meeting on 22 August 2019 for consideration.

These amendments included:

- Inclusion of a new prescribed activity for making amplified music noise in a special entertainment precinct (allowing regulation ability for newly created Nambour Entertainment Precinct within the Planning Scheme).
- The ability to allow building site delivery noise permits outside of normal business hours in clearly defined circumstances.
- The ability to allow building site noise permits outside of normal business hours in clearly defined circumstances.
- Removal of the dog off leash beach at beach access 245-247 and replace with a new timed dog off leash area between beach access 245-249 from 5pm – 8am.
- Various animal management changes primarily around strengthening enforcement provisions.
- Inclusion of ability to utilise low voltage (Pingg) fencing adding additional capacity for the containment of cats within property boundaries.
- Clearer understanding around the ability for authorised persons (parking inspectors) to mark tyres using crayon, chalk or similar substance for enforcing parking regulation.
- The ability to regulate the temporary placement of shipping containers for storage.
- The ability to provide parking permits to health and community services workers.
- Flexibility with eligibility requirements for commercial vehicle parking permits.

Appendix A (amendment to local laws) and **Appendix B** (amendments to subordinate local laws) of this report contain the full details of the amendments that were presented to Council at the 22 August 2019 Ordinary Meeting for consideration.

In accordance with the requirements of the *Local Government Act 2009* and Council's endorsed Local Law Making Process, community consultation, State interest checks and a public interest review was undertaken between 23 August and 23 September 2019.

There were 67 submissions received as part of the community consultation process (6 did not relate to the current proposed amendments) and details of the submissions received are attached to this report (see **Attachment 1**). The only State department to provide comments on the local law amendments was the Department Transport and Main Roads (DTMR). DTMR comments are detailed in **Attachment 1** to this report and officer recommendations. No submissions were received from the Public Interest Review. The Public Interest Review Report is attached to this report (see **Attachment 2**).

A Council resolution to make the amendment local laws and subordinate local law is necessary to proceed with the local law making process detailed in **Table 3** of this report.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled "Making Amendment Local Law No. 2 (Miscellaneous) 2019 and Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019"
- (b) resolves that Amendment Local Law No. 2 (Miscellaneous) 2019 and Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019, have been reviewed in accordance with section 38 of the *Local Government Act 2009* and resolves to implement the recommendations of the Public Interest Review Report (Attachment 2) that the anti-competitive provisions contained in the laws are in the public interest and should be retained
- (c) in accordance with Council's 'Process for Making Local Laws' adopted on 1 June 2010, pursuant to section 29 of the *Local Government Act 2009*, hereby resolve to make Amendment Local Law No.2 (Miscellaneous) 2019 (Appendix A) with the following amendment based on consideration of public submissions and the State interests check feedback:
 - i. add a new Part 4 to clarify that where building work noise permit is issued this replaces the prescribed noise standard for building work in the *Environmental Protection Act 1994*.
- (d) in accordance with Council's 'Process for Making Local Laws' adopted on 1 June 2010, pursuant to section 29 of the *Local Government Act 2009*, hereby resolve to make Amendment Subordinate Local Law No.3 (Miscellaneous) 2019 (Appendix B) with the following amendments based on consideration of public submissions and the State interests check feedback:
 - i. in section 5 (Replacement of section 8 (State-controlled roads to which stated local laws apply), remove the redundant words "in operation at the commencement of this provision, remove the footnote and amend the definition of *prescribed advertising device* to update outdated references to the Roadside Advertising Manual
 - ii. in section 7 (Insertion of new schedule 5A and 5B), amend section 4 of both new schedules to include examples of the "extraordinary circumstances" and "environmental or public safety reasons" justifying why building work noise or building site delivery noise needs to occur outside normal prescribed hours
 - iii. in section 16 (Amendment of schedule 6 (Dog off-leash areas), amend

