



# **A G E N D A**

## **ORDINARY MEETING**

**Wednesday 14 March 2012**

**commencing at 1.00pm**

**Council Chambers, 1 Omrah Avenue, Caloundra**

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**1 DECLARATION OF OPENING**

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

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

That the minutes of the Council meeting held on 22 February 2012 be received and confirmed.

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**4 OBLIGATIONS OF COUNCILLORS****4.1 DECLARATION OF MATERIAL PERSONAL INTEREST ON ANY ITEM OF BUSINESS**

Pursuant to Section 172 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.

**4.2 DECLARATION OF CONFLICT OF INTEREST ON ANY ITEM OF BUSINESS**

Pursuant to Section 173 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 and if the councillor participates in the meeting in relation to the matter, how the councillor intends to deal with the real or perceived conflict of interest.

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**5 MAYORAL MINUTE****6 PRESENTATIONS**

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## 7 REPORTS DIRECT TO COUNCIL

### 7.1 FINANCE AND BUSINESS

#### 7.1.1 DE-AMALGAMATION COST TO CREATE A NEW NOOSA COUNCIL

<b>File No:</b>	<b>ECM 14 March 2012</b>
<b>Author:</b>	<b>Executive Director Finance and Business Finance and Business</b>
<b>Appendix:</b>	<b>App A – Deloitte Touche Tohmatsu De-amalgamation Report</b> (to be provided under separate cover)

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#### **PURPOSE**

The purpose of the report is to present the result of work commissioned by council to estimate the costs associated with the potential de-amalgamation of the Sunshine Coast Regional Council.

#### **EXECUTIVE SUMMARY**

On 10 August 2007, the Queensland Government passed the *Local Government (Reform Implementation) Act 2007*. This Act directed the amalgamation of Noosa Shire Council, Maroochy Shire Council and Caloundra City Council to form the Sunshine Coast Regional Council on 15 March 2008.

The Queensland Liberal National Party has proposed a four point plan to address any possible de-amalgamation should they hold government after the next state election.

Sunshine Coast Regional Council sought to have a clear understanding of the financial implications on the Sunshine Coast community of any de-amalgamation of the previous Noosa area to form a new Noosa Council. In November 2011, Deloitte Touche Tohmatsu (Deloitte) was contracted to undertake the analysis and provide council with an independent report.

In February 2012, Deloitte submitted their report addressing the components of the original brief. The completed report from Deloitte is included as Appendix A. The report estimates that the total cost of de-amalgamation will range between \$16,650,265 and \$31,485,176.

The purpose of the Deloitte report is to identify and estimate costs associated with a possible de-amalgamation, and does not offer any advice or make comment on the merits or otherwise of de-amalgamation.

Additionally, a key premise used by Deloitte when conducting their analysis is that a new Noosa Council would reflect the boundaries and replicate the services and functions of the previous Noosa Shire Council. There are a number of other scenarios that may be considered for a new Noosa Council. However, any other scenario would have to be individually costed to determine related de-amalgamation costs and risks.

## OFFICER RECOMMENDATION

That Council:

- (a) receive and note the report titled “De-amalgamation Cost to Create a New Noosa Council”; and
- (b) receive and note the Deloitte Touche Tohmatsu report titled “Sunshine Coast Regional Council – De-amalgamation cost to create a new Noosa Council” (Appendix A).

## FINANCE AND RESOURCING

The cost of preparing the report is \$70,000.

## CORPORATE PLAN

Corporate Plan Theme: **Great Governance**

**Emerging Priority:** 8.2 Effective business management  
**Strategy:** 8.2.3 Implement a business approach that focuses on maximising opportunities, managing risks and improving quality of service

## CONSULTATION

### Internal Consultation

A number of council staff provided information that was considered by Deloitte in preparing the report.

### External Consultation

Deloitte accessed information from a range of sources in preparing the report.

### Community Engagement

There was no community engagement involved in the preparation of the report. The information contained within the report provides one source of information to the public about the potential costs of any future local government models on the Sunshine Coast.

## PROPOSAL

On 10 August 2007, the Queensland Government passed the *Local Government (Reform Implementation) Act 2007*. This Act directed the amalgamation of Noosa Shire Council, Maroochy Shire Council, and Caloundra City Council to form the Sunshine Coast Regional Council on 15 March 2008.

The Queensland Liberal National Party has proposed a four point plan<sup>1</sup> to address any possible de-amalgamation should they hold government after the next state election:

1. Within a hundred days of winning government, the Liberal National Party would direct a Boundary Commissioner to consider communities and boundaries for a new Noosa Shire.

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<sup>1</sup> Gibson, D (Shadow Minister for Local Government) 2011. *Noosa Council – it's up to local community*, news release, 11 August, Liberal National Party, Brisbane, <http://lnp.org.au>

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2. Ratepayers of the proposed new local authority will bear the full costs of the de-amalgamation process.
3. The state government will check the financial modelling put forward by the Noosa Independence Alliance so that, if necessary, adjustments can be made to reflect the full cost of the process.
4. Once the boundaries and the financial position have been identified, residents living within the proposed new council will, by a simple majority, vote whether or not they wish to establish a new Noosa Council.

### **Deloitte's Report**

Sunshine Coast Regional Council sought to have a clear understanding of the financial implications on the Sunshine Coast community of any de-amalgamation of the previous Noosa area to form a new Noosa Council.

A brief was issued to five suitably qualified and experienced organisations to undertake an analysis of the financial implications of such a de-amalgamation on council. These financial implications were to include direct costs and any indirect costs incurred by council before, during and after a de-amalgamation.

The analysis also identified costs that would be incurred by a new Noosa Council to de-amalgamate from Sunshine Coast Regional Council and re-establish as a new operational council entity.

In November 2011, Deloitte was contracted to undertake the analysis and provide council with an independent report.

In February 2012, Deloitte submitted their report addressing the components of the original brief. The completed report from Deloitte is included as Appendix A.

The purpose of the Deloitte report is to identify and estimate costs associated with a possible de-amalgamation, and does not offer any advice or make comment on the merits or otherwise of de-amalgamation.

A key premise used by Deloitte when conducting their analysis is that a new Noosa Council would reflect the boundaries and replicate the services and functions of the previous Noosa Shire Council. There are a number of other scenarios that may be considered for a new Noosa Council. However, any other scenario would have to be individually costed to determine related de-amalgamation costs and risks.

The key findings of the report are:

### 1. Costs for Sunshine Coast Regional Council for a new Noosa Council to de-amalgamate

Cost	Cost Estimate
Governance	\$163,551 - \$1,523,863
Marketing and communications	\$945,694 - \$1,080,899
Legal	\$54,080 - \$81,120
Insurance	(\$54,250)
Other costs	\$944,930 - \$5,594,504
<b>TOTAL</b>	<b>\$2,054,005 - \$8,226,136</b>

### 2. Costs for a new Noosa Council to de-amalgamate

Cost	Cost Estimate
Governance	\$1,763,909 - \$2,158,291
Marketing and communications	\$270,536 - \$405,741
IR	\$1,500,000 - \$3,000,000
Legal	\$104,000 - \$156,000
Operations	\$2,908,723
ICT	\$7,553,993 - \$13,972,536
Insurance	\$443,500 - \$587,350
Accounting and Finance	\$33,600 - \$50,400
Tax	\$18,000 - \$20,000
<b>TOTAL</b>	<b>\$14,596,260 - \$23,259,040<sup>2</sup></b>

The total costs to de-amalgamate will therefore be in the range \$16,650,265 - \$31,485,176.

#### Legal

There are no legal implications associated with this report.

#### Policy

In accordance with council's Procurement Policy, the brief was issued to five suitably qualified and experienced organisations.

#### Risk

A key premise used by Deloitte when conducting their analysis is that a new Noosa Council will reflect the boundaries and replicate the services and functions of the previous Noosa Shire Council. There are a number of other scenarios that may be considered for a new

<sup>2</sup> Rounding of figures may cause minor variations from individual numbers to total numbers.



Noosa Council. However, any other scenario would have to be individually costed to determine related de-amalgamation costs and risks.

The future viability of a new Noosa Council was not considered in the costing report.

There are a range of services where the cost of de-amalgamation is difficult to quantify.

### **Previous Council Resolution**

At council's Ordinary Meeting of 7 December 2012, council passed the following resolution:

#### **Council Resolution** (OM11/319)

*That Council authorise the Chief Executive Officer to:*

- (a) make publicly available the brief that has recently been issued regarding the potential costs of the separation of the Noosa area from the current Sunshine Coast local government area; and*
- (b) prepare a report to Council on the findings of the analysis relating to the potential costs of de-amalgamation that also addresses that opportunity for community feedback on the findings.*

### **Related Documentation**

There is no related documentation for this report.

### **Critical Dates**

The Queensland state government election is to be held on 24 March 2012.

The Queensland Liberal National Party has proposed a four point plan to address any possible de-amalgamation should they hold government after the next state election. Within a hundred days of winning government, the Liberal National Party would direct a Boundary Commissioner to consider communities and boundaries for a new Noosa Shire.

The local government elections are to be held on 28 April 2012.

The independent report from Deloitte is timely considering these dates and the increasing commentary regarding potential de-amalgamation of Sunshine Coast Regional Council.

### **Implementation**

The report prepared by Deloitte is publicly available and provides additional information for consideration on potential de-amalgamation.

In accordance with the Queensland Liberal National Party's proposed four point plan to address any possible de-amalgamation should they hold government after the next state election, community feedback will occur through the process instigated by a Boundary Commissioner.

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## 7.1.2 DELEGATION OF AUTHORITY - 2012 LOCAL GOVERNMENT ELECTION PERIOD

**File No:** ECM 14 March 2012  
**Author:** Executive Director Finance and Business  
Finance and Business  
**Appendix:** [App A - Delegation of Authority - LG Election Period 2012](#) (OM Att  
Pg 3)

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### PURPOSE

The purpose of this report is to present to council for its consideration the adoption of a delegation of authority (refer Appendix A) to the Chief Executive Officer to make determination on the following matters during the caretaker period associated with the 2012 local government election:

1. To exercise the powers of council under the *Sustainable Planning Act 2009* in relation to deciding development applications which may otherwise be triggered for decision by council, specifically where there are statutory time limits or urgency (refer to Delegation No: 2009-35 - section 5 and 6).
2. To continue negotiations and planning in the Kawana Waters Master Planned Area (specifically relating to Eastbank).
3. To exercise the powers of council in relation to matters of an urgent nature or subject to statutory time limits or deadlines.

### EXECUTIVE SUMMARY

The Queensland Government has announced that the next local government elections will be held on Saturday 28 April 2012. It is expected that the local government caretaker period will commence on 10 March 2012 and continue until the call of election of the new council.

To allow the business of council to proceed in an orderly manner during the caretaker period and until the meetings of the newly elected council, this report presents for council consideration and possible adoption a delegation of authority to the Chief Executive Officer to make determinations on certain matters necessary to ensure business continuity.

It is important for council to give consideration to this matter, as there are no legal or transitional provisions to extend the time limits for consideration and decision by council in relation to matters with statutory time limits or matters which are deemed urgent during the caretaker period.

In particular, this report requests that council delegate authority to the Chief Executive Officer to progress critical planning and development assessment for key projects including:

- deciding development applications which may otherwise be triggered for decision by council;
- continuing negotiations, planning and delivery in the Kawana Waters master planned area, in particular for the Kawana Waters Temporary Local Planning Instrument area including Eastbank; and

- making determinations on matters of urgency or matters attracting statutory time limits.

## OFFICER RECOMMENDATION

That Council:

- receive and note the report titled “Delegation of Authority - 2012 Local Government Election Period”; and
- delegate authority to the Chief Executive Officer in accordance with ‘Delegation of Authority – Local Government Election Period 2012’ as per Appendix A to this report.

## FINANCE AND RESOURCING

In determining any matters under delegated authority, the Chief Executive Officer will be guided by the funds and resources available in council’s 2011/2012 budget.

