



**LATE AGENDA FOR ORDINARY MEETING
TO BE HELD IN COUNCIL CHAMBERS, BUNDABERG
ON TUESDAY 13 NOVEMBER 2018, COMMENCING AT 10.00 AM**

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Planning

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**Item****13 November 2018**

Item Number:	File Number:	Part:
J2	Nil	PLANNING

Portfolio:

Planning & Development Services

Subject:

Resolution to Adopt Temporary Local Planning Instrument (TLPI) 2/2018 - Cordalba to Wallaville Cane Railway Infrastructure

Report Author:

Evan Fritz, Manager Strategic Planning

Authorised by:

Stephen Johnston, Chief Executive Officer

Link to Corporate Plan:

Our Environment - 2.3 Sustainable built and natural environment - 2.3.3 Review and consistently enforce local laws, the planning scheme, and other associated environment and public health legislation to ensure they meet community standards.

Previous Items:

J2 - Resolution to Prepare Temporary Local Planning Instrument (TLPI) – Cordalba to Wallaville Cane Railway Infrastructure - Ordinary Meeting - 24 Sep 2018

Background:

Council at its meeting held 24 September 2018 (Item J2) resolved to prepare *Temporary Local Planning Instrument (TLPI) 2/2018 – Cordalba to Wallaville Cane Railway Infrastructure* to facilitate the extension of the Isis Central Sugar Mill cane railway network from Cordalba west to Booyal and Wallaville.

The proposed TLPI was forwarded to the Planning Minister, Hon Cameron Dick MP on 25 September 2018 for the Minister's consideration. Subject to approval from the Minister, it is necessary for Council to formally resolve to adopt the TLPI.

Advice from the Minister had not been received at the time of preparing this report. Given the next Council meeting is not scheduled until 11 December 2018, it is proposed that Council resolve –

- (i) subject to receipt of approval from the Planning Minister with no conditions, to adopt the proposed TLPI; and
- (ii) that the TLPI take effect on the date that the public notice of adoption of the TLPI is published in the gazette (being the earliest gazette as practical, following receipt of approval from the Planning Minister).

The proposed TLPI attached to this report is consistent with the version sent to the Planning Minister.

Following adoption of the TLPI it will be necessary for Council to:-

- (i) place a public notice in the gazette and a newspaper circulating generally in the Bundaberg region (ie the Bundaberg NewsMail)
- (ii) place a copy of this notice and the TLPI on Council's website; and
- (iii) within 10 days of adopting the TLPI, give the chief executive a copy of the notice and one electronic copy of the TLPI, including associated mapping.

The TLPI will have effect for a period of 2 years from the date of commencement, unless repealed earlier by Council resolution in accordance with s 23 of the *Planning Act 2016*.

Associated Person/Organization:

Isis Central Sugar Mill Company Limited; Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) and the Minister for State Development, Manufacturing, Infrastructure and Planning (Cameron Dick MP)

Consultation:

Council's Development Group liaised with officers from the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) and the Isis Central Sugar Mill Company Limited (ICSM) in the preparation of the proposed TLPI.

There is no statutory requirement for public consultation in preparing, or prior to adopting a TLPI. However, Council is required to provide public notice of any decision to adopt a TLPI (including a public notice in the local newspaper).

Following any formal decision made by Council to adopt the TLPI, it is proposed that affected landowners be advised of Council's decision to adopt the TLPI and invited to contact Council's Development Group to discuss any questions or concerns.

Chief Legal Officer's Comments:

There are no legal implications arising from a decision to prepare (or subsequently adopt) the proposed TLPI. Pursuant to s 23(7) of the Planning Act, a TLPI does not create a superseded planning scheme, and is not an adverse planning change for the purposes of Part 4, Division 2 of the Act, ie a TLPI does not expose Council to claims for compensation for reduced value of an interest in premises.

Policy Implications:

The TLPI is an interim/short-term policy response to advance a key project that has potential for significant economic benefits for the Bundaberg Region.

