



Ordinary Meeting Minutes

24 September 2018

10.00 am

RSL Hall, Gin Gin

Present:

Cr JM Dempsey (Mayor - Chairman), Cr WR Trevor OAM (Deputy Mayor), Cr JP Bartels, Cr WA Honor, Cr HL Blackburn, Cr GR Barnes, Cr CR Sommerfeld, Cr SA Cooper, Cr JA Peters and Cr JD Learmonth

Apologies:

Moved by Cr JA Peters, seconded by Cr WA Honor, that Cr SA Rowleson's apology for today's meeting be accepted. Carried

Officers:

Mr SD Johnston, Chief Executive Officer
Mr SJ Randle, General Manager Infrastructure
Mr GJ Steele, General Manager Community & Environment
Mrs AK Pafumi, General Manager Organisational Services
Mr B Artup, Executive Director Strategic Projects and Economic Development
Mr M Ellery, Group Manager Development
Mr M Gorey, Executive Officer Communications
Ms E Clark, Senior Planning Officer – Major Projects
Mrs MT Jenner, Executive Assistant to Councillors
Mrs WE Saunders, Executive Services Co-ordinator

Cr JM Dempsey acknowledged the traditional custodian owners of the land and their Elders past, present and emerging.

The Mayor also acknowledged those Australians who have given the ultimate sacrifice in service to our country.

Invocation:

At the invitation of the Mayor, Pastor Errol Buckle (Honorary Chaplain) gave a short address and led this Ordinary meeting of Council in prayer.



Minutes

24 September 2018

Item Number:	File Number:	Part:
U1	.	Late Item

Subject:

Petition - Katrina Hergstrom - Requesting Council reject the 9-storey development proposal on Bargara Esplanade

2214

Resolution

Cr JM Dempsey moved:-

That the petition be received and noted.

Seconded by Cr HL Blackburn - and carried unanimously without debate.



Minutes

24 September 2018

Item Number:	File Number:	Part:
U2	.	Late Item

Subject:

Petition - Luke Baker - Requesting Council support progress in Bargara

2215**Resolution**

Cr JM Dempsey moved:-

That the petition be received and noted.

Seconded by Cr WA Honor - and carried unanimously without debate.



Minutes

24 September 2018

Item Number: B1	File Number: .	Part: Minutes
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Subject:

Confirmation of Minutes

Resolution

Cr JM Dempsey moved:-

That the Minutes of the Ordinary Meeting of Council held on 24 August 2018 be taken as read and confirmed.

Seconded by Cr SR Cooper - and carried unanimously.



Minutes

24 September 2018

Item Number:	File Number:	Part:
C1	.	COUNCILLORS

Portfolio:

Councillors

Subject:

Declaration of Conflict of Interest - Cr GR Barnes

Pursuant to Section 175E of the *Local Government Act 2009* Cr GR Barnes made the following declarations in relation to item K2 on today's agenda:

1. Cr Barnes was excluded from pre-lodgement meetings with the applicant which could result in the perception that he felt aggrieved.
2. Cr Barnes submitted a notice of motion to Council in January 2018 seeking clarification regarding his exclusion from pre-lodgement meetings with the applicant.
3. Cr Barnes was part of a Council delegation to Nanning in China in 2017 and met with the applicant, Mr Sheng Wei. Cr Barnes invited Mr Wei and his wife to join him for dinner in Australia to return the hospitality received in Nanning. Cr Barnes also received a gift from Mr Wei which Cr Barnes declared on his register of interests.
4. Cr Barnes received an inquiry from Mr Wei regarding a fish processing factory, the details of which are recorded on his register of interests.
5. Cr Barnes was advised he was the subject of a complaint which relates to the application which is the subject of item K2.

Cr Barnes advised that all of the above items have been referred through legal advice and the Queensland Integrity Commissioner and he is of the belief that he does not have a conflict of interest and can stay and vote on the matter.

2216

Resolution

Pursuant to Section 175E of the *Local Government Act 2009* the majority of Councillors determined that Cr GR Barnes did have a conflict of interest in item K2 on today's agenda.