- subsection (1) to include a time limitation (5pm to 8am) for the part of the existing dog off-leash area between beach accesses 245 and 249 at Bokarina and amend subsection (2) to substitute map 2.6.24 to reflect this change
- iv. in section 21 (Amendment of schedule 2 (Restricted activities for local government controlled areas, facilities, infrastructure or roads), subsection (2), amend column 3 of the new table row to clarify that an activity in column 2 can only be permitted by the local government where it is not prohibited under State legislation
- (e) authorise the Chief Executive Officer to amend the 2019/20 Register of Cost-Recover Fees and Commercial Charges to include the cost-recovery fee for “Application for Health and Community Services Parking Permit”:
- i. Fee Description: Health and community services parking permit – Application for permit to park contrary to an indication on an official traffic sign regulating parking by time or payment of fee
- ii. Section in *Local Government Act 2009*: section 97(2)(a)
- iii. Legislative Authority: *Local Law No. 1 (Administration) 2011*, section 8 & section 42.
- iv. Fee including GST: \$51
- (f) authorise the Chief Executive Officer to amend the 2019/20 Register of Cost-Recover Fees and Commercial Charges to include the cost-recovery fee for the “Temporary Placement of a Shipping Container – Application”:
- i. Fee Description: Temporary placement of a shipping container - Application for a permit to carry out prescribed activity.
- ii. Section in *Local Government Act 2009*: section 97(2)(a),
- iii. Legislative Authority: LL1 (Administration) 2011, section 8 & section 42.
- iv. Fee including GST: \$264
- (g) authorise the Chief Executive Officer to amend the 2019/20 Register of Cost-Recover Fees and Commercial Charges to include the cost-recovery fee for “Building work noise or building site delivery noise outside normal hours”.
- i. Fee Description: Building work noise/building site delivery noise outside normal hours - Application for a permit to carry out prescribed activity.
- ii. Section in *Local Government Act 2009*: section 97(2)(a),
- iii. Legislative Authority: *Local Law No.1 (Administration) 2011*, section 8 & section 42.
- iv. Fee including GST: \$346, and
- (h) authorise the Chief Executive Officer to amend the 2019/20 Register of Cost-Recover Fees and Commercial Charges to include the cost-recovery fee for the “Operation of an amplified music venue within a special entertainment precinct”
- i. Fee Description: Operation of an amplified music venue within a special entertainment precinct - Application for a permit to carry out prescribed activity.
- ii. Section in *Local Government Act 2009*: section 97(2)(a),
- iii. Legislative Authority: *Local Law No. 1 (Administration) 2011*, section 8 & section 42 and
- iv. Fee including GST: \$346.

FINANCE AND RESOURCING

Local Law Drafting

The cost of drafting Amendment Local Law No. 2 (Miscellaneous) 2019 and Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019 has been funded through existing budget allocations within the Corporate Governance Branch.

Costs of the administration and regulation of the local law

Table 1 below outlines the finance and resourcing implications as a result of implementing the local law amendments. The fees and charges for the new prescribed activities are based on the estimated time and resources required to process and assess the new prescribed activities (detailed in **Table 1** below). As part of the relevant areas normal operating procedures, staff resourcing levels will be reassessed as part of the relevant areas annual review of their operating budgets.

Table 1 – Finance and Resourcing

Local Law	Proposed change	Finance and resourcing implications
<i>Local Law No. 1 (Administration) 2011 and Subordinate Local Law No. 1 (Administration) 2016</i>	Inclusion of a new prescribed activity for making amplified music noise in a special entertainment precinct (allowing regulation ability for newly created Nambour Entertainment Precinct within the Planning Scheme)	<p>Information provided by operational areas</p> <p>At this stage it is not expected that there will be many businesses within the new Entertainment Precinct in Nambour that will apply for a making amplified music noise in a special entertainment precinct approval. It is anticipated in the early stages that the current resources within the Healthy Places Team, Customer Response will manage these applications. This activity will be reassessed over time as more businesses in the Nambour Entertainment Precinct apply for approvals.</p> <p>A new cost recovery application fee of \$346.00 has been based on the estimated time it will take to process and assess these types of applications.</p> <p>A recommendation to amend the fees and charges to include a new application fee of \$346.00 for the operation of an amplified music venue within a special entertainment precinct applications has been included in the officer recommendation of this report.</p>
<i>Local Law No. 1 (Administration) 2011 and Subordinate Local Law No. 1 (Administration) 2016</i>	The ability to allow building noise permits for special circumstances outside business hours	<p>Information provided by operational areas</p> <p>The amendments relating to exemptions for building noise (causing building noise and causing delivery building noise) will only apply in extraordinary circumstances and is a new prescribed activity.</p> <p>It is expected that in the early stages current resources within the Healthy</p>