## CORPORATE PLAN

**Corporate Plan Theme:** *Robust Economy*

**Emerging Priority:** 1.1 A broad economic base.  
**Strategy:** 1.1.6 Work with partners to develop initiatives that attract investment, business, careers and jobs to the region.

**Corporate Plan Theme:** *Managing Growth*

**Emerging Priority:** 7.1 The areas for growth and renewal are clearly defined  
**Strategy:** 7.1.5 Make decisions on development applications in accordance with the planning scheme and defend those decisions.

**Corporate Plan Theme:** *Great Governance*

**Emerging Priority:** 8.1 Ethical, accountable and transparent decision-making  
**Strategy:** 8.1.1 Develop and implement a governance framework that provides transparent and accountable processes and enhances council’s reputation

**Corporate Plan Theme:** *Great Governance*

**Emerging Priority:** 8.1 Ethical, accountable and transparent decision-making  
**Strategy:** 8.1.3 Councillors and employees are aware of the importance of ethical behaviour, compliance with codes of conduct and providing complete information and advice

## CONSULTATION

### Internal Consultation

Consultation on the need for delegated authority has been undertaken with the following officers:

- Manager Corporate Governance
- Project Officer, Corporate Governance
- Director, Development Services, Regional Strategy and Planning
- Project Director, Urban Development, Regional Strategy and Planning
- Director, Strategic Planning, Regional Strategy and Planning.

### **External Consultation**

There has been ongoing external consultation for Kawana Waters master planned area with the master developer, Stockland, and key state agencies (Department of Transport and Main Roads, Queensland Health, and Department of Natural Resources and Management). Stockland has been involved in ongoing negotiations during 2011 to amend the *Caloundra City Council Planning Scheme 1996* including DCP 1 and the preparation of the adopted Temporary Local Planning Instrument No 1.

### **Community Engagement**

Ongoing liaison with the development industry through meetings and other forums has indicated concern about potential delays in the assessment of development applications (i.e. those applications which would need to be decided by council) during the caretaker period and the formation of the new council.

Ongoing consultation occurs between council and Stockland to implement the outcomes of the adopted TLPI No 1 for Kawana Waters. The delegated authority will ensure that the negotiations and planning for Kawana Waters, in consultation with Stockland, can continue to occur during the caretaker period.

### **PROPOSAL**

Queensland local government elections are scheduled for Saturday 28 April 2012; the local government caretaker period is anticipated to commence from Saturday 10 March 2012. During this period, local governments are bound by the caretaker provisions outlined in the *Local Government Act 2009* (refer to legal section of this report) and must not make major policy decisions as defined below:

**major policy decision**, for a local government, means a decision—

- (a) about the appointment of a chief executive officer of the local government; or
- (b) about the remuneration of the chief executive officer of the local government; or
- (c) to terminate the employment of the chief executive officer of the local government; or
- (d) to enter into a contract the total value of which is more than the greater of the following—
  - (i) \$150000;
  - (ii) 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report (for SCRC approx \$2.47M).

To ensure the business of council continues in an efficient and timely manner during the caretaker period and until the statutory meetings of the newly elected council commence, this report presents for council consideration and possible adoption a delegation of authority to the Chief Executive Officer to make determinations on certain matters necessary to ensure business continuity.

There are no legal or transitional provisions to extend the time limits for consideration and decision by council, in respect to matters with statutory time limits, for matters that are deemed urgent during the caretaker period.

This is a particular concern for council given the changes introduced through the commencement of the *Sustainable Planning Act 2009*. The Act brought with it a significant change to the approval (or refusal) process of certain types of development applications. This change introduced the concept of a deemed approval of certain development applications rather than the previous deemed refusal approach. In further context, section 331 of the Act allows a development applicant to issue a deemed approval notice to a council that has not made a decision on the development application within the normal decision making period (including any lawful extension of that period). Hence, development applications that are not determined by council in this timeframe may become “deemed approvals” or “deemed refusals” depending on the nature of the application. This is a unique situation that has not been relevant in any previous caretaker period. The changes to the Act have the potential to cause significant implications for applicants, council and the public interest of the Sunshine Coast community if consideration is not given to how these issues will be managed during the caretaker period.

It is also important to note that a Temporary Local Planning Instrument No 1 (TLPI) for Kawana Waters came into effect on 28 December 2011 (ahead of proposed planning scheme amendments). The TLPI has the purpose of achieving the following outcomes:

- To expedite the planning and delivery of the Kawana Town Centre, the Ancillary Hospital Precinct and Birtinya through the master planning process.
- To stimulate economic development and jobs growth on the Sunshine Coast.
- To optimise and market opportunities arising from the development of the Sunshine Coast University Hospital.

Council continues to implement these outcomes for Kawana Waters through the master planning process and it would not be in the public interest to halt this process through the caretaker period and the swearing in of the new council.

Since the TLPI has come into effect, an expression of interest process in relation to Eastbank has commenced. There is currently an approved master plan over the Eastbank area that designates precincts for community/sporting facilities, rowing sheds, short term accommodation, commercial premises and restaurants. The Expression of Interest process is intended to ascertain what sporting/community clubs would be interested in locating premises on Eastbank and exploring funding options and delivery mechanisms.

The outcomes of the Expressions of Interest process and further negotiations may result in the need to amend the *Caloundra City Council Planning Scheme 1996*, including DCP 1: Kawana Waters, to facilitate the required development outcomes.

To avoid loss of momentum, it is therefore recommended that council delegate authority to the Chief Executive Officer to:

- carry out negotiations between council and Stockland with respect to implementing outcomes of the Expression of Interest process and to ensure that land and uses are designated in Eastbank to complement and support the functioning of the Public Recreation Lake; and

- prepare and progress any necessary amendments to *Caloundra City Council Planning Scheme 1996* including, *DCP 1: Kawana Waters*, to facilitate the required outcomes with respect to TLPI No. 1 and Eastbank.

A delegation of authority has been prepared (refer Appendix A) which seeks authority for the Chief Executive Officer to:

- exercise the powers of council under the *Sustainable Planning Act 2009* in relation to deciding development applications which may otherwise be triggered for decision by council, specifically where there are statutory time limits or urgency (refer to Delegation No: 2009-35 section 5 and 6);
- continue negotiations and planning in the Kawana Waters Master Planned Area (specifically relating to Eastbank), including the preparation and progress of any necessary amendments to *Caloundra City Council Planning Scheme 1996*, including *DCP 1: Kawana Waters*, to facilitate the required outcomes with respect to TLPI No. 1 and Eastbank; and
- exercise the powers of council in relation to matters of an urgent nature or subject to statutory time limits or deadlines.

### Legal

The *Local Government Act 2009* Chapter 7, Part 5 Delegation of Powers includes the following requirements for the delegation of powers to the Chief Executive Officer:

#### **257 Delegation of local government powers**

- (1) *A local government may, by resolution, delegate a power under this Act or another Act to—*
  - (a) *the mayor; or*
  - (b) *the chief executive officer; or*
  - (c) *a standing committee, or joint standing committee, of the local government; or*
  - (d) *the chairperson of a standing committee, or joint standing committee, of the local government; or*
  - (e) *another local government, for the purposes of a joint government activity.*
- (2) *However, a local government must not delegate a power that an Act states must be exercised by resolution.*

During the caretaker period, local governments must not make major policy decisions as outlined in *Local Government Act 2009* Chapter 3, Part 5 as follows:

#### **90A Caretaker period**

- (1) *The caretaker period for a local government is the period during an election for the local government that—*
  - (a) *starts on the day when public notice of the holding of the election is given under the Local Government Electoral Act 2011, section 25(1); and*
  - (b) *ends at the conclusion the election.*
- (2) *There is no caretaker period during a by-election or fresh election.*

**90B Prohibition on major policy decision in caretaker period**

- (1) *A local government must not make a major policy decision during a caretaker period for the local government.*
- (2) *However, if the local government considers that, having regard to exceptional circumstances that apply, it is necessary to make the major policy decision in the public interest, the local government may apply to the Minister for approval to make the decision.*
- (3) *The Minister may give the approval if the Minister is satisfied that, having regard to exceptional circumstances that apply, it is necessary for the local government to make the major policy decision in the public interest.*
- (4) *The Minister's approval may be given on conditions with which the local government must comply.*

**90C Invalidity of major policy decision in caretaker period without approval**

- (1) *A major policy decision made by a local government during a caretaker period for the local government is invalid to the extent the local government—*
  - (a) *does not have the Minister's approval under section 90B to make the decision; or*
  - (b) *does not comply with any conditions of the Minister's approval under section 90B(4).*
- (2) *A contract is void if it is the subject of a major policy decision that is invalid.*
- (3) *A person who acts in good faith in relation to a major policy decision of a local government, or in relation to a contract that is the subject of a major policy decision, but who suffers loss or damage because of any invalidity of the decision under subsection (1) or because the contract is void under subsection (2), has a right to be compensated by the local government for the loss or damage.*
- (4) *The person may bring a proceeding to recover the compensation in a court of competent jurisdiction.*

In this regard, any decision made by the Chief Executive Officer under delegated authority would need to comply with legislative requirements and council's adopted policy framework.

**Policy**

The delegation of authority to the Chief Executive Officer will ensure that the implementation of council's adopted policy framework including the *Corporate Plan 2009*, the *Community Plan 2010* and other strategies can continue during the caretaker period.

**Risk**

The delegation of authority to the Chief Executive Officer will mitigate potential risks associated with the:

- likelihood of deemed approvals in relation to development applications reaching critical time limits under the *Sustainable Planning Act 2009*;
- continued negotiation and planning associated with TLPI No. 1 and Eastbank; and
- continued good rule and governance of the Sunshine Coast region.



**Previous Council Resolution**

Special Meeting 26 September 2011.

**Council Resolution** (SM11/55)

*That Council:*

- (a) *propose to prepare a Temporary Local Planning Instrument No.1 (Caloundra City Planning Scheme 1996) 2011;*
- (b) *delegate authority to the Chief Executive Officer to:*
  - (i) *draft a Temporary Local Planning Instrument; and*
  - (ii) *give to the Minister for Local Government and Planning:*
    - (1) *a copy of the proposed Temporary Local Planning Instrument; and*
    - (2) *written advice about why the local government proposes to make the proposed Temporary Local Planning Instrument; and*
- (c) *upon advice from the Minister for Local Government and Planning that the Council may adopt the proposed Temporary Local Planning Instrument, delegate authority to the Chief Executive Officer to comply with any conditions imposed by the Minister for Local Government and Planning; and*
- (d) *delegate authority to the Chief Executive Officer to adopt the proposed Temporary Local Planning Instrument; and*
- (e) *delegate authority to the Chief Executive Officer to:*
  - (i) *under Step 4 of Statutory Guidelines 02/09 (Making and amending local planning instruments), place a notice in a local newspaper, the Government Gazette and on the Council website regarding the Temporary Local Planning Instrument; and*
  - (ii) *give the Chief Executive of the Department of Local Government and Planning three certified copies and one electronic copy of the Temporary Local Planning Instrument.*

**Related Documentation**

- Development Agreement.
- 1996 Caloundra Planning Scheme including DCP 1: Kawana Waters.
- Kawana Waters Structure Plan.
- Infrastructure Agreement with respect to the Sunshine Coast University Hospital
- Planning for a Sustainable Sunshine Coast – A Statement of Proposals for the new planning scheme.
- SEQ Regional Plan 2009.

**Critical Dates**

The critical date for the delegated authority is the commencement of the caretaker period, anticipated to be 10 March 2012.

**Implementation**

The delegated authority will be implemented by the Chief Executive Officer in accordance with the *Local Government Act 2009*, the *Sustainable Planning Act 2009* and council's adopted Policy Framework.

### 7.1.3 JANUARY 2012 FINANCIAL PERFORMANCE REPORT

**File No:** ECM 14 March 2012

**Author:** Financial Services Manager  
Finance and Business

**Appendix:** [App A - January 2012 Financial Performance Report](#) (OM Att Pg 5)

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#### PURPOSE

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

#### EXECUTIVE SUMMARY

Council's financial results at 31 January 2012 show the organisation with a \$6.6 million better than forecasted operating position against the year to date budget.