For

Cr WR Trevor
Cr HL Blackburn
Cr CR Sommerfeld
Cr SR Cooper
Cr JA Peters
Cr JM Dempsey

Against

Cr JP Bartels
Cr WA Honor
Cr GR Barnes
Cr JD Learmonth

The majority of Councillors determined that Cr GR Barnes must leave the meeting while item K2 is discussed and voted on.

For

Cr WR Trevor
Cr HL Blackburn
Cr CR Sommerfeld
Cr SR Cooper
Cr JA Peters
Cr JM Dempsey

Against

Cr JP Bartels
Cr WA Honor
Cr GR Barnes
Cr JD Learmonth

Cr JM Dempsey moved:

That Cr Barnes did have a real or perceived conflict of interest in the matter and it was determined that he leave the room during discussion and voting on Item K2.

Seconded by Cr HL Blackburn.

The motion was put - and carried by majority.

For

Cr WR Trevor
Cr HL Blackburn
Cr CR Sommerfeld
Cr SR Cooper
Cr JA Peters
Cr JM Dempsey

Against

Cr JP Bartels
Cr WA Honor
Cr GR Barnes
Cr JD Learmonth



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24 September 2018

Item Number: C2	File Number: .	Part: COUNCILLORS
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Portfolio:

Councillors

Subject:

Declaration of Material Personal Interest - Cr WR Trevor

Pursuant to section 175C of the *Local Government Act 2009* Cr WR Trevor declared a material personal interest in item J2 as he and his wife are shareholders in Isis Central Sugar Mill which will benefit from the Temporary Local Planning Instrument for the Cordalba to Wallaville cane railway infrastructure.

Cr WR Trevor advised that he intends to leave the meeting while item J2 is discussed and voted on.



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24 September 2018

Item Number: C3	File Number: .	Part: COUNCILLORS
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Portfolio:

Councillors

Subject:

Declaration of Conflict of Interest - Cr WR Trevor

Pursuant to section 175E of the *Local Government Act 2009* Cr WR Trevor declared a conflict of interest in item K2 due to the relationship he has with the developer Mr Wei. Cr Trevor had several meetings with Mr Wei when he was looking to purchase agricultural land in the Bundaberg region. Cr Trevor also led a Council delegation to Nanning, China and met with Mr Wei several times and received and also provided hospitality with Mr Wei.

Cr WR Trevor advised that he intends to leave the meeting while item K2 is discussed and voted on.



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24 September 2018

Item Number:	File Number:	Part:
C4	.	Councillors

Subject:

Declaration of Interest - Cr Barnes to Cr Dempsey

Under Section 175G of the *Local Government Act 2009* Cr GR Barnes tabled an unsigned draft letter which he believed was sent from Cr Dempsey to the Deputy Mayor of Nanning Municipal Government and stated that Cr Dempsey had become good friends with Mr Wei (the developer of item K2).

Pursuant to section 175G of the *Local Government Act 2009* Cr JM Dempsey denied having a material personal interest in the matter of item K2.



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24 September 2018

Item Number:	File Number:	Part:
D1	TEN0437	EXECUTIVE SERVICES

Portfolio:

Executive Services

Subject:

Sole Supplier Arrangement - Bundaberg NewsMail - TEN0437

2217

Resolution

Cr JM Dempsey moved:-

That:

- a) Council enter into an arrangement with APN Group Pty Ltd (ABN 68 009 656 955) for the supply of advertising with the Bundaberg NewsMail without first inviting written quotes pursuant to Section 235(a) of the *Local Government Regulation 2012*; and
- b) This arrangement be made for an initial period of three years.

Seconded by Cr WA Honor.

The motion was put - and carried unanimously.



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24 September 2018

Item Number: E1	File Number: .	Part: FINANCE
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Portfolio:

Organisational Services

Subject:

Financial Summary as at 31 August 2018

2218

Resolution

Cr SR Cooper presented the report; and moved:-

That the Financial Summary as at 31 August 2018 be noted by Council.

Seconded by Cr HL Blackburn.

The motion was put - and carried unanimously.