Local Law	Proposed change	Finance and resourcing implications
		<p>Places Team, Customer Response will manage these applications and the regulation of building noise is already covered in existing resources allocations. If additional workloads are unable to be met by current resourcing and Council is receiving additional revenue for applications a request for additional % of an FTE resource will be forthcoming to Council for consideration.</p> <p>A new cost recovery application fee of \$346.00 has been calculated based on the estimated time to process and access these types of applications.</p> <p>A recommendation to amend the fees and charges to include a new application fee of \$346.00 for causing building noise and causing delivery building noise applications has been included in the officer recommendation of this report.</p>
<p><i>Local Law No. 1 (Administration) 2011 and Subordinate Local Law No. 1 (Administration) 2016</i></p>	<p>Regulation of the placement of shipping containers</p>	<p>Information provided by operational areas</p> <p>A new cost recovery fee of \$264.00 has been calculated based on the estimated time to process and access these types of applications. All administration costs associated with implementing this change will be delivered within existing operational resourcing and budgets.</p> <p>A recommendation to amend the fees and charges to include a new application fee of \$264.00 for shipping container applications has been included in the officer recommendation of this report.</p>
<p><i>Local Law No. 2 (Animal Management) 2011 and Subordinate Local Law No. 2 (Animal Management) 2011</i></p>	<p>Inclusion of compliance notice powers for unregistered dogs</p>	<p>Information provided by operational areas</p> <p>The compliance activity will be delivered within current operational resourcing and budgets.</p> <p>Council has addressed 780 reports of unregistered dogs in the last 12 months, of these 51 (6.5%) are not registered after an initial infringement or request from Response Services.</p> <p>Where a compliance notice is issued, the dog may be impounded and/or an infringement for failure to comply with a compliance notice may be issued the on-the-spot fine for this offence is 5 penalty units or \$667.</p>

Local Law	Proposed change	Finance and resourcing implications
		Where an animal is impounded the normal cost-recovery fees apply.
<i>Subordinate Local Law No. 5 (Parking)</i>	New permit - Health and community services parking permits	<p>Information provided by operational areas</p> <p>The current application fee for a parking permit is \$51.00. A new cost recovery fee of \$51.00 for these types of parking permits has been based on the current application fee for all parking permits. It is currently anticipated that all administration costs associated with implementing this change will be delivered within existing operational resourcing and budgets.</p> <p>A recommendation to amend the fees and charges to include a new application fee of \$51.00 for health and community services parking permit applications has been included in the officer recommendation of this report.</p>
<i>Subordinate Local Law No. 5 (Parking)</i>	Flexibility with regards to who can apply for a commercial vehicle permit	<p>Information provided by operational areas</p> <p>This proposal provides greater flexibility with who may apply for a commercial parking permit.</p> <p>The current application fee for a parking permit is \$51.00 and covers commercial parking permits.</p> <p>All administration costs associated with implementing this change will be delivered within existing operational resourcing and budgets.</p>

CORPORATE PLAN

Corporate Plan Goal:	Service excellence
Outcome:	We serve our community by providing this great service
Operational Activity:	S21 - Local amenity and local laws - maintaining and regulating local amenity through local laws, regulated parking, community land permits and management of animals, overgrown land and abandoned vehicles.