The TLPI will suspend or otherwise affect the operation of the Planning Scheme for up to 2 years. The proposed TLPI will suspend the current level of assessment for Material change of use for –

- a Utility installation in the Rural zone, Environmental management and conservation zone and Community facilities zone; and
- a Dwelling house in the Rural zone.

The TLPI identifies the new level of assessment and assessment criteria for such development.

Any longer-term or wider reaching policy changes for cane railway infrastructure would need to be considered as part of an amendment to Council's Planning Scheme.

Financial and Resource Implications:

Given the limited area and number of lots affected, the TLPI is not expected to have any significant financial or resource implications for Council. Council's Development Group will administer the TLPI.

For land affected by the TLPI, a material change of use for a Utility Installation will trigger a code assessable application at a fee of \$15,540.

Development of a dwelling house within the cane railway corridor will also trigger Code Assessment against the nominated assessment criteria to ensure such development appropriately addresses potential noise and amenity impacts from the proposed cane railway infrastructure.

Risk Management Implications:

There is some risk of adverse reaction from landowners directly affected by the proposed TLPI. However, writing to these landowners and informing them of the need for this TLPI may help alleviate this risk. It is also noted that –

- TLPI 2/2017 was in place for 12 months without any apparent adverse impact (ceased to have effect on 24 September 2018); and
- ICSM has been actively working and negotiating with affected landowners over the last 12+ months in relation to the proposed cane railway.

Communications Strategy:

Communications Team consulted.

- Yes
 No

Attachments:

- [↓](#) 1 Temporary Local Planning Instrument (TLPI) 2/2018 – Cordalba to Wallaville Cane Railway Infrastructure

Recommendation:

That pursuant to section 23 of the *Planning Act 2016* and the Minister's Guidelines and Rules, and subject to and on receipt of approval from the Planning Minister to the making of the TLPI with no conditions:-

- (a) Council adopt Temporary Local Planning Instrument (TLPI) 2/2018 – Cordalba to Wallaville Cane Railway Infrastructure; and**
(b) the TLPI take effect on the day the notice of adoption of the TLPI is published in the government gazette.



Bundaberg Regional Council

Temporary Local Planning Instrument 2/2018 Cordalba to Wallaville Cane Railway Infrastructure

1. Short title

This Temporary Local Planning Instrument (TLPI) may be cited as Temporary Local Planning Instrument 2/2018 – Cordalba to Wallaville Cane Railway Infrastructure.

2. Overview

This TLPI is an interim policy response put in place by the Bundaberg Regional Council (Council) to facilitate provision of new cane railway infrastructure from Cordalba to Booyal and Wallaville.

The Bundaberg Regional Council Planning Scheme identifies the Material change of use of land for new cane railway infrastructure (i.e. Utility installation) as impact assessable development. The TLPI responds to a significant risk of serious adverse economic, social or cultural conditions in the Bundaberg Region. The potentially lengthy timeframes and uncertainty associated with the impact assessment process or planning scheme amendment process creates a risk of the development being significantly delayed and in the worst case scenario being abandoned. This could impact on the future viability of sugar cane production and milling activities within the region, and the planned expansion of sugar cane production made possible through the Gayndah Region Irrigation Development project.

The TLPI will support the continued stability of sugar cane production and milling activities in the region and will reduce dependency on road transport and associated impacts on the road network. State interests will not be adversely affected by the TLPI. The TLPI will advance the State interest in Economic Growth – Agriculture, providing for increased agricultural investment, production and diversification.

This TLPI is similar in its effect to TLPI 2/2017, which lapsed on 24 September 2018. The TLPI essentially extends the effect of the previous TLPI, but also incorporates minor changes to the alignment of the proposed cane railway infrastructure.

3. Purpose

The purpose of this TLPI, made under s 23 of the *Planning Act 2016*, is to –

- (i) provide an appropriate level of assessment for planned new cane railway infrastructure servicing the Isis Central Sugar Mill, from the existing line in Cordalba, west to Booyal and Wallaville; and
- (ii) protect the planned cane railway corridor from incompatible development.