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24 September 2018

Item Number:	File Number:	Part:
F1	.	GOVERNANCE

Portfolio:

Organisational Services

Subject:

Council Policies

2219

Resolution

Cr HL Blackburn presented the report; and moved:-

That Council:

1. rescind the following policies:

- **GP-3-078 Quality Policy;**
- **GP-3-133 Water and Sewerage Utility Charges Concessions for Sporting Organisations Policy;**
- **GP-3-108 Interest on Trust Funds Policy;**
- **GP-3-012 Councillor Access to Information Policy;**
- **GP-3-008 Advertising Expenditure Policy;**
- **GP-3-029 Libraries, Arts and Theatre Fundraising and Sponsorship Policy**
- **GP-3-008 Asset Management Policy**
- **GP-3-125 Burial on Private Property Policy**
- **GP-3-116 Cemetery Management Policy**
- **GP-3-019 Commemorative Plaques and Memorials Policy**
- **GP-3-045 Community Engagement Policy**
- **GP-3-067 Community Financial Assistance Policy**
- **GP-3-118 Rent Policy – Community Housing**
- **GP-3-096 National Competition Policy**
- **GP-3-005 Council Vehicle Usage Policy**
- **GP-3-014 Councillor's Confidentiality of Council Information Policy**
- **GP-3-120 Eat Safe Bundaberg Region Policy**
- **GP-3-010 Entertainment and Hospitality Expenditure Policy**
- **GP-3-023 Environmental Policy**
- **GP-3-121 Exhibitions Policy**
- **GP-3-047 Reimbursement of Expenses and Provision of Facilities for Councillors Policy**
- **GP-3-084 Fraud and Corruption Management Policy**
- **GP-3-034 Internal Audit Governance Policy**
- **GP-3-049 Media Relations Policy**

- **GP-3-076 Moncrieff Entertainment Centre Community Access Policy**
- **GP-3-037 Non-Current Asset Recognition Policy**
- **GP-3-043 Recordkeeping Policy**
- **GP-3-050 Related Party Disclosures Policy**
- **GP-3-002 Integrated Risk Management Policy**
- **GP-3-042 Trade Waste Policy**
- **GP-3-082 Water Leak Relief Policy**

2. adopt the following policies:

- **CP-3-018 Acceptable Requests Guidelines Policy;**
- **CP-3-006 Advertising Spending Policy;**
- **CP-3-030 Arts & Cultural Services Fundraising and Sponsorship Policy;**
- **CP-3-006 Asset Management Policy;**
- **CP-3-010 Burial on Private Property Policy;**
- **CP-3-011 Cemetery Management Policy;**
- **CP-3-013 Commemorative Plaques and Memorials Policy;**
- **CP-3-014 Community Engagement Policy;**
- **CP-3-015 Community Grants Policy;**
- **CP-3-040 Community Housing Rent Policy;**
- **CP-3-033 Competitive Neutrality Complaints Policy;**
- **CP-3-017 Council Vehicle Usage Policy;**
- **CP-3-019 Councillor Use of Confidential Information Policy;**
- **CP-3-020 Eat Safe Bundaberg Region Policy;**
- **CP-3-022 Entertainment and Hospitality Policy;**
- **CP-3-023 Environmental Policy;**
- **CP-3-025 Exhibitions Policy;**
- **CP-3-038 Expenses Reimbursement for Councillors Policy;**
- **CP-3-026 Fraud and Corruption Management Policy;**
- **CP-3-029 Internal Audit Policy;**
- **CP-3-009 Media Relations Policy;**
- **CP-3-032 Moncrieff Entertainment Centre Community Access Policy;**
- **CP-3-034 Non-Current Asset Recognition Policy;**
- **CP-3-043 Recordkeeping Policy;**
- **CP-3-039 Related Parties Disclosures Policy;**
- **CP-3-027 Risk Management Policy;**
- **CP-3-041 Trade Waste Policy;**
- **CP-3-042 Water Leak Relief Policy;**

3. authorise the Chief Executive Officer to approve minor amendments made to Council policies.

Seconded by Cr JP Bartels.

The motion was put - and carried unanimously.



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24 September 2018

Item Number: F2	File Number: .	Part: GOVERNANCE
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Portfolio:

Organisational Services

Subject:

John Cullen Reserve - Lease arrangements

2220

Resolution

Cr HL Blackburn presented the report; and moved:-

That the Chief Executive Officer be authorised to enter into a 10 year Trustee Lease with each of Digger's Football Club, the Salvation Army and the Bundaberg Men's Shed Inc for the areas generally as outlined in the attached plan, taking into account necessary access points.