The 31 January 2012 operating surplus variation of \$6.6 million is made up of lower than anticipated operating expenses of \$6.7 million or 3.6%.

At 31 January 2012, \$82.4 million or 39.8% of council's \$205.1 million 2011/2012 capital works program was financially complete.

During the month of January, the 2011/2012 Operating and Capital budgets were adjusted to accommodate reallocations between budget categories or line items. A number of transfers from reserves to capital were also made during January. Reallocations are set out in Appendix A.

#### OFFICER RECOMMENDATION

**That Council:**

- (a) receive and note the report titled "January 2012 Financial Performance Report"; and
- (b) approve the minor budget reallocations for both operating and capital as well as the transfers from reserves to capital as outlines in January 2012 Financial Performance Report (Appendix A).

#### FINANCE AND RESOURCING

This report incorporates reallocations within both the 2011/2012 operating and capital budgets. There is no change to the bottom line of the 2011/2012 budget as a result of these reallocations.

#### CORPORATE PLAN

**Corporate Plan Theme:** *Great Governance*

**Emerging Priority:** 8.1 Ethical, accountable and transparent decision-making  
**Strategy:** 8.1.2 Ensure legislative compliance and awareness

**Corporate Plan Theme:** *Great Governance*

**Emerging Priority:** 8.2 Effective business management  
**Strategy:** 8.2.1 Develop indicators and measure the performance of council and the success in achieving its vision

**Corporate Plan Theme:** *Great Governance*

**Emerging Priority:** 8.3 Strong financial management  
**Strategy:** 8.3.2 Ensure council's financial performance is well managed and leads to a strong financial position

## CONSULTATION

### Internal Consultation

All departments or branches participated in the formation of the recommendations associated with this report.

### External Consultation

No external consultation is required for this report.

### Community Engagement

No community engagement is required for this report.

## PROPOSAL

Council's financial results at 31 January 2012 show the organisation with a \$6.6 million better than forecasted operating position against the year to date budget.

The 31 January 2012 operating surplus variation of \$6.6 million is made up of lower than anticipated operating expenses of \$6.7 million.

As at 31 January 2012 operating revenues are unfavourable to budget by \$148,000.

With the January general rate run, the year to date growth in rated properties was 0.9% compared with a budget of 1.5%. This shortfall in growth has resulted in a \$1.3 million unfavourable variance in general rates revenue.

Development application fees remained steady in the month of January, and are continuing to show a year to date unfavourable variance of \$1.2 million. This is being addressed by vacant positions not being filled and staff being seconded to other areas within Council.

Interest received from investments continues to show a favourable variance of \$779,000, although this variance may be impacted in the coming months due to the decrease in interest rates.

Internal revenue continues to show a positive trend due to higher than budgeted internal recoveries to capital works.

At 31 January 2012, operating expenses were \$6.7 million or 3.6% under budget due to an underspend in materials and services of \$6.4 million.

The year to date labour variance is showing an unfavourable variance of \$62,000. The turn around in the labour variance can be attributed to a high volume of annual leave taken across council during late December 2011 and throughout January 2012.

Capitalised labour for Finance and Business department and Parks and Gardens branch was also adjusted resulting in a favourable labour movement of \$735,000.

The underspend on materials and services continues, with a year to date favourable variance of \$6.4 million. This favourable variance is across three departments with favourable variances of \$2.9 million for Infrastructure Services, \$2.2 million for Finance and Business and \$940,000 for Regional Strategy and Planning.

Of the favourable materials and services variance, approximately \$900,000 relates to grants or levy expenditure which, if not spent by end of year, will be transferred to reserves. \$330,000 relates to legal appeals which will be settled before the end of the year and \$940,000 relates to an underspend in Building and Facilities, which could potentially relate to purchase orders not being receipted on time.

The year to date Value and Success Target for 2012/2013 is \$5.6 million. The main focus for achieving the target is close monitoring of expenditure and where possible making adjustments to respond to reductions in revenue. The favourable variance to budget at the end of January means that Council is currently achieving the savings targets that have been set. As of 31 January 2012, \$1.1 million has been identified as specific savings by the various departments.

The forecast \$8.1 million deficit is predominately the result of \$8.9 million of operating projects carried over from the last financial year. Therefore the deficit was funded by the previous financial year, which makes it a timing difference. The results at the end of January see council's operating position being a favourable variance of \$6.6 million to budget, which places council in a good position to deliver a better result than the current \$8.1 million deficit at 30 June 2012.

At 31 January 2012, \$82.4 million or 39.8% of council's \$207 million 2011/2012 Capital Works Program was financially complete.

Within the 2011/2012 Capital Works Program, \$31 million has been allocated to the Horton Park land acquisition, which has not yet been finalised. Excluding the Horton Park land acquisition, the year to date spend of \$82.4 million can be compared to a reduced Capital Works Program of \$176 million, and a financial completion rate of 46.8%.

Infrastructure Services has spent \$67.9 million at the end of January 2012. Cash flow profiles will be reviewed to reflect any changes to construction schedules as a result of the wetter than normal conditions experienced in January. At the end of January 2012 capital works for Infrastructure Services are on track to achieve the 90% delivery target as a minimum by financial year end.

Sunshine Coast Airport is behind its year to date budget by \$1.5 million, but this gap is expected to be progressively closed between now and the end of the financial year.

During January, the 2011/2012 Operating and Capital Budgets were adjusted to accommodate reallocations between budget categories or line items. A transfer from reserves to constructed assets was also performed during the month of January 2012. This transfer increased the capital works budget from \$205.1 million to \$207 million, with no impact on the total financial performance of council. Reallocations are set out in Appendix A.

**Legal**

There are no legal implications to this report.

**Policy**

There are no policy implications associated with this report.

**Risk**

At a corporate level the actual performance is tracking close to budget. Individual variances to budget are identified and being closely monitored.

The two most concerning issues are the reductions in the growth of rateable properties and the lower development related fees. While they are covered in the current years budget the lower starting positions will negatively impact of future years budgets.

**Previous Council Resolution**

On 7 December 2011 council adopted a revised budget (Budget Review 2). The changes in that review are reflected in the attached reports.

**Related Documentation**

There is no related documentation for this report.

**Critical Dates**

There are no critical dates that relate to this report.

**Implementation**

There are no implementation details to include in this report.

## 7.2 REGIONAL STRATEGY AND PLANNING

### 7.2.1 DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE, 267 VALDORA ROAD, VALDORA

File No: MCU11/0153  
 Author/Presenter: Principal Development Planner, Planning Assessment  
 Attachments: [Att 1 - Proposal Plans](#) (OM Att Pg 17)  
[Att 2 - Photomontages](#) (OM Att Pg 22)  
[Att 3 - Advice Agency Response \(DERM\)](#) (OM Att Pg 24)

Link to PD Online:

<http://pdonline.sunshinecoast.qld.gov.au/MasterView/Modules/Applicationmaster/Default.aspx>

<b>SUMMARY SHEET</b>	
<b>APPLICATION DETAILS</b>	
Applicant:	Broadcast Australia Pty Ltd
Proposal	Development Permit for Material Change of Use of Premises (Major Utility (AM Radio Broadcast Facility))
Properly Made Date:	30/06/2011
Information Request Date:	11/08/2011
Information Response Received Date:	28/10/2011
Decision Due Date	23/02/2012
Number of Submissions:	1,082
<b>PROPERTY DETAILS</b>	
Division:	9
Property Address:	267 Valdora Road, Valdora
RP Description:	Lot 1 RP 103583
Land Area:	86.01 Hectares
Existing Use of Land:	Agriculture
<b>STATUTORY DETAILS</b>	
SEQR Designation:	Regional Landscape & Rural Production Area
Planning Scheme	Maroochy Plan 2000 (25 May 2011)
Strategic Plan Designation:	Agricultural Protection
Planning Area / Locality:	24 - Yandina Creek Valley
Planning Precinct / Zone:	1 - Yandina Valley Cane Lands (Sustainable Canelands)
Assessment Type:	Impact

## **PURPOSE**

The purpose of this report is to seek council's determination of an application for a radio communications tower. The application is before council due to the number of submissions received and the significant public interest in the development.

## **EXECUTIVE SUMMARY**

The application seeks approval for an AM broadcast facility (Major Utility – Radio Tower) within a 22.5 hectare lease over a rural property at Valdora. The proposed facility is intended to be utilised for ABC News Radio coverage for a service 'black spot' north of the Maroochy River and will be owned and operated by Broadcast Australia Pty Ltd, under a separate agreement with the ABC. A radio frequency has been allocated for this service by the Australian Communications and Media Authority. However, prior to a licence being issued to the ABC, the proponent must obtain a use approval and then satisfy technical specifications.

Although the planning scheme does not generally anticipate or support this type of development within rural areas, such facilities require a relatively large land holding, specific soil types and separation from populated areas (due to the electromagnetic emissions). Therefore, the most likely locations for such facilities will be in urban fringe or rural areas. As these facilities are large scale, with significant and multiple planning and environmental impacts, the site selection process is very complex and requires consideration of numerous planning and technical requirements.

The applicant's site selection process for the proposed facility, and basis of the final location, was predicated on technical specifications nominated by the Australian Communications and Media Authority. It was argued that these specifications limited the search area to within a 10 kilometre radius of a previously operated facility at Cook Road, Bli Bli (with the proposed site approximately 9 kilometres northwest of this earlier facility).

Following recent discussions and correspondence received from the Australian Communications and Media Authority, it was confirmed that there were no spatial limiting factors for the site selection process as previously indicated by the applicant. There were, in fact, possible options to locate the facility outside the 10 kilometre search area, or to upgrade an existing facility at Bald Hills in Brisbane to cover the service gap.

Although the radio tower will provide a community service, there are insufficient planning grounds to justify an approval. The proposal conflicts with the planning scheme at both strategic and code levels and the benefits of the service do not outweigh the conflicts. This facility in the proposed location will have economic, tourism, agricultural, environmental, cultural and scenic amenity impacts that cannot be overcome.

It is considered that the scale and environmental characteristics of the proposed facility will alter the rural landscape values and heritage significance of the Ninderry Range. The 22 hectare site is situated on agricultural land, within close proximity to rural residential areas and a tourist operation. The proposal will impact upon the views and amenity enjoyed by residents within the locality, and tourists using an identified tourist route. Although the emissions from the facility are within the prescribed limits, there is still a risk (however small) and the precautionary approach has not been used in the site selection process.

Based on the Australian Communications and Media Authority feedback, there are alternative options and sites available for this service which are further removed from current and future populations and areas of scenic and cultural importance.

The application is recommended for refusal.

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## OFFICER RECOMMENDATION

That Council REFUSE Application No. MCU11/0153 for a Material Change of Use of Premises (Major Utility (AM Radio Broadcast Facility)) situated at 267 Valdora Road, Valdora, for the following reasons:

1. the development conflicts with the South East Queensland Regional Plan 2009 – 2031, particularly in relation to scenic amenity, natural resources and infrastructure and cannot be conditioned to comply;
2. the development conflicts with the Strategic Plan of the Maroochy Plan 2000, particularly in relation to visual amenity, tourism, heritage, natural resources and physical infrastructure and cannot be conditioned to comply;
3. the development conflicts with the planning area and precinct intent and cannot be conditioned to comply;
4. the development conflicts with the Code for Telecommunications Facilities, particularly in relation to its visual dominance that will detract from the natural scenic amenity of the locality and cannot be conditioned to comply;
5. the development does not uphold the precautionary principle outlined in the *Sustainable Planning Act 2009*; and
6. the applicant has not satisfactorily demonstrated any overriding need in the public interest for the proposed development, justifying approval despite the conflicts with the planning scheme.

## FINANCE AND RESOURCING

Council's Infrastructure Policy Branch has confirmed that no infrastructure charges are required by this development. The proposal will not generate any additional demand on the nominated networks.