CONSULTATION

Portfolio Councillor Consultation

Consultation has occurred with Councillor E Hungerford, Portfolio Councillor.

Councillor Consultation

Councillors have been consulted throughout the local law making process.

Internal Consultation

Consultation with all relevant internal stakeholders has been undertaken with regards to the new local law amendment including the below:

Office of the Mayor and CEO

- Coordinator Governance Process and Policy
- Governance Liaison Officer
- Manager Corporate Governance and
- Chief of Staff

Customer Engagement and Planning Services

- Group Executive Customer Engagement and Planning Services
- Manager Customer Response
- Coordinator Response Services, Customer Response
- Coordinator Healthy Places, Customer Response
- Coordinator Community Land Permits and Parking, Customer Response
- Supervisor Prosecutions and Reviews, Customer Response
- Team Leader Environmental Health, Customer Response
- Coordinator Planning Scheme & Projects, Strategic Planning
- Senior Strategic Planner, Strategic Planning and
- Coordinator Building & Plumbing, Development Services

Liveability and Natural Assets

- Coordinator Coastal Constructed Water Bodies & Planning and
- Coastal Project and Permits Officer

External Consultation

Section 29 of the *Local Government Act 2009* provides that the Local Government may decide its own process for making a local law. The proposal to commence the amendment local law making process included engagement with:

- relevant government agencies about the overall State interest in the proposed amendment local law
- the community and
- undertake a public interest review with businesses in the region likely to be affected by the amendment local law.

Public Interest Review

To assist with the public interest review a consultation paper was written. The review sought to gain community feedback to allow Council to determine whether potentially anti-competitive provisions should be retained within the proposed local law (in the overall public interest).

The public interest review was undertaken with specific businesses that may have been impacted by the amendments from 23 August 2019 to 23 September 2019 (32 days). No submissions were received from the community or businesses on the public interest review paper during this period. The Public Interest Review Report is attached to this report (see **Attachment 2**).

State Interest Check

The following State departments were invited to review the proposed amendments local laws and provide comments.

- Department of Environment and Science
- Department Local Government, Racing and Multicultural Affairs

- Department Natural Resources, Mines and Energy
- Treasury
- Department State Development, Manufacturing, Infrastructure and Planning and
- Department Transport and Main Roads.

The Department Transport and Main Roads (DTMR) were the only State department to provide comments on the proposed amendments. Comments from DTMR are detailed in **Attachment 1** to this report. Only minor changes have been made to the local law amendments in response to the comments provided by DTMR. It is recommended that these minor amendments detailed in the officer recommendations are considered.

Community Engagement

Section 29 of the *Local Government Act 2009* provides that the Local Government may decide its own process for making a local law. Council may, at its discretion, determine the amount of (if any) public consultation it undertakes before adopting the amendment local law and subordinate local law by resolution. A consultation period of no less than 28 days is considered good governance when proposing to make a local law.

The local law making process community consultation period for the amendments to the local laws occurred from 23 August 2019 to 23 September 2019 (32 days) and included the following:

- Media Release
- Website Information Pages “Have Your Say” for proposed changes
- Public Notice Sunshine Coast Daily
- Banners and Information Stands in Caloundra and Nambour Customer Service Centres
- Spotlight radio advertising
- Some Councillor columns print media
- Sunshine Coast Lightning - activation stand
- Targeted email notices to Presidents and general contacts for Chamber of Commerce organisations
- Targeted email notices to 12 health and community service organisations that provide carers
- Targeted email notices to 15 businesses that provide dog walking and pet care services
- Targeted email notices to QBCC, Engineers Australia, Master Builders Association and the Housing Industry Association
- Targeted email notices to 9 businesses that provide shipping containers

Table 2 below is a brief overview of the results of the community consultation submissions. Council received 67 submissions on the local law amendments during the consultation period, 6 of those submissions did not relate to the current proposed amendments. These submissions have been referred to the relevant operational areas for consideration. Full details of all submissions on the local law amendments are contained in **Attachment 1** to this report.