To achieve this purpose, for the land identified in Schedule 2 – Mapping, the TLPI:-

- (i) suspends assessment tables 5.4.13 (Environmental management and conservation zone), 5.4.14 (Community facilities zone) and 5.4.17 (Rural zone) for development for Material change of use for a Utility installation;
- (ii) suspends assessment table 5.4.17 (Rural zone) for development for Material change of use for a Dwelling house;
- (iii) sets the level of assessment for Material change of use for a Utility installation and Dwelling house; and
- (iv) identifies assessment criteria.



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4. Application

This TLPI applies to land identified as cane railway corridor within Schedule 2 – Mapping.

5. Relationship with planning scheme

This TLPI suspends the provisions in the Bundaberg Regional Council Planning Scheme to the extent of matters that this instrument relates to as outlined in section 8.

To the extent of any inconsistency between the Bundaberg Regional Council Planning Scheme and the TLPI, the TLPI prevails.

6. Duration

This TLPI has effect for a period of 2 years from the date of commencement, unless repealed by Council resolution in accordance with s 23 of the Act.

7. Definitions

The terms used in this TLPI have the same meaning as defined in the Bundaberg Regional Council Planning Scheme and *Planning Act 2016*.

8. Effect of this Temporary Local Planning Instrument

8.1 For development within the area to which this TLPI applies as described at section 4 and identified within Schedule 2 – Mapping, this TLPI suspends the operation of the following sections of the Bundaberg Regional Council Planning Scheme:

- (a) Levels of assessment tables – Material change of use for a Utility installation:
 - (i) 5.4.13 Environmental management and conservation zone;
 - (ii) 5.4.14 Community facilities zone;
 - (iii) 5.4.17 Rural zone.
- (b) Levels of assessment tables – Material change of use for a Dwelling house:
 - (i) 5.4.17 Rural zone.

8.2 Development specified in the 'Use' column of the Table of Assessment at Schedule 1 of this TLPI, has the category of development and assessment varied as specified in the 'Categories of development and assessment' column and must comply with –

- (a) for accepted development and code assessment, the assessment benchmarks for assessable development and requirements for accepted development specified in the 'Assessment benchmarks for assessable development and requirements for accepted development' column;
- (b) for impact assessment, the relevant provisions nominated within s 45 of the *Planning Act 2016*.

This is to certify that this is a true and correct copy of Temporary Local Planning Instrument (TLPI) 2/2018 adopted on <insert date> and commenced on <insert date>. The TLPI will cease to have effect on <insert date> or when it is repealed in accordance with the provisions of the *Planning Act 2016*.

Stephen Johnston
Chief Executive Officer

Dated: <insert date>



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Schedule 1 – Table of assessment

1.1 Application

The table in this part identifies the categories of development and assessment, and the applicable assessment benchmarks for assessable development and requirements for accepted development, for development within and subject to the area mapped as Cane Railway Corridor within Schedule 2 – Mapping.

1.2 Levels of assessment

The following table identifies where the TLPI changes the category of development and assessment from that stated in the Bundaberg Regional Council Planning Scheme for the Environmental management and conservation zone, Community facilities zone and the Rural zone, and the relevant assessment benchmarks for assessable development and requirements for accepted development, for development within the area as defined within Schedule 2 – Mapping.

Table 1.2.1 Table of assessment – Material change of use

Use ¹	Categories of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development ²
All zones		
Utility installation	Accepted if a local utility.	Not applicable
	Code assessment if for a Utility installation for cane railway infrastructure.	<ul style="list-style-type: none"> • Rural zone code • Utility code • Landscaping code • Nuisance code • Transport and parking code • Works, services and infrastructure code
	Impact assessment if not otherwise specified	The planning scheme
Rural zone		
Dwelling house	Code assessment	<ul style="list-style-type: none"> • Rural zone code • Dwelling house code • Nuisance code

¹ Note—where development is not identified in this column of the table as being subject to the TLPI, then the TLPI is not applicable to the development.

² Editor's note—this TLPI does not suspend the overlay assessment tables. Applicants need to check Table 5.9.1 (Assessment benchmarks for overlays) of the planning scheme for additional assessment criteria.