## PROPOSAL

The application seeks approval for a Development Permit for a Material Change of Use to establish an AM Radio Broadcast Facility. The facility is intended to improve the coverage for the ABC News Radio on the Sunshine Coast. The ABC will be the holder of the Broadcast Licence, while the facility will be owned, operated and maintained by Broadcast Australia Pty Ltd, who is the applicant.

It should be noted that, although the Australian Communications and Media Authority has allocated a particular AM frequency (granted the right to provide a service), a licence has not been issued.

This facility is part of a Federal Government project, which has pledged additional funding for the expansion of ABC News Radio into all centres with populations of more than 10,000. Once completed, the rollout will give 95% of Australians the opportunity to access ABC News Radio.

The facility will be located on a 22.5 hectare lease, within an existing pineapple farm. This facility will consist of the following elements:

- 2 x 85 metre tall masts of lattice construction on 3 metre high foundations. Each side of the mast will be 1.3 metres wide. The 2 masts will be 240 metres apart with supporting wires and a copper wire earth mat, which will be buried below the earth approximately 90 metres beyond the towers. Although the masts can be painted in any colour, due to the proximity to the Sunshine Coast Airport and within the flight path of the future runway, they will be painted in red and white with aircraft warning lights installed (one located at half height and the other on top of each mast);
- an Antenna Coupling Unit hut positioned at the base of each mast. The hut and mast will be fully enclosed with a 2.3 metre high security fence;
- a transmitter compound located to the south of the 2 masts. The compound will contain an enclosed transmitter building with air conditioning units, a 1.8 metre diameter satellite dish and an emergency power plant. Through the emergency power plant, the facility has power autonomy and will operate for up to 7 days without refuelling. The compound will be fully enclosed with a 2.3 metre high security fence; and
- the lease area will be fully fenced with chain wire at 1.8 metres high with 3 rows of barbed wire to comply with AS1725-2010 (Australian Standard for chain link fabric fencing).

The applicant indicates that the lease area has the ability to be used for grazing and the remainder of the farm will continue to be farmed for pineapples.

The overall height of the masts will be 88 metres above existing ground level, or a height of 89.04m AHD. For comparison purposes, the tower will be:

- higher than Crumps Road, Thompson Valley Road and Aurora Place on the eastern side of the Ninderry Range;
- approximately one third the height of Mount Ninderry (at approximately 310 metres);
- approximately 50 metres below the height of the nearest range to the east at Musgrave Drive, Yandina Creek; and
- approximately the same height as the nearest range to the north at Whistler Ridge Road, Yandina Creek.

Vehicle access to the facility will be from Dynes Road off Valdora Road, which is an unsealed road.

## **SITE DETAILS**

### **Background/Site History**

At a meeting on 16 June 2011 with council planning officers, the applicant explained the site selection process and provided a description of the proposed facility. Council staff identified the likely amenity impacts and health implications. Questions were raised why the proposed facility could not be further removed from populations and the applicant indicated they were bound by licensing restrictions. The applicant was provided with a list of the required supporting information/reports that should accompany their application, such as a visual impact assessment, supporting technical information and reasoning why the facility could not be co-located.

## Site Description

The location of the subject site in relation to its surrounds is shown on the image below:



The site is a regularly-shaped allotment with approximately 155 metres of frontage to Valdora Road and 950 metres to Dynes Road. The proposed lease area is 22.5 hectares at the northern end of the 86.01 hectare allotment. The land is flat, with minimal fall across the site. A small drainage channel passes through the south east corner of the property and another along the northern boundary. Both are nominated as waterways and mapped under the planning scheme.

No remnant vegetation exists on the site with the land either cleared or being cultivated with pineapples. A large farm shed is located in the south western corner of the site adjacent Valdora Road with access obtained from Dynes Road.

## Surrounding Land Uses

The site is surrounded by a mix of large rural holdings comprising grazing activities and broad acre cane farms, which supplied the Moreton Sugar Mill in Nambour prior to its closure. Some sugarcane crops continue to be grown on the land, though much of it lies fallow or is being used for alternative crops and grazing.

Although the alluvial plain is currently very sparsely populated, there are a number of dwellings within close proximity. Approximately 40 metres from the north eastern boundary of the proposed lease area is a converted shed being used for residential purposes and there are a number of other homes situated approximately 600 metres to the north and 800 metres to the south west of the proposed lease area.

A 1.7 hectare mapped wetland is located directly to the north of the proposed lease area on the adjoining property. Directly south-west of the proposed lease area on the adjoining property is a 3.7 hectare pocket of vegetation containing of concern regional ecosystem.

The peak of Mount Ninderry is 1.6 kilometres to the southwest of the proposed lease area, with ridgelines running approximately northwest-southeast on either side of its peak. Both the northern and southern ridges contain rural residential areas, with a significant number of properties able to view the site. The nearest rural residential properties are located at the foot of the ridgeline approximately 550 metres to the southwest of the proposed lease area.

The entire eastern slopes of Mount Ninderry are designated for rural residential development. Although designated, there are a number of larger land holdings yet to be developed within close proximity to the site.

## **ASSESSMENT**

### **Framework for Assessment**

#### Instruments for Statutory Assessment

Under the *Sustainable Planning Act 2009*, the application must be assessed against each of the following statutory planning instruments to the extent they are relevant to the development:

- State Planning Policies;
- the South East Queensland Regional Plan;
- State Planning Regulatory Provisions;
- any Structure Plan or Master Plan in place for declared areas;
- any Preliminary Approval Overriding the Planning Scheme for the land;
- the Planning Scheme for the local government area; and
- any Temporary Local Planning Instrument in place for the local government area.

Of these, the statutory planning instruments relevant to this application are discussed in the sections that follow.

### **Statutory Instruments – State and Other**

#### State Planning Policies

The following State Planning Policies are applicable to this application:

- State Planning Policy 1/92 Development and the Conservation of Agricultural Land;
- State Planning Policy 1/02 Development in the Vicinity of Certain Airports and Aviation Facilities;
- State Planning Policy 2/02 Planning and Managing Development Involving Acid Sulfate Soils; and
- State Planning Policy 1/03 Mitigating the Adverse Impacts of Flood, Bushfire and Landslide.

These State Planning Policies have been deemed by the Minister for Local Government and Planning as being appropriately reflected in council's planning scheme and, therefore, do not warrant a separate assessment.

#### South East Queensland Regional Plan

The site is located within the Regional Landscape and Rural Production Area of the South East Queensland Regional Plan. The proposal is for telecommunications infrastructure within the Regional Landscape and Rural Production Area and is not defined as an *urban activity* under the Plan.

The following policies and strategies of the Plan are relevant to the development:

#### *Scenic Amenity*

- Policy 3.1.1 - Recognise important environmental, landscape, cultural and economic links between the rural and urban areas of the region.
- Policy 3.2.1 - Identify and manage areas of high scenic amenity in the regional landscape.
- Policy 3.2.2 – Avoid or minimise impacts on identified priority landscape areas.
- Policy 3.3.1 – Ensure coordination of state and local government land use and infrastructure planning to protect and manage priority regional landscape areas.
- Policy 3.5.1 - Identify regionally significant and locally important areas of scenic amenity, view corridors and popular and significant viewpoints, and protect them from intrusive development.
- Policy 3.5.2 - Integrate intrusive built elements into the landscape through design that minimises visual impacts on locally important scenic amenity.

Scenic amenity is a function of the public's scenic preference for landscape features and visual exposure of these features. The regional plan recognises that land uses which are highly visible from rural roads pose one of the greatest threats to the region's scenic amenity.

The proposal will be visually prominent from a wide range of locations and cannot be designed to complement or support the environmental, landscape, cultural and economic importance of this locality. The proposal will not protect the important rural and coastal views enjoyed by many nearby residents, nor will it minimise the visual impacts on the regionally important scenic amenity of the Ninderry Range.

#### *Natural Resources*

- Policy 4.2.2 - Protect the region's Good Quality Agricultural Land and provide for its long-term and sustainable agricultural use.

The proposed facility will occupy a 22.5 hectare lease, which is nominated as good quality agricultural land and identified within a Strategic Cropping Management Area in the State Planning Policy for Protection of Queensland's Strategic Cropping Land (commenced on 30 January 2012). The applicant has indicated that the area will still be suitable for grazing, with the exception of some small high voltage sections below the towers. However, it will not be available for cropping and the long term impacts associated with the placement of copper cables within the soil are unknown.

The location of regional scaled infrastructure should not be determined by individual developers, but rather planned for and appropriate land designated at the regional or sub-regional level.

#### *Infrastructure*

- Policy 10.3.1 - Incorporate demand management principles in transport, water, energy and other infrastructure planning.
- Policy 10.4.1 - Identify, preserve and protect key sites, corridors and buffer areas for current and future regional infrastructure and services.

The planning intent for regional infrastructure is that it is managed to minimise adverse impacts, while surrounding land uses are managed to ensure continued safe operation of existing facilities.

The Regional Plan encourages the introduction of technology to make better use of existing resources and educational incentives to bring about voluntary customer behaviour to support this technology. There are alternative technologies that could be utilised for this broadcast service that may have improved coverage and less impact on the community and environment. There has been no evidence provided to demonstrate that these technologies have been investigated for this particular service by the applicant, the ABC or the Australian Communications and Media Authority.

To achieve the strategic intent of the Regional Plan, the plan recognises that sites and corridors for infrastructure must be identified and preserved well ahead of time. It also identifies that co-locating infrastructure has the potential to reduce the need for new infrastructure sites and corridors, thereby reducing the overall cost to the community.

Although co-locating this type of facility is not possible due to the specific technical requirements of AM radio broadcasting, the Australian Communications and Media Authority has indicated that there are possible alternatives to address the 'black hole' in radio coverage. The possible alternatives may have a reduced impact on the wider community within the South East Queensland region.

Due to the land consumptive nature of these AM facilities, they must be located within the urban fringe or rural areas. Ideally, appropriate sites should be nominated at the regional or sub-regional level in the Planning Scheme or Regional Plan to ensure there is no long term, incremental and irreversible loss of natural resources that will have significant environmental, economic or social impacts on the region.

Overall, the proposal does not align with the identified strategies and is in conflict with a number of policies of the South East Queensland Regional Plan.

#### State Planning Regulatory Provisions

For the purpose of the *Sustainable Planning Act 2009*, the regulatory provisions contained within the SEQ Regional Plan are defined as State Planning Regulatory Provisions. The application does not trigger assessment against the State Planning Regulatory Provisions.

## Statutory Instruments – Planning Scheme

The applicable planning scheme for the application is Maroochy Plan 2000 (25 May 2011). The following sections relate to the provisions of the Planning Scheme.

### Strategic Provisions

Being an impact assessable application, the proposal triggers an assessment against the whole planning scheme, including the Strategic Plan and the Shire-wide Desired Environmental Outcomes. The Strategic Plan is a higher order 'vision' component of the planning scheme and raises the following critical issues to be assessed in relation to the development:

### Non-Rural Uses in Rural Areas and Protection of Agricultural Land

The Strategic Plan identifies the site's Preferred Dominant Land Use as Agricultural protection and generally seeks to preserve the land for agricultural purposes. Section 6.5.1 (1) states:

*On land in nominated Agricultural Protection areas, Council will not support applications for any purposes other than agriculture and rural activities, which may compromise the potential of the land to be used for agriculture, or purposes necessarily ancillary to these uses.*

Section 6.5.2 of the Strategic Plan recognises that certain uses may need to be located in non-urban areas, stating:

*... rural areas which are not agriculturally significant may support a range of non-farming uses which contribute to the Shire's economy, provide essential services to rural areas and satisfy the demands of urban communities for facilities which cannot be satisfactorily accommodated in urban areas. ... Management of the location, site planning, scale, traffic generating capability, land management techniques and appearance of these activities is required to minimise the consequent costs to the community of providing and maintaining infrastructure and to minimise the impact of the proposal on amenity, rural character, traffic conditions, the environment and the Shire's image.*

The use of the site for a radio tower is a departure from the intent of the strategic designation. The applicant submits that the lease area will still be capable for cattle grazing, with the exception of a fenced area of 84m<sup>2</sup> around the support infrastructure due to electrical hazards. Notwithstanding this, the use will limit the ability for any cropping activities to occur on the 22.5 hectare lease area in the short and potential long-term (due to the placement of copper cables within the soil). The applicant did not provide an assessment against the planning scheme or relevant State Planning Policy. They argued that there is no loss of agricultural land as it can still be used for cattle grazing. Although grazing will be able to continue, cropping will not.