Seconded by Cr SR Cooper.

The motion was put - and carried unanimously.



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24 September 2018

Item Number:	File Number:	Part:
G1	.	INFRASTRUCTURE

Portfolio:

Infrastructure Services

Subject:

Specialised Supplier Arrangements for Supply of Plant Parts and Repairs

2221

Resolution

Cr WR Trevor presented the report; and moved:-

That due to the specialised nature of the services, Council apply Section 235(b) of the *Local Government Regulation 2012* and enter in to an arrangement with the following companies for the supply and repair of parts for the listed vehicle brands, without first inviting written quotes – for a period of three years:

Company	ABN	Vehicle Brand
Wideland Group	93 614 261 237	Hino
Formatt Machinery Pty Ltd	41 626 072 893	Kubota
Vanderfield	58 060 286 759	John Deere
North Queensland Agricultural Supplies	59 110 334 515	Howard
Daimler Trucks Pty Ltd	90 619 024 029	Fuso
Komatsu Australia Pty Ltd	71 143 476 626	Komatsu
Seng's Sales & Services	76 615 545 456	Massey Ferguson
Bundaberg Outdoor Power Centre	46 960 851 133	Hustler
Bundy Star Truck & Machinery Centre	95 593 774 307	Iveco Dennis Eagle

Seconded by Cr WA Honor.

The motion was put - and carried unanimously.



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24 September 2018

Item Number: G2	File Number: -	Part: INFRASTRUCTURE
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Portfolio:

Infrastructure Services

Subject:

Fleet Management Advisory Committee

2222

Resolution

Cr WR Trevor presented the report; and moved:-

That the minutes of the Fleet Management Advisory Committee meeting, held on 22 August 2018, be received and noted by Council.

Seconded by Cr WA Honor.

The motion was put - and carried unanimously.



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24 September 2018

Item Number:	File Number:	Part:
J1	339.2017.16.1	PLANNING

Portfolio:

Planning & Development Services

Subject:

Walkers Point, Woodgate – Request for Street Name

2223

Resolution

Cr CR Sommerfeld presented the report; and moved:-

That:

- 1. the Esplanade be re-named to Walkers Point Esplanade;**
- 2. Walkers Point Road be re-named Timber Cutters Drive; and**
- 3. a Tourist sign be affixed to the street name sign for Acacia Street and Timber Cutters Drive directing people to the township of Walkers Point.**

Seconded by Cr SR Cooper.

The motion was put - and carried unanimously.



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24 September 2018

Item Number:	File Number:	Part:
J2	Nil	PLANNING

Portfolio:

Planning & Development Services

Subject:

Resolution to Prepare Temporary Local Planning Instrument (TLPI) – Cordalba to Wallaville Cane Railway Infrastructure

Cr WR Trevor left the meeting whilst this item was presented, discussed and voted on, the time being 10.51 am.

2224

Resolution

Cr CR Sommerfeld presented the report; and moved:-

That Council:

- A. prepare a Temporary Local Planning Instrument (TLPI) 2/2018 – Cordalba to Wallaville Cane Railway Infrastructure, pursuant to section 23 of the *Planning Act 2016*;**
- B. write to the Planning Minister –**
 - I. advising of Council’s decision to prepare the TLPI; and**
 - II. requesting the Planning Minister’s consideration of the proposed TLPI.**

Seconded by Cr HL Blackburn.

The motion was put - and carried unanimously.

Cr WR Trevor returned to the meeting, the time being 10.55 am.