Table 2 – Results of community consultation

Local Law	Subject	Agree	Disagree
<i>Local Law No. 2 (Animal Management)</i>	Meaning of effective management of an animal in a public place	0	1
<i>Local Law No. 2 (Animal Management)</i>	Control of animals in a public place	1	0
<i>Local Law No. 5 (Parking)</i>	Marking tyres for enforcement purposes	0	1

<i>Subordinate Local Law No. 1 (Administration)</i>	Causing Building Site Delivery Noise' and 'Causing Building Site Noise'	0	27
<i>Subordinate Local Law No. 1 (Administration)</i>	Operation of an amplified music venue within a special entertainment precinct	0	2
<i>Subordinate Local Law No. 1 (Administration)</i>	Temporary placement of shipping container	2	1
<i>Subordinate Local Law No. 1 (Administration)</i>	Parking contrary to an indication on an official traffic sign regulating parking by time or payment of a fee (inclusion of new health and community services permit)	0	1
<i>Subordinate Local Law No. 1 (Administration)</i>	Parking in a loading zone by displaying a commercial vehicle identification label	0	1
<i>Subordinate Local Law No. 2 (Animal Management)</i>	Dog off-leash areas – removal of dog off leash beach at Bokarina beach due to new bathing reserve	5	18
<i>Subordinate Local Law No. 3 (Community Health and Environmental Management)</i>	Pingg Fencing	0	1

Community Consultation – New Bokarina Beach Bathing Reserve

Council also undertook community consultation to seek comments on the proposed gazettal of a new bathing reserve at Bokarina Beach which will have the effect of extending the existing Wurtulla Bathing Reserve by approximately 700m. The new bathing reserve will permit the establishment of a lifeguard service and a patrolled beach at Bokarina.

Currently under the local laws, there is a declared dog off leash area between beach accesses 245-247 at all times. As dogs are not permitted in a bathing reserve (unless a sign permits the animal) it was proposed as part of the amendment to the local laws that the dog off leash area between beach accesses 245-247 be removed. It is proposed that dogs will be permitted by way of sign which allows them to traverse through the bathing area on a lead to access the 3.8 kilometers dog off leash area at beach access 226-245.

As part of this process, Council received a further 51 submissions which primarily related to the proposed removal of the dog off leash beach between beach access 245-247.

Of the 51 submissions received as part of this process, 20 agreed with the proposed gazettal of the new bathing reserve at Bokarina Beach and 31 disagreed with the proposal. In response to the submissions received, it is recommended that Council give consideration to a new timed dog off leash area between beach access 245-249 between 5pm-8am to accommodate dogs off leash outside of the patrolled hours.

PROPOSAL

The Corporate Governance Branch undertakes a major review of the Local Laws and Subordinate Local Laws every five (5) years to ensure they remain current to the legislative environment and are responsive to the community and environmental needs.

At Council's Ordinary Meeting on 22 August 2019, a number of proposed amendments to the following local laws and subordinate local laws were presented to Council for consideration:

- *Local Law No. 1 (Administration) 2011*
- *Subordinate Local Law No. 1 (Administration) 2016*
- *Local Law No. 2 (Animal Management) 2011*
- *Subordinate Local Law No. 2 (Animal Management) 2011*

- *Local Law No. 3 (Community Health and Environmental Management) 2011*
- *Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities, Infrastructure and Roads) 2011*
- *Local Law No. 5 (Parking) 2011*
- *Subordinate Local Law No. 5 (Parking) 2011 and*
- *Local Law No. 7 (Sunshine Coast Airport) 2017*

These amendments included:

- Inclusion of a new prescribed activity for making amplified music noise in a special entertainment precinct (allowing regulation ability for newly created Nambour Entertainment Precinct within the Planning Scheme).
- The ability to allow building site delivery noise permits outside of normal business hours in clearly defined circumstances.
- The ability to allow building site noise permits outside of normal business hours in clearly defined circumstances.
- Removal of the dog off leash beach at beach access 245-247 and replace with a new timed dog off leash area between beach access 245-249 from 5pm – 8am.
- Various animal management changes primarily around strengthening enforcement provisions.
- Inclusion of ability to utilise low voltage (Pingg) fencing adding additional capacity for the containment of cats within property boundaries.
- Clearer understanding around the ability for authorised persons (parking inspectors) to mark tyres using crayon, chalk or similar substance for enforcing parking regulation.
- The ability to regulate the temporary placement of Shipping Containers for storage.
- The ability to provide parking permits to health and community services workers.
- Flexibility with eligibility requirements for commercial vehicle parking permits.

The amendments also included a number of minor administrative changes and updates of legislative references.

As part of Council's Local Law Making Process, public consultation was undertaken between 23 August and 23 September 2019 and has now been finalised. These included:

- Community Consultation
- Public Interest Review
- State Interest Check

Attachment 1 to this report provides the full details on the submissions received as part of the State Interest Check and Community consultation. **Attachment 2** to this report contains the Public Interest Review report resulting from the Public Interest Review paper that formed part of the public consultation process.

Appendix A (amendment local law) and **Appendix B** (amendment subordinate local law) contains the full details of the local law amendments.

Local Law Making Process

Before the amendment local law and subordinate local law can be made, a number of statutory and other requirements need to be fulfilled. **Table 3** below outlines these requirements.

Table 3 – Local Law Making Process

Statutory Requirement	Action taken	Date	Status
Propose to make local law amendments	Report to Council to propose to make <i>Amendment Local Law No. 2 (Miscellaneous) 2019</i> and <i>Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019</i>	22 August 2019	Complete
Community Consultation	Undertake Community Consultation including but not limited to: <ul style="list-style-type: none"> • Media Release • Website Information Pages “Have Your Say” for proposed changes • Public Notice Sunshine Coast Daily • Banners and Information Stands in Caloundra and Nambour Customer Service Centres • Spotlight radio advertising • Some Councillor columns print media • Sunshine Coast Lightning - activation stand • Targeted email notices to Presidents and general contacts for Chamber of Commerce organisations • Targeted email notices to 12 health and community service organisations that provide carers • Targeted email notices to 15 businesses that provide dog walking and pet care services • Targeted email notices to QBCC, Engineers Australia, Master Builders Association and the Housing Industry Association • Targeted email notices to 9 businesses that provide shipping containers 	23 August to 23 September 2019	Complete
State interest check	Undertake a State interest check with the following State departments: <ul style="list-style-type: none"> • Department of Environment and Science • Department Local Government, Racing and Multicultural Affairs • Department Natural Resources, Mines and Energy • Treasury • Department State Development, Manufacturing, Infrastructure and Planning and • Department Transport and Main Roads. 	23 August to 23 September 2019	Complete
Public interest review	Undertake a public interest review with regards to identified anti-competitive provisions.	23 August to 23 September 2019	Complete
Council Website Updated	All relevant information and documentation placed on and available through Council’s website on “Have your say” page.	23 August to 23 September 2019	Complete
Report to Council to make the amendment local laws	Prepare report to Council to make the local laws	12 December 2019	Current
Gazette Notice Publication	Preparation of Government Gazette notice for publication in the Government Gazette.	20 December 2019	To be prepared
Website Notice	Preparation of the website notice	20 December 2019	To be prepared

Notice to Minister	Preparation of notification to the Minister, Department of Local Government, Racing and Multicultural Affairs.	24 December 2019	To be prepared
Consolidation of Local Laws	Preparation and adoption of the consolidated local laws.	30 January 2020	To be prepared

Legal

Risks associated with the making of amendment local laws will be managed by:

- completing all statutory requirements required for the making of the local laws
- ensuring effective implementation of the amendment local law and
- utilising robust systems and processes to monitor the performance of the local laws.