The applicant has not sought to justify the proposal on the basis of low agricultural significance of the site, but by the overriding need for the proposal and that the community benefit outweighs the need to preserve the land for agricultural purposes. Section 6.5.2 (1) of the Strategic Plan provides for this outcome, subject to a number of further assessment criteria. The applicant submits the following community benefits to justify the development:

- *“The Federal Government has identified a need for ABC news radio to be broadcast on the Sunshine Coast as part of its policy to develop regional areas;*
- *the Federal Government has committed funds to this project; and*
- *the facility will provide more comprehensive and secure radio coverage to regional, rural and urban areas in the event of an emergency, and therefore provide a distinct community benefit.”*

Although the service from this facility may provide a limited benefit to a select population on the Sunshine Coast, these benefits do not outweigh the need to preserve the land for agricultural purposes or are sufficient to outweigh the other impacts created by the proposal in this location. There are possible alternative options for this service and alternative locations that could satisfy the strategic intent.

#### Visual Amenity

The strategic plan places emphasis on the importance of key scenic features within the region, such as the Ninderry Range, as making significant contributions to the character of the locality, as well as to the quality of life of residents and to the image of the region to visitors. Section 7 of the strategic plan seeks to retain the dominance of the natural environment and to respond to topographic features such as ridgelines, spurs, knolls, rock outcrops, water bodies. It further identifies that specific attention will be focussed on development in the vicinity of the ridges between the railway towns and the coast, and isolated mountains such as Ninderry.

The Ninderry Range and low lying cane fields contribute significantly towards the rural and scenic attributes of the region and are an integral part of the local identity. In particular, they are important to the cultural identity of the region and visible from Yandina-Coolum Road, a principal tourist route traversed by numerous locals and visitors daily.

In addition to the impacts on the key scenic features, the two towers will have an impact on the visual amenity of residents who are able to view the site and/or the towers due to their significant height. A number of residential properties overlook the site and it is important that their amenity is not unduly impacted. The majority of these residents are located on the eastern side of the Mt Ninderry ridgelines and the southern/western sides of 2 other ridge lines in Yandina Creek.

Although each mast will be made of light weight tubular cross-braced construction, they will be 1.3 metres wide. The combination of two towers, their colour (red and white) and the extent of bracing will increase the overall visual bulk/appearance.

It is acknowledged that, with the decline in the local sugar industry, some degree of change is inevitable. Council's *Canelands Discussion Paper October 2009* and subsequent engagement with stakeholders have sought to identify future uses for the region's canelands. Notably, other agricultural uses, such as covered or hydroponic crops, could significantly alter the existing landscape. However, due to the significant height of the towers and their colour and required lighting due to the nearby airport operations (discussed later), they will noticeably alter the existing rural landscape and be visible from a greater number of properties.

In response to council concerns with the potential visual impacts, the applicant submitted a Visual Impact and Analysis Report to further justify the proposal. This report was prepared by their town planning consultant and photomontages by an architect. The analysis considered the topography of the surrounding area and nominated a number of representative sample sites to determine the potential visual impacts. These included



vantage points from nominated principal tourist routes and locations on the Ninderry Range and Toolborough Road to the east. Images were provided with the masts superimposed using 3D model software. The assessment did not consider if there were other more appropriate sites within the search area for the proposal that may be less obtrusive and have less impact on the scenic amenity of the locality.

The conclusion of the applicant's modelling was that the masts:

- would not be visible from the Bruce Highway, and would not have any adverse impacts on views from the Sunshine Motorway due to the significant separation distance and topography;
- would be visible from the local road network and Yandina-Coolum Road. However, it was argued that the overall area would continue to have a rural character and appearance and potential impacts would be dependent on a number of factors such as direction of travel, existing vegetation and topography;
- would not directly affect the majority of the Ninderry Sustainable Rural Residential Precinct with the exception of those residing on the east of the range. The masts would have impacts on views from some existing and future dwellings on the eastern slopes. However, the overriding character and appearance of the views would continue to remain rural; and
- would not compromise the scenic and visual amenity that the Ninderry Range contributes to the Sunshine Coast, given the height and width of the mast relative to the Ninderry Range.

The analysis provided by the applicant, did conclude that the towers will be readily visible locally and these impacts potentially exacerbated by the required red and white colouring and warning lighting.

It is agreed that the towers will not take over the expanse of scenery in the locality (due to the scale of the range) and will not block any views enjoyed, although they will be visible. This visibility of the 2 structures and proximity to the foothills of the range will detract from the contribution the range makes to the natural scenic amenity of the area and the visual amenity experience enjoyed by residents and visitors alike.

As the towers will be visible, it is inevitable that the facility will have amenity impacts on residents, future residents, nearby tourist facilities and the views of the natural landscape enjoyed while travelling along Yandina-Coolum Road. There are numerous properties likely to have a direct line of sight to the towers due to their significant height (with over 300 properties, ignoring any screening provided by vegetation and structures). These views will be interrupted by this structure and such impacts will extend into the night by the flashing lights required for aviation purposes.

There are alternative locations for this facility within the region, which may be less obtrusive on the landscape and may have less impact on the scenic amenity of the surrounding area. The scenic amenity impacts were not a factor in the site selection process adopted by the applicant. Had a site been chosen away from a key natural feature, away from elevated rural residential areas and existing tourist facilities, and located within a much smaller vegetated valley, the potential visual impacts could be reduced.

The proposal is considered to conflict with numerous Visual Amenity, Tourism, Open Space and Recreation and Heritage Policies within the Strategic Plan, as it fails to maintain the dominance of an important topographical feature of the region. The proposal will compromise the existing character of the locality and Ninderry Range, an important topographic feature with heritage significance.

#### Physical Infrastructure

The relevant underlying intent of the physical infrastructure strategy is to address the environmental and aesthetic impacts of development and the encouragement of development, which is appropriate in character and location to ensure an efficient delivery of services.

The strategy nominates a number of key issues in determining the provision of physical infrastructure. The two pertinent issues relating to this proposal are the need to secure development that is aesthetically acceptable and most importantly, the need for land use planning and infrastructure planning to work together to minimise inappropriate infrastructure planning that undermines land use planning strategies.

It is recognised the proposed tower will provide a service for the wider community and it is of a built form that would be difficult to be aesthetically integrated into any situation. Regional infrastructure planning has not been undertaken to determine the most appropriate infrastructure delivery method or location for such a service. It has not been satisfactorily demonstrated that the proposal is the most efficient, affordable and environmentally acceptable solution for this service. The proposal has been put forward by a private developer (Broadcast Australia Pty Ltd) to respond to an identified service issue. However, as is detailed by the Australian Communications and Media Authority, there are a number of alternative options available for the applicant.

#### Local Area Provisions

The site is located in the Yandina Valley Canelands Precinct with its precinct class being Sustainable Canelands. The stated intent for this area is that it be generally retained for sugar cane and other rural production. Due to the uncommon occurrence of a Major Utility, it not identified as a preferred or acceptable use by the planning scheme for this or any other rural precinct.

The precinct intent also seeks to buffer new uses from nearby rural residential uses, preserve the visual corridors and scenic amenity when viewed from the Bruce Highway and Yandina-Coolum Road, and protect the environmental values of the floodplain, waterways, riparian corridors and significant remnant vegetation communities.

Satisfactory buffering of the use from nearby rural residential communities would be very difficult to achieve (at approximately 550 metres) and the visual impacts of the development are likely to be significant from views enjoyed by residents and those from Yandina-Coolum Road looking to the west at the Ninderry Range.

The application adjoins a wetland and waterway and is also within close proximity to an area of remnant vegetation. No vegetation buffers are proposed, although the proposal does not intend any significant earthworks and any areas exposed during construction will be grassed. The development footprint on the ground will be minimal and no increase in runoff or nutrient load is expected. However, the potential impacts of the electromagnetic emissions on fauna found within the nearby mapped areas are unknown.

### Land Use and Works Provisions

The following codes which regulate land use and design are applicable to this application:

- Code for Telecommunications Facilities;
- Code for Landscaping Design;
- Code for Integrated Water Management;
- Code for Transport, Traffic and Parking;
- Operational Works Code; and
- Code for Erosion and Sediment Control.

The application has been assessed against these codes and found to be compliant, or can be conditioned to comply, with all except the Code for Telecommunications Facilities. The pertinent issues arising out of assessment against the first three codes are discussed below:

Code	Discussion
Code for Telecommunications Facilities	<p>The code includes performance criteria relating to visual impact and health and safety. Discussion on these key assessment criteria is included below:</p> <p><b>P1 Development must be visually integrated with its landscape or townscape setting so as not to be visually dominant or unduly obtrusive.</b></p> <p>As discussed in previous sections of this report, the proposed development would not be visually integrated with its landscape setting and would be visually dominant and unduly obtrusive in a rural valley surrounded by populated rural residential ridges. Due to a location in an open field and within close proximity to the airport, the proposal cannot be camouflaged through the use of colours and materials that blend into the visual landscape. Although this AM broadcasting service is unable to be co-located with other existing facilities in the locality (due to the specific technical nature of this service), the Australian Communications and Media Authority has identified there are possible alternatives to address this coverage issue, with the ability to have a reduced social, environmental and economic impact.</p> <p><b>P2 Development must not result in human exposure to radio frequency electromagnetic radiation greater than levels set or recognised by the Australian Communications Authority (or its equivalent body).</b></p> <p><b>P3 Development must take account of the full operating capacity of the telecommunications facilities as well as any potential cumulative effects, in satisfying P2.</b></p> <p>The applicant has provided a summary of the maximum Electromagnetic Energy (EME) levels emitted from the proposed facility and has confirmed that they are within the Australian regulatory exposure limits. Further discussion on this matter is contained in the sections that follow.</p>

Code	Discussion
Code for Landscaping Design	The applicant has not nominated any landscaping works or vegetated buffers within the lease area. Should the proposal be supported, a condition could be imposed seeking a native buffer around the proposal. The buffer could assist in screening the on-site buildings, but would have no effect in screening the tower elements, due to the topography of surrounding areas and lack of vegetation within the floodplain due to farming activities.
Code for Integrated Water Management	Stormwater quality and quantity issues have not been investigated by the applicant at this point in time. Sufficient site area is available for these issues to be managed.

### Overlay Provisions

The following Special Management Areas are applicable to this application:

- Waterway Buffer Area;
- Flood Prone Land;
- Acid Sulphate Soils Area; and
- Sunshine Coast Airport Obstacle Limitation Surface.

The provisions relating to these Special Management Areas are contained within the following codes:

- Code for Waterways and Wetlands;
- Code for Integrated Water Management;
- Code for Assessment and Management of Acid Sulphate Soils; and
- Code for Development in the Vicinity of the Sunshine Coast Airport.