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24 September 2018

Item Number:	File Number:	Part:
K1	523.2018.64.1	DEVELOPMENT ASSESSMENT

Portfolio:

Planning & Development Services

Subject:

1 Civic Avenue, Bundaberg West - Development Permit for Operational Works for Two Advertising Devices

2225

Resolution

Cr CR Sommerfeld presented the report; and moved:-

That the Development Application 523.2018.64.1 detailed below be decided as follows:

1. Location details

Street address: 1 Civic Avenue, Bundaberg West

Real property description: Lot 1 on SP270834

Local government area: Bundaberg Regional Council

2. Details of the proposed development

Development Permit for Operational Works (Two Advertising Devices)

3. Decision

Decision details: Approved in full with conditions. These conditions are set out in Schedule 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

4. Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version /issue
Site Plan	Bundaberg Regional Council	26 July 2018	77-1A	
Sign Details	Elegant Engineering	12/07/2018	31009-1,2	
Design Specifications	Danthonia Designs		31009-1	

5. Conditions

This approval is subject to the conditions in Schedule 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

6. Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

7. Properly made submissions

Not applicable — No part of the application required public notification.

8. Referral agencies for the application

Not applicable

9. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

10. Agreements under Section 49(4)(b) or 66(2)(b) or (c) of the *Planning Act 2016*

There are no agreements about these matters.

11. Conditions about infrastructure

No conditions about infrastructure have been imposed under Chapter 4 of the *Planning Act 2016*.

12. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see Chapter 6, Part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see Schedule 1 of the *Planning Act 2016*.

Appeal by a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 of the *Planning Act 2016*.

Schedule 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

13. Properly made submissions

Not applicable — No part of the application required public notification.

SCHEDULE 1 CONDITIONS AND ADVICES IMPOSED BY THE ASSESSMENT MANAGER

PART 1A – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

Use

1. This approval authorises the following signs as defined by the planning scheme and shown on the Approved Plans:
 - a. 2 Freestanding Pylon signs;

2. The approved signs must not exceed the dimensions and sign areas as shown on the Approved Plans.

Design

3. The approved sign/s must be positioned wholly within the property boundaries of the subject site, and must not be located within or across any easements.

Construction and Maintenance

4. All construction and maintenance work for the approved signs must be carried out completely within the property boundaries.
5. The approved signs must be maintained in a clean and tidy state.

Illumination and Movement

6. Illumination (other than the approved LED component) resulting from direct, reflected or other incidental light emanating from the approved signs must have a maximum luminance of 350 candelas per m² when measured:
 - a. at a point 1.5 metres outside the boundaries of the subject boundary.
 - b. at any point within a residential dwelling.
7. The approved signs must not include any flashing or moving lights.
8. The approved signs must be static and contain no moving elements.
9. The LED component of the approved signs must comply with the following:
 - a. contain static writing and/or images with a minimum dwell time of 60 seconds;
 - b. do not contain video, animated or scrolling content (including in any message change);
 - c. do not contain images that have the appearance of a traffic control device including traffic lights, regulatory and advisory signs;
 - d. have a maximum surface brightness or luminance of 6,000 candelas per m² during the daytime, 350 candelas per m² during dusk and 150 candelas per m² during night time hours;
 - e. incorporates a light sensor to adjust illumination levels according to ambient light levels;
 - f. defaults to a blank (black) screen in the event of a malfunction
10. The approved sign illumination must be switched off between the hours of 11 pm and 5 am including the LED component.
11. All conduits, wiring, switches or other electrical apparatus installed on an advertising device must be concealed from general view

PART 1B – ADVICE NOTES

1. This Approval does not represent a development approval for Building Works under the *Building Act 1975*.

Seconded by Cr JA Peters.

The motion was put - and carried unanimously.



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24 September 2018

Item Number:	File Number:	Part:
K2	522.2018.44.1	DEVELOPMENT ASSESSMENT

Portfolio:

Planning & Development Services

Subject:

35, 37 and 39 Esplanade, 2 Burkitt Street & 4 and 6 See Street, Bargara - Material Change of Use for Mixed Use Development – Multiple Dwellings (60 Units and 10 Townhouses), Food and Drink Outlet (3 Tenancies) and Shop

Crs WR Trevor & GR Barnes left the meeting whilst this item was presented, discussed and voted on, the time being 10.59 am.