Policy

There are no new policy implications in the making of *Amendment Local Law No. 2 (Miscellaneous) 2019* and *Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019*.

Risk

Risks associated with the making of amendment local laws will be managed by:

- completing all statutory requirements required for the making of the local laws
- ensuring effective implementation of the amendment local law and
- utilising robust systems and processes to monitor the performance of the local laws.

Previous Council Resolution

Ordinary Meeting 22 August 2019 OM19/130

That Council:

- receive and note the report titled "Making Amendment Local Law No. 2 (Miscellaneous) 2019 and Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019"*
- resolve to propose to make Amendment Local Law No. 2 (Miscellaneous) 2019 (Appendix A)*
- resolve to propose to make Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019 (Appendix B)*
- resolve to undertake a State interest check in relation to the proposed local law and subordinate local law pursuant to section 29A of the Local Government Act 2009*
- resolve to undertake community consultation on the draft local law and subordinate local law for thirty-two (32) days*
- resolve that proposed Amendment Local Law No. 2 (Miscellaneous) 2019 and Amendment Subordinate Local Law No. 3 (Miscellaneous) 2019 have been reviewed in accordance with section 38 of the Local Government Act 2009 and that it has been identified that the laws contain several anti-competitive provisions that should not be excluded from review and that have potential impacts and*
- resolve to undertake a public interest review of the anti-competitive provisions and hereby authorise the Chief Executive Officer to conduct the review during the community consultation period (23 August 2019 – 23 September 2019) in accordance with the State Government's National Competition Policy – Guidelines for conducting reviews on anti-competitive provisions in local laws (version 1).*

Related Documentation

- *Local Government Act 2009 and Local Government Regulation 2012*
- Sunshine Coast Regional Council Local Laws and Subordinate Local Laws
- State Government Guidelines for Drafting Local Laws 2016
- Sunshine Coast Regional Council Corporate Plan 2019-2023
- Compliance and Enforcement Policy

Critical Dates

It is beneficial for Council to make the local law amendments in order for the local law and subordinate local law amendments to take effect by the 20 December 2019.

Implementation

Following consideration of this report, actions relevant to the recommendation will be implemented and the final stages of the local law making process will be actioned which includes:

- Publication of the Gazette notice in the Government Gazette
- Ministerial Notification
- Consolidation of the amendments.

8.14 POLICY ALIGNMENT DELEGATION

File No: Council meetings
Author: Principal Policy Officer
Office of the CEO

PURPOSE

The Office of Chief Executive Officer is undertaking a project to review all policies and procedures used by Council to ensure alignment with recent local government legislative change, including those arising from the Belcarra Report. It is proposed that Council delegate to the Chief Executive Officer authority to make minor administrative changes to existing policies where items of no materiality are identified.

EXECUTIVE SUMMARY

Sunshine Coast Council has a comprehensive framework for the good governance of the organisation, providing for both compliance with relevant legislation and ongoing enhancement of good practice and a positive workplace culture.

Recent legislative changes, including those arising as a result of Belcarra (Stages 1 and 2), have provided an opportunity for Council to review and update its full suite of policies, guidelines and procedures under that governance framework. The first phase of review has involved identifying revisions to policies and procedures required to ensure currency and compliance.

This report seeks to inform Council of the review process and proposes Council delegate authority to the CEO to make minor administrative updates to documentation, where no matters of material or significant change are identified.

OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled “Policy alignment delegation” and**
- (b) delegate to the Chief Executive Officer the authority to make minor administrative amendments to policies to ensure currency and compliance with relevant legislation.**

FINANCE AND RESOURCING

There are no financial implications as a result of these administrative changes.

CORPORATE PLAN

Corporate Plan Goal: *An outstanding organisation*

Outcome: 5.3 - Strong and accountable leadership enabling Councillors, individuals and teams to be their best

Operational Activity: 5.3.1 - Implementation of strategic initiatives and key projects to support safety performance including the annual safety management plan and the safety management system.