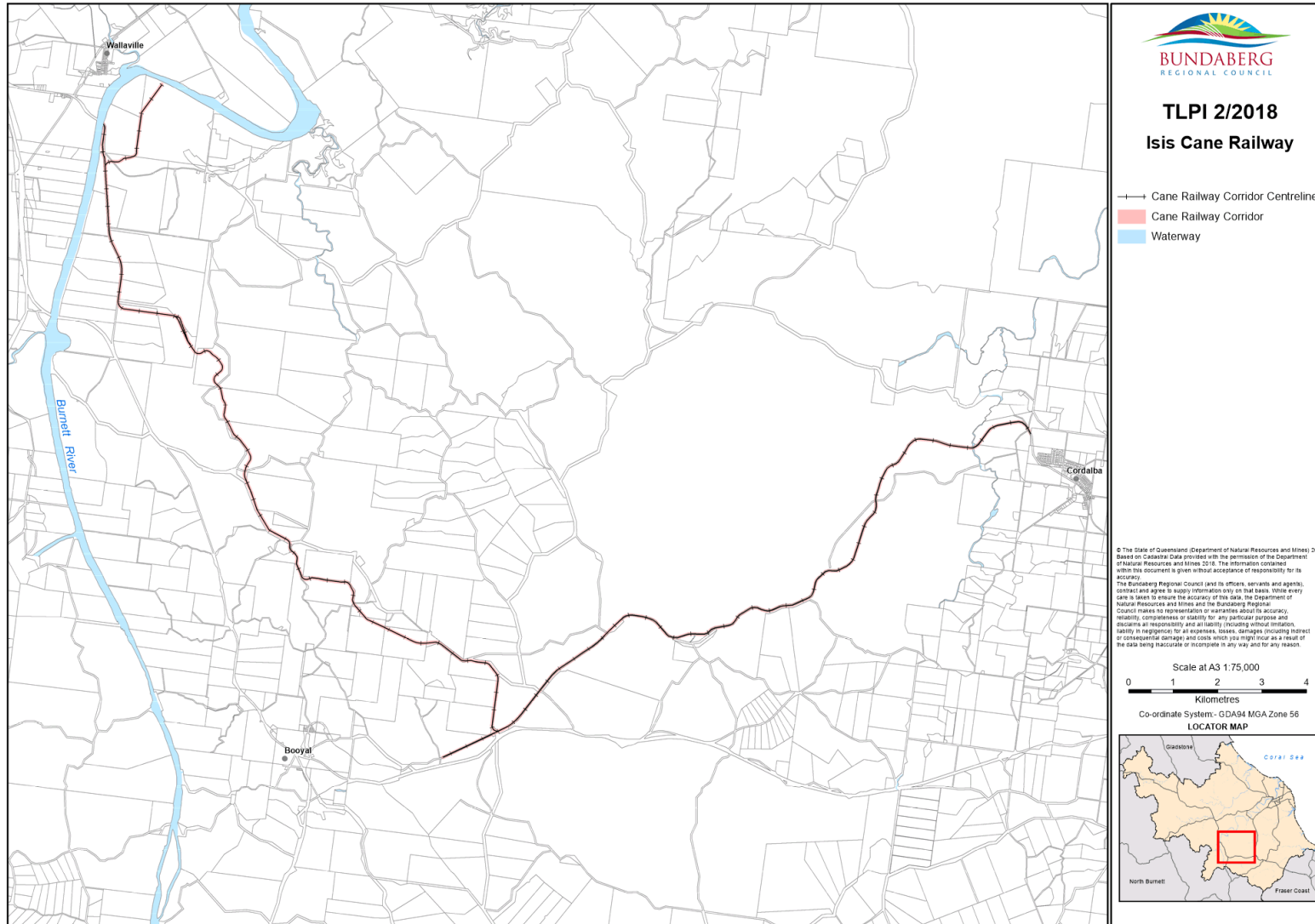
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Schedule 2 – Mapping

EFFECTIVE <INSERT DATE>

SCHEDULE 2 - MAPPING



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