2226

Resolution

Cr JP Bartels presented the report; and moved:-

That the Development Application 522.2018.44.1 detailed below be decided as follows:

1. Location details

Street address: 35, 37 and 39 Esplanade, 2 Burkitt Street and 4 and 6 See Street, Bargara

Real property description: Lots 68 – 73 on RP7232

Local government area: Bundaberg Regional Council

2. Details of the proposed development

Development Permit for Material Change of Use for Mixed Use Development – Multiple Dwellings (60 units and 10 Townhouses), Food and Drink Outlet (three tenancies) and a Shop

3. Decision

Decision details:

Approved in part, with conditions, for the following:

- Preliminary Approval for Mixed Use Development – Multiple Dwellings (60 units and 10 Townhouses), Food and Drink Outlet (three tenancies) and Shop, up to a maximum 20 m in height (measured from natural ground level).

These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Refused, in part for the following:

- All parts of the development above 20 metres in height (measured from natural ground level)

The following approvals are given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval		<input type="checkbox"/>	<input checked="" type="checkbox"/>

4. Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no	Version/issue
Aspect of development: Preliminary Approval for Material Change of Use				
Sewer Realignment Layout Plan	RMA Engineers	14.02.2018	C-SK0001	B
Site & Location Plan	Tomas O'Malley Architect	04.06.2018	DA010	B
Area Plans	Tomas O'Malley Architect	04.06.2018	DA020	B

Basement Level Plan	Tomas O'Malley Architect	04.06.2018	DA100	B
Ground Floor Plan	Tomas O'Malley Architect	04.06.2018	DA101	B
Level 1 Plan	Tomas O'Malley Architect	04.06.2018	DA102	B
Level 2 Floor Plan	Tomas O'Malley Architect	04.06.2018	DA103	B
Level 3 & 4 Floor Plan	Tomas O'Malley Architect	04.06.2018	DA104	B
Level 5 & 6 Floor Plan	Tomas O'Malley Architect	04.06.2018	DA105	B
Site Sections	Tomas O'Malley Architect	04.06.2018	DA201	B
South & East Elevations	Tomas O'Malley Architect	04.06.2018	DA202	B
North & West Elevations	Tomas O'Malley Architect	04.06.2018	DA202	B

5. Conditions

This Preliminary approval is subject to the conditions in Schedule 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

6. Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Material Change of Use for Multiple Dwelling, Food and Drink outlet/s and Shop
- All Building Work
- All Plumbing and Drainage Work
- All Operational Work

7. Properly made submissions

Not applicable — No part of the application required public notification.

8. Referral agencies for the application

Not applicable

9. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

10. Agreements under Section 49(4)(b) or 66(2)(b) or (c) of the *Planning Act 2016*

There are no agreements about these matters.

11. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see Chapter 6, Part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see Schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 of the *Planning Act 2016*.

Schedule 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights.

12. Reasons for refusal in part

Under section 63(2)(f)(ii) of the *Planning Act 2016*, the Bundaberg Regional Council must set out reasons for the decision to refuse the application in part.

The reasons for this refusal in part are:

- Pursuant to section 60(6) of the *Planning Act 2016*, given the Assessment Manager's decision to approve only part of the development application, the rest of the development application is taken to be refused.

- The proposed development is in conflict with the Bundaberg Regional Council Planning Scheme 2015, specifically the:
 - High Density Residential Zone Code, including the Purpose and Overall Outcomes and Performance Outcomes PO5, PO6, PO7, PO8 and PO9;
 - Multi-unit Residential Uses Code, including the Purpose and Overall Outcomes and Performance Outcome PO2, PO4 and PO6;
 - Business Uses Code, including the Purpose and Overall Outcomes and Performance Outcomes PO6, PO7, PO9 and PO10;
 - Nuisance Code, including the Purpose and Overall Outcomes and Performance Outcomes PO1, PO2, PO3, PO4 and PO8 as it has not adequately demonstrated compliance with benchmarks for noise attenuation, amenity impacts and management of development to protect sensitive fauna. The site is specifically included in the Sea Turtle Sensitive Area.
- The part of the development application that is subject to the refusal cannot be reasonably conditioned to comply with the Bundaberg Regional Council Planning Scheme 2015 and associated instruments.
- There are insufficient grounds to support that part of the development in excess of 20 m above natural ground level in its current form despite its identified conflicts with the applicable planning instrument and code benchmarks.
- The proposed overall building height for the development is not considered to be consistent with or sympathetic to the existing or intended scale and character of the area. A number of parts of the proposed uses have the potential create noise nuisance or impacts to the surrounding area. The submitted report included insufficient certainty to allow a recommended condition for amendment. The full impacts are yet to be adequately measured and suitably designed out or mitigated, where not avoidable, therefore compliance cannot be demonstrated.
- The development application does not sufficiently demonstrate that the proposal in its current form will not cause an unreasonable impact on sensitive fauna in the area. The specific issue of lighting impacts on a turtle sensitive area has not been adequately addressed, both in identification and corresponding mitigation.