CONSULTATION

Councillor Consultation

Portfolio Councillor T Hungerford, Mayor Mark Jamieson and Deputy Mayor Councillor T Dwyer.

Internal Consultation

- Manager Audit and Assurance
- Board of Management
- Relevant and appropriate Council officers have been consulted during this review process.

External Consultation

No external consultation was conducted for the review of policies.

Community Engagement

No community engagement was required for the preparation of this report as it relates to internal administration activity.

PROPOSAL

Sunshine Coast Council has a comprehensive framework for the good governance of the organisation, providing for both compliance with relevant legislation and ongoing enhancement of good practice and a positive workplace culture.

Recent changes to the *Local Government Act 2009* (the Act), including those arising as a result of Belcarra (Stages 1 and 2), have provided an opportunity for Council to review and update its full suite of policies, guidelines and procedures under that governance framework. Both strategic policies (those endorsed by Council) and operational policies (those endorsed by the CEO) are included in the review.

The first phase of review has involved identifying revisions to policies and procedures required to ensure currency and compliance.

In this regard, minor administrative revisions are being identified that include, but may not be limited to:

- Amending policy titles for clearer cross-referencing with legislation. For example, the "SCC Advertising Policy" to be retitled as the "SCC Advertising Spending Policy" and the "SCC Procurement Policy" to the "SCC Procurement Policy and Contracts Manual".
- Updating references to SCC operational groups or external agencies that may have changed since previous reviews.
- Updating signature blocks and application dates for existing policies.
- Considering those policies that may be better classified as "Procedures" that are applied at the operational level.

The recent passage of the Belcarra Stage 2 reforms and adoption by Parliament will necessarily require some policy revisions that will be of a more substantive nature. In particular, the "SCC Mayor and Councillor Discretionary Funds Policy" will require amendments regarding notifications and publication of allocations, and the restrictions that will now apply in the election year. Advisory communications regarding these changes have been previously circulated to Councillors.

Updates and decision making for Council in relation to policies requiring more substantive changes will be advised in early 2020.

Legal

Section 257 of the Act allows, by resolution a local government to delegate its powers under a local government act to the Mayor, Chief Executive Officer, a standing committee or a joint standing committee. While delegations provide expediency for Council operations, a delegation is revocable and does not prevent Council from acting on the matter (in which case the delegate must not act).

Section 257(5) of the Act requires the local government to review all delegations to the Chief Executive Officer annually.

Policy

Any action taken would be done so in accordance with the Delegations Guiding Principles Policy.

Risk

This report and recommendation has been prepared to mitigate the risk that any minor policy amendment may currently require a Council resolution to correct.

Previous Council Resolution

There are no previous Council resolutions that relate 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.

Implementation

Should the recommendation be accepted by Council, the Chief Executive Officer will progress appropriate policy revisions, noting that any proposed changes of a material nature will be brought to Council for consideration and resolution.

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**11.1 CONFIDENTIAL - NOT FOR PUBLIC RELEASE - LAND ACQUISITION, MAROOCHY RIVER****File No: F2019/8313****Author: Manager Environment and Sustainability Policy
Liveability & Natural Assets Group**

In preparing this report, the Chief Executive Officer recommends it be considered confidential in accordance with section 275 (e) of the *Local Government Regulation 2012* as it contains information relating to contracts proposed to be made by Council (Land acquisitions are confidential due to contractual requirement of sale).

11.2 CONFIDENTIAL - NOT FOR PUBLIC RELEASE - COMPULSORY ACQUISITION OF LAND - KIAMBA**File No: F2019/12401****Author: Senior Property Officer
Business Performance Group**

In preparing this report, the Chief Executive Officer recommends it be considered confidential in accordance with section 275 (e) of the *Local Government Regulation 2012* as it contains information relating to contracts proposed to be made by Council.

12 NEXT MEETING

The next Ordinary Meeting will be held on 30 January 2020 in the Council Chambers, 1 Omrah Avenue, Caloundra.

13 MEETING CLOSURE