The application has been assessed against each of the applicable Special Management Area codes. The pertinent issues arising out of assessment against the codes are discussed below:

Code	Discussion
Code for Integrated Water Management	<p><u>Flooding</u></p> <p>The site is heavily constrained by flooding, with the entire site subject to inundation during a 1 in 100 year Average Recurrence Interval flood event and an unknown extent of the site subject to inundation during local flooding from the existing drains, which traverse the site.</p> <p>The limited footprint of the proposal will ensure that it will not alter the storage capacity of the flood plain. All structures will be designed to achieve adequate immunity from flooding during a Q100 event.</p> <p>Should the facility be separated by flood waters, it will be capable of running without power for a period of 7 days. If access is necessary during a flood event, the facility has been designed for boat access. However, the applicant has not considered local access restrictions and that access via a boat may not be possible or feasible.</p> <p>The proposal has not taken into account the impacts of climate change, although such impacts could be mitigated.</p>
Code for Waterways and Wetlands	<p>The proposal does not include any buffer to the northern boundary to protect the adjoining creek or wetland. Such buffer would ordinarily provide habitat for fauna and screening value. It is unknown what impacts the Electromagnetic Emissions will have on fauna residing within these habitat areas.</p>
Code for Assessment and Management of Acid Sulphate Soils	<p>The site is constrained by acid sulphate soils. No investigation or management plan has been submitted. However, the applicant notes that the proposal will cause minimal site disturbance with the exception of footings and the burying of cables just below the surface.</p>
Code for Development in the Vicinity of the Sunshine Coast Airport	<p>The application was referred to the Sunshine Coast Airport, Air Services Australia and Civil Aviation Safety Authority. All responses considered the proposal and confirmed that the facility will not have any negative safety implications for operations at Sunshine Coast Airport. The airport also confirmed that there is no requirement to light the masts or paint them a specific colour if they are below a constructed height of 110 metres above ground level and not penetrating the Obstacle Limitation Surface (identified at approximately 120 metres at this location).</p> <p>Although the masts will be located below the obstacle limitations for the new western runway, the applicant believes it has a duty of care to adopt a painting regime (red and white) and lighting (red light flashing between 20 &amp; 60 times per minute) on the masts to ensure they are visible to aircraft flying in the local area.</p> <p>The reasoning provided by the applicant and proposed painting regime is supported on safety grounds.</p>

## Site Selection Process

As part of the supporting information, the applicant submitted details on their site selection process that began in 2007. This selection process was predicated on an available frequency identified by the Australian Communications and Media Authority and the technical specifications nominated for an existing site 8 kilometres east of Nambour (Cook Road in Bli Bli).

Although not provided by the applicant, the technical specifications were included in an engineering study dated 8 March 2007 prepared by the Australian Communications and Media Authority. This study was undertaken as the Federal Department of Communication, Technology and the Arts requested a FM licence for the ABC News Radio Service on the Sunshine Coast. The report looked at the available frequencies, coverage requirements and alternative options. At the time, an FM frequency was not a viable option as the FM band was heavily congested. The alternative was using an AM frequency. The recommendations of the report concluded that there were 3 options available for the AM service:

- the Cook Road, Bli Bli, site be used. Some technical specifications were nominated; or
- if the old site is not available, another site be identified with careful consideration to minimise the radiation pattern pointing towards the populated areas of the Sunshine Coast; or
- provide the service from the existing facility at Bald Hills in Brisbane by changing the radiation pattern.

Further to the March 2007 report, correspondence from the Australian Communications and Media Authority (dated 13 January 2012), confirmed the "*modification of the technical specification of the Brisbane News Radio service on 936 kHz are still valid possibilities.*" Although this recent update was provided by the licensing authority, the applicant confirmed that the Bald Hills option was investigated in 2007 and would not address the coverage issue, without impacting on other existing radio services.

Approximately 20 years ago, a commercial radio station with 2 masts of 85 metres high operated from a site on Cook Road in Bli Bli (north of the cable ski facility on the eastern side of the Maroochy River). This site was decommissioned and the applicant has indicated that this site is no longer suitable due to a residential access road and associated services traversing the site. As a result, Broadcast Australia decided to search for an alternative site, which it claimed was required to be within 10 kilometres of the original site in Cook Road in order to comply with the technical specifications nominated by Australian Communications and Media Authority.

The site selection process identified the critical planning and environmental constraints within the search area. These constraints included existing urban and rural residential areas, national parks, state forests, conservation areas, regional ecosystems, wetlands and airport restrictions. After removing the constrained areas, the process identified 11 opportunity areas and then further refined the search based on suitable size (minimum 15 hectares), technical suitability, compliance with Australian Standards, outside the obstacle limitation of the airport and, most importantly, able to be secured by the applicant. The site selection process concentrated on the northern portion of the search area and concluded with the subject site as being the applicant's preferred location.

During the final assessment stage, the Australian Communications and Media Authority confirmed that the technical specifications relied upon by the applicant (their justification for the site selection process) were specifically for the Bli Bli site. If that site was not available, alternative sites could be nominated by the applicant and the Australian Communications and Media Authority would modify the technical specifications to ensure the performance of the facility is maintained and satisfies other mandatory requirements.

The site selection process appears to be based on the 2007 report and it has been confirmed there are no spatial limiting factors to the location of this facility as indicated by the applicant and one of the main justifications for the final location of this facility. Due to the significant timeframes that have elapsed since the original service report, there is now a possibility of other service options. This is a regional scale facility and these options may result in an improved outcome with less impact on nearby populations, the environment, historic significance, scenic amenity, tourism, local economy and agricultural lands.

### **Other Matters for Consideration**

As the application is Impact Assessable and has a regional level of significance, it is appropriate to consider how council's recently adopted Strategy documents apply to the development. Council's Strategy documents will ultimately inform the drafting of the new planning scheme. The following strategic documents/strategic themes are particularly relevant to the development.

#### Health Implications

Due to the unusual nature of the proposal, the predicted electromagnetic emissions were reviewed by an independent specialist (consultant physicist). The findings of this peer review concluded that the emissions from the facility do not exceed the Australian regulatory exposure limits for the general public and the maximum level produced by the facility is below 6% of the limit. These limits are tightly controlled by the Australian Communications and Media Authority and specified in the Australian Radiation Protection and Nuclear Safety Agency Radiation Protection Standards. The same limits are also specified in the International Commission on Non-Ionizing Radiation Protection Publication – Guidelines for Limiting Exposure to Time-Varying Electric, Magnetic and Electromagnetic Fields.

The independent specialist also confirmed that the nominated limits have a built in safety factor of 50 before there are any measurable scientific effects. Such AM radio facilities are located throughout the world and many are in highly populated areas. Although the proposed facility was well within the scientific exposure limits, the specialist did confirm that no one has proven that electromagnetic radiation is dangerous. However, the specialist did indicate there is a risk, but that it is unable to be scientifically quantified.

The use is within 550 metres from the nearest rural residential precinct and adjoins a number of rural properties that can have a self assessable dwelling erected. The separation distance from rural residential populations was not identified as a consideration in the applicant's site selection process. Although the emissions from this facility are well within the regulatory exposure limits, the applicant has not demonstrated that the precautionary approach has been used in relation to the siting of the facility. There are other locations that are farther removed from rural residential areas and may be more appropriate for this facility. In addition, there are alternative options available to provide this service as identified by the Australian Communications and Media Authority.

### Energy Efficiency

The applicant did not provide any energy consumption details or nominate that they intend to use new technologies to minimise their demand on resources. The Australian Communications and Media Authority confirmed that the use of an AM transmitter has greater energy consumption than an FM facility.

### Waste Minimisation

The development will not generate any waste once operational.

### Water Conservation/Minimisation

The development will not generate any water demands once operational.

### Economic Implications

The Economic Development Strategy seeks to create a sustainable rural industry within the region and ensure there is sufficient and appropriate land for business.

The proposal may diminish the range of existing and potential agricultural activities carried out on and adjoining the site, due to the nature of the towers and land required for their operation.

There will be no or minimal regional ongoing job opportunities post the initial construction, which is likely to include a number of specialised trades. Any revenues potentially flowing to the region during the operational phase are also expected to be limited, but this is not quantified by the applicant.

The proposal is likely to have impacts on the local tourism industry, due to the proximity of the facility to an adjoining wedding and event venue (Yandina Station). In addition, the site is overlooked by properties on the Ninderry Range and may potentially limit future bed and breakfast operations from opening on this part of the range. This development is likely to impact on the overall tourism product on offer in the locality.

### Rural Futures

Council has committed to developing a Rural Futures Strategy. A Canelands Discussion Paper (October 2009), Rural Land Use Planning Background Study (October 2009) and Rural Futures Background Study (October 2009) are lower order documents that will inform the strategy. The papers recognise the caneland's contribution to the rural landscape, inter-urban breaks and views enjoyed by residents. These documents also acknowledge the collapse of the region's sugar industry and seek to identify future uses for the land while protecting the amenity and environment of the rural areas.

The papers also reinforce council's commitment to building a strong rural sector and protecting agricultural lands, with a focus on the requirements for economic, environmental and social sustainability.

Although the papers explore a number of alternative land uses and support services within rural areas, they do not recognise Telecommunications Facilities.



### Traffic and Transport

The development does not raise any significant traffic and transport concerns with minimal staff movements likely to occur once the towers are constructed. Gravel access is proposed to the transmitter building compound from a local gravel road. No public transport or end-of-trip facilities are considered necessary.

### Waste Minimisation

The development will not generate any waste once operational.

## **CONSULTATION**

### **IDAS Referral Agencies**

The application was referred to the following IDAS referral agencies:

#### Advice

##### *Department of Environment and Resource Management*

The department is an advice agency as the use adjoins a wetland management area. The department responded by letter dated 26 July 2011, stating that council should consider the potential impacts of the proposed development on the wetland values, including the water quality, natural hydrological flows and ecological functioning of the wetland.

#### Third Party

##### *Sunshine Coast Airport*

##### *Air Services Australia*

##### *Civil Aviation Safety Authority*

The application was referred to these entities for comment about potential safety implications for the operations of the Sunshine Coast Airport. All responses confirmed that the facility will not have any negative safety implications.

##### *Australian Communications and Media Authority*

There was ongoing correspondence during the course of the assessment with the Australian Communications and Media Authority.

### **Internal Referrals**

The application was forwarded to the following internal council specialists:

- Environment and Landscape Unit, Engineering and Environment Assessment Branch;
- Hydraulics and Water Quality Unit, Engineering and Environment Assessment Branch;
- Urban Design Unit, Planning Assessment Branch;
- Strategic Planning Branch; and
- Economic Development Branch.

Their assessment forms part of this report.

### **Public Notification**

The application was publicly notified for 30 business days in accordance with the requirements of the *Sustainable Planning Act 2009*. A total of 1,082 submissions were received. This included 981 properly made submissions and 101 not properly made submissions.

The following table provides a summary and assessment of the issues raised by submitters.

<b>Health and Safety</b>	
<p>Potential health risks associated with the long term exposure to Radio Frequency Electromagnetic Energy.</p>	<p>The RF Prediction Report, prepared by RADHAZ Consulting and submitted with the planning report states that the electromagnetic emissions are predicted to have a maximum strength of 5.76% (at the boundary of the lease area) of the maximum exposure limit prescribed by Australian Radiation Protection and Nuclear Safety Agency Radiation Protection Standards RPS3. The limits specified incorporate large safety factors (a factor of 50 times below the level where effects are observed).</p> <p>Based on current information provided by the World Health Organisation, exposure to levels below the general public exposure limits has not been proven to cause any adverse health effects.</p> <p>An independent peer review was undertaken and confirmed the predicted levels were accurate and unlikely to pose any health risks.</p> <p>However, there are alternative sites and options available to locate this facility further from populated areas and it is considered the applicant has not taken a precautionary approach to the siting of this facility.</p>
<p>Proximity to school – RF EME poses a greater health risk to children.</p>	<p>The site is approximately 3.8km to a school. As discussed above, the emissions predicted from the facility will be 5.76% (at the boundary of the lease area) of the prescribed standards and is unlikely to pose any health risk to the general public.</p> <p>As stated above, there are alternative sites and options available to locate this facility farther from populated areas and it is considered the applicant has not taken a precautionary approach to the siting of this facility.</p>
<p>The applicant has not taken a precautionary approach to the siting of the development given that there are approximately 2322 people residing within 2-3km of the subject site.</p>	<p>The applicant has not taken a precautionary approach to site selection, with the Australian Communications and Media Authority confirming that there are alternative options that may be further removed from residential populations.</p>
<p>Broadcast Australia has stated that the emissions radiate through the ground. Nearby properties have dams, which may be used for swimming and other recreation.</p>	<p>As stated above, the predicted level of emissions were based on e-field strength at ground level. From the information provided it is unclear if the predicted level of emissions will increase below ground, as AM transmissions are conducted through the ground.</p>