Findings on material questions of fact

- The development application was made for Mixed Use Development, comprising of Multiple Dwellings (60 units and 10 Townhouses), Food and Drink Outlets (three tenancies) and Shop.
- Bundaberg Regional Council, as the statutory Assessment Manager, undertook assessment of the development application under the benchmarks of the Local Categorising Instrument.
- An information request was issued by Council on 26 March 2018.
- An information request response was received by Council on 4 June 2018.
- The Decision period (included as Part 5 of *DA Rules*) was extended by agreement with the applicant of the development application to 27 July 2018.

Evidence or other material on which the findings were based

- The development application, including information request and information response
- The Bundaberg Regional Council Planning Scheme 2015

- The *Planning Act 2016*
- The *Planning Regulation 2017*
- State Planning Policy 2017

SCHEDULE 1 CONDITIONS AND ADVICES IMPOSED BY THE ASSESSMENT MANAGER

PART 1A – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

PRELIMINARY APPROVAL – Material Change of Use

General

1. Meet the full cost of all requirements associated with this development approval, unless specified in a particular condition.
2. Where there is any conflict between Conditions of this Decision Notice and details shown on the Approved Plans, the Conditions prevail.
3. Comply with all of the conditions of this Preliminary Approval, and any subsequent Development Permit, prior to the commencement of the use, unless otherwise stated within this notice, and maintain compliance whilst the use continues.
4. This Preliminary Approval does not authorise assessable development to take place.

Building Height

5. The maximum building height of the development approved under this Preliminary Approval must not exceed 20 metres, measured from natural ground level.

Nature and Extent of Development

6. The approved mixed-use development may incorporate the following uses where generally provided for within the approved plans (as amended where required by other conditions of this approval):
 - a. Multiple dwelling use;
 - b. Food and drink outlet; and
 - c. Shop.
7. The approved mixed use development is to have a maximum net residential density of 110 equivalent dwellings per hectare.

Amended Plans

8. In associated with a future development application seeking a Development Permit for the mixed use development subject to this Preliminary Approval, submit to and have approved by the Assessment Manager amended development plans which incorporate all of the following:
 - a. Reduction of building height to a maximum of 20 metres, measured from natural ground level;
 - b. An awning over the footpath for the full extent of the Esplanade frontage;

- c. An awning or shade structure over the pedestrian podium link;
- d. Sunhoods or screening to all windows facing west;
- e. Enhanced privacy screening (or the like), on the western side elevation of the building to address overlooking of adjoining residential uses;
- f. Building setbacks generally in accordance with those shown on approved plan Title: Site and Location Plan, Ref: DA010 Issue B dated 04.06.2018;
- g. A clearly visible building entrance or reception area, which is identifiable from the street or otherwise provided with signage and lighting at strategic locations to direct people to the building entrance;
- h. Softening architectural features, are to be incorporated to the wall presenting to the western side boundary (shown as north elevation on approved plans), visible from the esplanade, particularly noting privacy requirements above;
- i. Details of any proposed improvements, or works in the public realm adjacent to the site.

Once approved, the amended plans will form part of the Approved Plans for this development.

Coastal processes

9. Any future application for a Development Permit must include a site specific geotechnical assessment prepared by a qualified person to demonstrate that the development can withstand impacts associated with coastal processes (located within an Erosion Prone Area) that considers the following items;
 - a. Foundations for the building and basement areas, particularly those located on land fronting the esplanade within an Erosion Prone Area;
 - b. Appropriate siting of the building;
 - c. Any potential constructions considerations, including, but not limited to, dewatering of the foundation and basement area.