<p>The painted structure will require maintenance (painting, sanding etc) and these activities may release particles into the nearby waterways and on adjoining crops.</p>	<p>Although some maintenance works have the potential for the generation of pollution, controls could be implemented around the particular work area to ensure any spray drift or other contaminants do not leave the site, should the application be approved.</p>
<p>Proximity to the Sunshine Coast Airport, Obstacle Limitation Surface.</p>	<p>The proposal was referred to the Sunshine Coast Airport, Air Services Australia and Civil Aviation Safety Authority. All responses confirmed that the facility will not have any negative safety implications.</p> <p>The Obstacle Limitation Surface on the subject site is approximately 120m. The towers are proposed to have a maximum height of 88 metres. They will be painted red and white and include warning lighting for aircraft.</p>
<p>Risk of Electrocutation</p>	<p>There is a risk of electrocution if persons enter the space immediately below and surrounding the broadcast towers. For this reason, the towers will be enclosed by a 2.3 metre security fence and the entire lease area will be secured by a 1.8 metre high fence with three rows of barbed wire.</p> <p>These measures are requirements of the federal legislation to ensure the infrastructure does not pose a safety risk to the public.</p>
<p>The proposed towers may distract drivers and have the potential to impact on the safety of Yandina-Coolum Road.</p>	<p>Although the towers will be visible, it is highly unlikely they will distract drivers beyond their awareness of the road reserve (unlike billboards that drivers are more likely to focus on). A similar highly visible facility is located adjacent the Bruce Highway and Gateway Motorway (south of the Pine River) in Bald Hills. The application was referred to the Department of Transport and Main Roads. It later identified the proposal did not exceed the thresholds identified under the <i>Sustainable Planning Regulation 2009</i> and did not trigger the requirement for assessment.</p>
<p>Health risk due to close proximity to residences.</p>	<p>The closest structure is approximately 40 metres away and is used as a residence and other properties have the ability for future residential dwellings to be erected. In addition, 25 rural holiday cabins are approved to be located approximately 700 metres to the north.</p>
<p><b>Visual Impact</b></p>	
<p>The proposal will adversely impact on the general scenic amenity and character of the area. In particular, Mount Ninderry, being a distinctive geological landscape and cultural heritage landmark within the Sunshine Coast region.</p>	<p>The development will have a visual impact on the scenic amenity and character of the area. The proposed development is not appropriate due to its proximity to the Ninderry Range which has significant landscape values. The proposed towers will dominate this distinctive natural and cultural heritage landmark and impact upon the natural values of the area.</p>

<p>The development site is located to the east of the Ninderry Range and established and developing rural residential precinct.</p> <p>The proposed towers will adversely impact on and alter the views of a significant number of residents in the area.</p>	<p>The towers are proposed on flat, low lying rural land to the east of Mount Ninderry, which includes elevated rural residential development.</p> <p>The height and colouring of the towers will not visually integrate into the landscape, despite the lattice style construction. The development will be highly prominent, interrupting the rural landscape and adversely impacting on the views currently enjoyed by the surrounding elevated rural residential dwellings and the outlook from a tourist facility to the north.</p>
<p>The aircraft lighting when viewed in the evening will cause a visual impact from the homes above.</p>	<p>Due to the proximity of nearby rural residential properties, the lighting will be visible and likely to have amenity impacts when compared to the current rural outlook.</p>
<p>The towers are likely to have a visual impact on the Bruce Highway, the Sunshine Motorway and the Yandina-Coolum Road</p>	<p>The proposal will be visible from Yandina-Coolum Road and parts of the Sunshine Motorway, but unlikely to be visible from the Bruce Highway, due to the surrounding topography, including the Ninderry Range.</p>
<p>Impact on property values</p>	<p>It is acknowledged that the site is zoned rural, with the preferred use of agricultural protection and is surrounded by residential premises that were established on the eastern slopes of Mount Ninderry for the views over the rural landscape to the ocean.</p> <p>The development is inconsistent with the agricultural designation and will have visual impacts on the rural landscape and scenic amenity enjoyed by many nearby properties. These visual impacts may influence property values, but this is not a planning assessment consideration.</p>
<p>The proposed development does not satisfy the visual amenity strategy of the Strategic Plan. The proposed development cannot be integrated into the landscape and will have significant impacts upon the visual amenity and rural character of the area.</p>	<p>The development will have a visual impact on the scenic amenity and rural character. The proposed height and colour finish of the towers will be highly visible, despite the lattice design.</p> <p>The visual impact of the development is likely to affect the local area 24 hours a day, due to hazard lighting.</p>
<p><b>Electronic Interference</b></p>	
<p>AM transmissions can cause interference to electrical devices, local TV, mobile phones and wireless internet services.</p>	<p>The applicant has confirmed that it is very unlikely for electronic equipment to experience interference. However, there is a very low possibility that sub-standard electronic devices may experience interference.</p>

<b>Historic and Indigenous Cultural Impacts</b>	
The proposal does not afford protection to places of indigenous cultural heritage significance, such as Mount Ninderry and conflicts with the <i>Aboriginal Cultural Heritage Act</i> .	The development will have a visual impact on Mount Ninderry, which is a landscape of indigenous heritage significance.  Although there will be no physical impacts on Mount Ninderry from the development, the close proximity to the range may impact upon the cultural heritage importance of the locality.
The development will impact on European Cultural heritage associated with Yandina Station that was established in 1853 and now operates as a wedding venue, restaurant and offers rural holiday accommodation.	The northern and western boundary of the proposed lease area adjoins the Yandina Station site. The development will be highly visible from Yandina Station.  The development will have a visual impact on the scenic amenity, rural character and cultural heritage enjoyed by guests of the Yandina Station.
The proposed development does not comply with the Heritage Conservation Code of Maroochy Plan 2000.	The area has cultural heritage significance, both indigenous and historic (Yandina Station and Mt Ninderry). The proposed development does not afford protection of these values.
<b>Corporate Plan Conflict</b>	
The proposal conflicts with part 7.2.2 of the Corporate Plan, in that it does not protect significant regional landscapes.	Although the proposal may align with an objective of Council's Corporate Plan (2009-2014), which seeks to " <i>facilitate the delivery of key infrastructure projects for our preferred economic growth,</i> " both the Corporate Plan and the Economic Development Strategy also seek " <i>to create a sustainable rural industry within the region.</i> " In addition, the Corporate Plan seeks to " <i>strengthen rural industry by safeguarding agricultural land and advocating for sustainable agricultural practices.</i> "

<b>Tourism Impacts</b>	
<p>The proposed development does not satisfy certain elements of the Tourism Strategy of the Maroochy Plan, Strategic Plan due to its impact on the natural and rural character of the area and its impact on existing tourism facilities.</p>	<p>The visual impact of the development on the scenic amenity and rural character of the area will, in turn, impact on the viability of rural and heritage based tourist facilities within the locality. This includes the establishment of future bed and breakfast accommodation in the elevated rural residential precincts and the existing Yandina Station. The station adjoins the site to the north and has approval for 25 cottages that are to be sited approximately 700m from the boundary of the development's lease area.</p> <p>The proposal is likely to impact on the viability of this site as a tourist destination.</p> <p>The perceived health and safety issues may also have a negative impact on local tourism opportunities and limit future tourism growth in the locality.</p> <p>It is also noted that Yandina-Coolum Road is a designated tourist route under Maroochy Plan 2000, and provides an important linkage from the Bruce Highway to Coolum Beach (an identified tourist node). The towers will be highly visible from this road.</p>
<b>Conflict with the Precinct Intent</b>	
<p>The proposed towers conflict with the precinct intent and are contrary to the Strategic Plan objectives, which seek to preserve agricultural land for rural purposes; to maintain and preserve the rural landscape; and protect the visual corridors and scenic amenity of Mt Ninderry.</p>	<p>The site is identified as sustainable cane lands and has a strategic designation for agricultural protection. The development conflicts with the Strategic Plan objectives and precinct intent to preserve agricultural land for rural purposes. The development will limit the use of 22 ha of good quality agricultural land to cattle grazing.</p>
<b>Conflict with the Code for Telecommunications</b>	
<p>The proposed development does not comply the Code for Telecommunications Facilities.</p>	<p>The proposed development cannot be visually integrated within the landscape due to both its form and the open nature of the location and mountainous backdrop and is in conflict with the code.</p>

<p>The proposal is inconsistent with Council Policy Objectives for Cane Lands. Cane land should not be developed in any way that would detract from the natural beauty, visual amenity or cultural heritage of the area.</p>	<p>These comments relate to the Rural Futures Background Study 2009, prepared to inform the Rural Futures Strategy, which is yet to be endorsed by council.</p> <p>The proposed use conflicts with the preferred and acceptable land use of agricultural protection and will detract from the scenic amenity and the natural and cultural heritage of the area.</p>
<p>The proposal conflicts with the South East Queensland Regional Plan, specifically Section 3.6 Landscape Heritage; and Section 6.5 Cultural Heritage, Arts and Cultural Development.</p>	<p>The proposal does not recognise and manage landscape heritage to maintain character, culture and a sense of place as specified in Section 3.6.</p> <p>The proposal does not protect the region's cultural heritage, including landscapes of significance and traditional aboriginal culturally significant places such as Mount Ninderry, as specified in Section 6.5 of the South East Queensland Regional Plan.</p>
<p><b>Impact on Good Quality Agricultural land</b></p>	
<p>The development will impact on good quality agricultural land and reduce the long term viability of surrounding land holdings.</p> <p>The proposal does not meet desired Environmental Outcome No.3 by not affording protection to good quality agricultural land.</p>	<p>The development will limit the use of 22.5 hectares of good quality agricultural land to cattle grazing, which will be difficult to service due to the required fencing. It is unclear what long term impacts this facility may have on nearby agricultural properties and their future operations, whether proven scientifically or through public perceptions.</p>
<p><b>Impact on Development Potential of Surrounding Rural Residential Land</b></p>	
<p>Since the collapse of the sugarcane industry there has been investment and a shift to upmarket rural residential and tourism/function venues on the elevated rural residential land. The development will adversely affect future development and investment in the area.</p>	<p>The development may impact on future development and investment in the area. The visual impact and perceived health risks may influence property values and affect the viability of further rural residential and tourism development.</p>
<p><b>Precedent</b></p>	
<p>Approval of this application will set a dangerous precedent which could lead to further developments that will destroy the visual amenity and natural beauty of the surrounding areas.</p>	<p>Each application is assessed and determined on an individual merits basis. Council's decision must not conflict with the scheme, unless there are sufficient grounds to justify the decision despite the conflict.</p>



<b>Federal Funding</b>	
<p>This development will be partly or wholly funded by the Federal Government as it will facilitate the regional expansion of ABC news radio.</p> <p>There is no evidence that the development is for the exclusive use by the ABC.</p>	<p>The application states that in 2004, the Federal Government announced funding for a regional extension of ABC News Radio to 70 centres across Australia as part of its commitment to Regional areas.</p> <p>According to the information provided in the application, the development will be owned and operated by Broadcast Australia Pty Ltd, while the ABC will be the licence holder. The facility will broadcast the service under a separate financial agreement.</p> <p>There is no evidence that the development will be for the exclusive use of the ABC and, depending on the contractual terms, could be used by others should the contract expire.</p>
<b>Need</b>	
<p>There is no community need for this development which is proposed to improve ABC news radio coverage on the Sunshine Coast and provide information in emergency events.</p> <p>The existing radio stations, including ABC News Radio, provide good coverage to the Sunshine Coast and address this need.</p> <p>The Sunshine Coast is already serviced by ABC news radio which currently broadcasts from 936AM (Brisbane) and/or 94.5FM (Gympie).</p>	<p>It has not been demonstrated by the applicant that there is an overriding community need for the development. It is acknowledged that the Sunshine Coast is serviced by a number of commercial and community radio stations. However, there is a coverage/service issue for ABC news radio that the Federal Government has committed funding to address.</p> <p>The emergency broadcast benefits identified by the applicant for this particular service are already provided by many of the existing radio stations servicing the locality.</p> <p>The only additional community service this facility will provide is 24 hour news radio and coverage of parliamentary proceedings. The community benefit and need for this service was not quantified by the applicant.</p>
<p>The application does not provide data supporting the need for the new towers. No evidence of research or surveys confirming that residents of this area or the Sunshine Coast in general need or want this service.</p>	<p>No data has been provided by the applicant to demonstrate or confirm the extent of community need for this service on the Sunshine Coast.</p>
<p>The geographic areas identified in the application that do not have access to ABC news radio have not been clearly identified and are misleading.</p>	<p>The geographic area identified in the application as not having adequate coverage is greater than coverage information available on the ABC website, although both identify there is a coverage issue.</p>

<p>The existing broadcast facilities at Bald Hills in Brisbane and Gympie could be upgraded to provide coverage to the Sunshine Coast.</p>	<p>Correspondence from the Australian Communications and Media Authority indicates that there may be potential for the existing facility at Bald Hills in Brisbane to be upgraded to provide coverage to the entire Sunshine Coast. The applicant, by correspondence dated 22 February 2012, indicated that this option was investigated in 2007 and would not address the coverage issue without impacting on other existing services.</p>
<p>Broadcast Australia establishes broadcast towers, then leases the facilities to other businesses. The development is a commercial venture. Broadcast Australia intends to establish a major transmission facility on the site.</p>	<p>The infrastructure is proposed to be leased to the ABC for a period of 10 years, after which time Broadcast Australia may have the potential to lease the facility to others.</p> <p>Future leasing is subject to the availability of other AM frequencies which are currently not available in the region. There is also the possibility that the facility could be retrofitted for alternative telecommunications transmissions.</p>
<p><b>Co-location</b></p>	
<p>The infrastructure should be co-located on an existing tower.</p>	<p>Co-location is not technically feasible for this AM service.</p>
<p>AM transmission is outdated, high powered and potentially dangerous.</p>	<p>The applicant states that AM is the only available frequency to service the Sunshine Coast.</p>
<p>FM transmitters use only a tiny fraction of the power needed for an AM system and could be unobtrusively located on existing radio transmitter sites, such as Dulong lookout, the top of Mount Ninderry, Mount Coolum or other elevated ridges in the area.</p>	<p>The applicant states that there are no FM licences available within the area to provide sufficient coverage.</p> <p>AM broadcasting services must be sited at relatively flat locations with high ground conductivity with the masts acting as the antennae.</p>
<p><b>False and misleading information</b></p>	
<p>The proposal contains false and misleading information in regard to the licensing requirements, referring to a spatial limit of 10km from the original Cook Road site.</p> <p>The Australian Communications Media Authority advised it has no such requirement.</p> <p>The applicant has unnecessarily minimised the search area for a suitable site.</p>	<p>The Australian Communications and Media Authority has confirmed that a licence has not been issued and the technical specifications relied upon by the applicant to restrict the search area is for a nominated site at Cook Road, Bli Bli. There is no spatial limit specified and the technical specifications can be amended once a site has been selected.</p> <p>The 10km spatial limit was one of the main criteria applied to the site selection process and was referenced numerous times throughout the planning report and to justify the proposal.</p>

<p>The visual impact assessment is lacking in detail and accuracy and not representative of the visual impact the development will have on the locality.</p> <p>The proposed towers have not been correctly positioned in many of the images.</p> <p>Some images have stitching inaccuracies resulting in misrepresentation of ridgelines and the siting of the proposal.</p> <p>The angle of some photos do not include visual markers in the foreground giving an inaccurate representation of the tower.</p> <p>A visual impact analysis was provided by a submitter for comparison purposes.</p>	<p>The analysis provided by the applicant was sufficient to conclude that the towers will be readily visible locally and these impacts potentially exacerbated by the required red and white colouring and warning lighting.</p>
<p>There has been deliberate intention to misrepresent, deceive and confuse ratepayers/residents as to the true identity of the applicant, which is referred to as 'Broadcast Australia', throughout the application. The ACN/ABN has not been detailed as required by the <i>Corporation Act 2001</i>.</p>	<p>It is not a mandatory requirement of the <i>Sustainable Planning Act 2009</i> for the planning report to include the ACN number of the applicant.</p> <p>The owner's consent was provided, as required by the <i>Sustainable Planning Act 2009</i>.</p>
<p>The applicant has not satisfied the requirements of the federal legislation for the siting of telecommunications facilities.</p>	<p>The applicant states that Broadcast Australia is not a telecommunications carrier and as such, the Industry Code for the Deployment of Radio Communications Infrastructure is not applicable to the facilities established by the company. The applicant will meet all requirements imposed by the Australian Communications and Media Authority and the Broadcasting Services (Technical Planning) Guidelines 2007.</p>
<p>There are more suitable alternative sites for the development.</p>	<p>There are alternative sites and other technical options available that could potentially deliver the service and have a reduced impact on the rural character, scenic amenity, natural and cultural heritage values intended to be protected by the planning scheme.</p>

<b>Cook Road is a More Appropriate Site</b>	
In regard to visual amenity, the original site on Cook Road is a more suitable site to that proposed.	The applicant has indicated that this site is no longer available, due to recent housing and road/access construction in the locality. Without undertaking a full assessment, it is difficult to determine if this is a more suitable location.
Cook Road site has already been zoned for the proposed use of the towers.	The site is not zoned for this particular use and is identified as Sustainable Canelands, a rural precinct under the Maroochy Plan.
<b>Flood Free Access</b>	
Vehicle access to the site will not be possible during a flood event.	The site and part of the local road network is low lying and subject to flooding and will be inaccessible by car in a flood event.  The applicant states that, if access is necessary during a flood event, the facility has been designed for boat access. However, the applicant has not considered local access restrictions and that access via a boat may not be possible or feasible.
<b>Lack of Community Consultation</b>	
There was limited time for objection, research and advising concerned ratepayers, given the enormity and technical information included in this application.	Public Notification was carried out for a period of 30 business days in accordance with the mandatory public notification requirements under the <i>Sustainable Planning Act 2009</i> . Council was not provided with any other information confirming that additional public forums or notification was undertaken by the applicant.

## CONCLUSION

The proposed radio tower conflicts with the Maroochy Plan 2000, as it proposes a major utility use on land identified for protection of agricultural uses and rural pursuits. The conflict must be considered in the context of any overriding community need for the proposed land use.

Although there is a need for a service to address a coverage issue, any need argument relating to the provision of emergency services/communications and regular news updates are already offered by existing services, social media (including local government, State and Federal Bureau of Meteorology websites) and by other radio stations, including ABC FM.

The applicant has not demonstrated that the precautionary approach has been used in the site selection process. The site has numerous constraints and is in close proximity to rural residential areas, important natural and cultural features and existing tourist operations. The Australian Communications and Media Authority has confirmed that there are possible alternatives to address this coverage issue, with the ability to have a reduced social, environmental and economic impact.

It has not been satisfactorily demonstrated that the proposal can proceed without unacceptable economic, tourism, agricultural, environmental, cultural and scenic amenity impacts. Accordingly, it is considered that the proposal conflicts with the South East Queensland Regional Plan and Maroochy Plan 2000, including its Strategic Plan, and there are no overriding grounds pursuant to the *Sustainable Planning Act 2009* on which the application could be supported.

The application is, therefore, recommended for refusal.

**8 PERFORMANCE AND SERVICE COMMITTEE RECOMMENDATIONS**

Nil.

**9 STRATEGY AND PLANNING COMMITTEE RECOMMENDATIONS**

Nil.

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**10 NOTIFIED MOTIONS****10.1 NOTICES OF RESCISSION****10.2 NOTICES OF MOTION****10.2.1 NOTICE OF MOTION – REVIEW OF HERITAGE LEVY POLICY AND GUIDELINES**

**File No:** ECM 14 March 2012  
**Author:** Division 5 Councillor, J McKay  
Notices of Motion

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**EXECUTIVE SUMMARY**

Councillor J McKay intends to move the following Notice of Motion at the next Ordinary Meeting of Council on 14 March 2012.

**COUNCILLOR RECOMMENDATION**

**That Council request the Chief Executive Officer to review the Heritage Levy Policy and Guidelines for the distribution of grants to community facilities with Heritage Listing; such as the Montville Village Hall and other like facilities and report back to the new Council prior to the next round of grants.**

**COUNCILLOR COMMENT**

It has been brought to my attention that the Montville Community Hall and like buildings that are not Council owned are ineligible under the current guidelines of the Heritage Levy. Often these facilities play a major role in the social and community aspect of life and should not be discriminated against.

**EXECUTIVE DIRECTOR COMMUNITY SERVICES COMMENTS**

The Heritage Levy Policy was adopted by Council in June, 2010. The purpose of this policy is to outline cultural heritage and administrative principles that provide direction for allocation of the Heritage Levy revenue towards endorsed projects and programs in an effective, open and accountable way.

The \$5.00 collected per rateable property per annum is held separately from Council's general revenue and is utilised specifically for facilities, programs, projects and activities concerned with the preservation and promotion of the region's history and cultural heritage and to trigger other government and non government support and partners.

Council reviews the amount of the Heritage Levy each year as part of adopting its annual revenue statement.

In May, 2011 Council endorsed the indicative program of Cultural Heritage Projects for 2011/2012 and 2012/2013 as prioritised by the Cultural Heritage Reference Group, chaired by Councillor Grosskreutz.

The Cultural Heritage Levy Program currently consists of 16 components across community and capital initiatives. These components have been determined in consultation with the Sunshine Coast Cultural Heritage Reference Group. It is anticipated that in time these components will change as priorities change. The 16 components are grouped follows:-

**Cultural Heritage Community Program**

1. Interpretive Trails and Signage
2. Heritage Advisory Signage
3. Biennial Sunshine Coast Heritage Forum
4. Annual Indigenous Heritage Festival
5. Biennial Sunshine Coast Heritage Festival
6. Collection Management
7. Cultural Heritage Tourism
8. Cultural Heritage Exhibitions and Projects
9. Community Partnerships Program
10. Heritage Friends and Volunteer Program
11. Heritage Reference Group

**Cultural Heritage Capital Program**

1. Central Collections Store (Proposed further development of Council owned land)
2. Bankfoot House (Council owned)
3. Pattermore House (Council owned)
4. Tait Duke Cottage (Council owned)
5. Mill Point (National Park)

It is understood that this Notice of Motion is intended to review the Cultural Heritage Capital Program and requires that further information be brought forward to Council for consideration should the current Cultural Heritage Capital Program be extended beyond Council owned/managed heritage listed facilities. This report will also consider the respective roles of Sunshine Coast Council and the Queensland State Government (Queensland Heritage Council) in managing and conserving the State's heritage



**10.3 FORESHADOWED NOTICE OF MOTION****11 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 Committee/Chief Executive Officer for report and recommendation
    - Petition not be received
-

**12 CONFIDENTIAL SESSION****12.1 FINANCE AND BUSINESS****12.1.1 CONFIDENTIAL – NOT FOR PUBLIC RELEASE - ACQUISITION OF LAND BY AGREEMENT**

**File No:** ECM 14 March 2012  
**Author:** Manager Property  
Finance and Business

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**EXECUTIVE SUMMARY**

In accordance with Section 72 (1) (h) of the *Local Government (Operations) Regulation 2010* this report is considered confidential as it deals with matters for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

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**12.2 INFRASTRUCTURE SERVICES****12.2.1 CONFIDENTIAL – NOT FOR PUBLIC RELEASE - ROAD RESERVE REPAIRS**

**File No:** ECM 14 March 2012  
**Author:** Contract Manager Civil Works Services  
Infrastructure Services

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**PURPOSE**

In accordance with Section 72 (1) (h) of the *Local Government (Operations) Regulation 2010* this report is considered confidential as it deals with matters for which a public discussion would be the interests of the local government or someone else, or enable a person to gain a financial advantage.

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**13 NEXT MEETING**

The next Ordinary Meeting will be held on 4 April 2012 in the Nambour Council Chambers, corner Currie and Bury Streets, Nambour.

**14 MEETING CLOSURE**