Landscaping

10. Provide with the submission of any subsequent application for a Development Permit for Material change of use, an amended 'Revised landscape plan', referenced as 'Landscape Concept Plan – 8484 – May 2018 – Issue E' to have regard to the conditions of this approval and include, but not be limited to, the following features:
 - a. Details of any street trees within the road reserve or to be relocated, particularly on See Street. A new location can be agreed upon in the subsequent development application;
 - b. Any plants within the tier buffer planting area on street frontages within road truncation areas to a maximum of 0.5 m;
 - c. Incorporation of additional shade options for townhouses, ie trees, structures.
 - d. The provision of street furniture, specifically any public benches and bollards;

- e. Enhanced landscaping strip along the road frontages of the subject site, exclusive of the access driveway; and
- f. A continuous screening buffer planted in front of any proposed acoustic barrier for its entire length along proposed driveways. Where located on public land, works must be undertaken in accordance with an Operational Works approval and must incorporate sufficient plant foliage to soften its appearance and break its linear nature, with at least 50% of the barrier concealed at maturity.

Car Parking and Access – See Street

- 11. With the submission of any subsequent Development Permit (Material Change of Use) application, consideration must be given to removing and/or modifying the on-street car parking and street tree location at the See Street frontage. The engineering solution must deliver appropriate access driveway sight lines, including those given in RMA Engineers Transport Impact Assessment dated 30 May 2018.

Car Parking – Burkitt Street ‘Drop-off zone’

- 12. On-street car parking in Burkitt Street is required to be generally in accordance with the approved plans.

Noise Impact Assessment Report

- 13. Submit an amended Noise Impact Assessment Report for approval by the Assessment Manager, incorporating all of the following amendments, prior to the issue of any Development Permit for Material Change of Use:
 - a. Consideration of all relevant noise sources, including at a minimum (where applicable in any amended proposal):
 - (i). Mechanical plant serving units
 - (ii). Mechanical plant serving ground level retail
 - (iii). Mechanical plant serving roof-top tenancies
 - (iv). Mechanical plant serving whole building (eg carpark exhaust, roof-mounted exhaust fans, pool pump)
 - (v). Back-of-house loading dock activities (loading /unloading, air brake discharge, reversing beeper)
 - (vi). Outdoor dining
 - (vii). Amplified entertainment
 - (viii). Car movements on the driveway
 - (ix). People in the pool and on the landscaped podium
 - (x). After-hours clean-up
 - (xi). Service vehicle movements on driveway
 - (xii). Refuse collections

- b. Correct determination of noise limits. As a minimum, the noise level limits presented in Table 5.5.1 of the noise report need to be corrected by removing the references to +5. In addition, the limits for acceptable levels of noise emission should be set in terms of $L_{Aeq,adj,T}$ and $L_{Amax,T}$ for each of the three time periods.
- c. The number of assessments scenarios is to be increased in the revised report. In particular, for each of the three time periods, the assessment of noise impact needs to be conducted against the relevant noise level limits applying to each of the $L_{Aeq,adj,T}$ and $L_{Amax,T}$ noise level metrics. Receptors located at levels other than ground level also need to be considered. In addition, to allow the effectiveness of noise control treatments to be fully qualified, noise contour plots are to be presented both without and with noise control in place.
- d. For each assessment scenario, the location of the particular noise source/s being assessed needs to be clearly identified. In addition, when people noise is being assessed, the number of persons/patrons in each particular area of the development must be clearly stated;
- e. When assessing the impact from noise generated by cars and service vehicles on the driveway, sound reflections from the facades of the proposal new building need to be taken into account. Cars and service vehicles must be modelled as moving point sources having regard to (i) sound power levels of the vehicles, (ii) vehicle speed and (iii) traffic volume during each of the relevant peak one-hour periods.
- f. For each particular noise generating scenario assessed, clear and unequivocal compliance with the relevant noise level limits must be demonstrated;
- g. A specification for acceptable levels of noise emission for each of the day, evening and night time period is due to the operation of all relevant items of mechanical plant needing to be set. The relevant items of mechanical plant include (i) external air conditioning condensing units serving residential units, (ii) mechanical plant serving ground level retail tenancies, (iii) mechanical plant serving the roof-top bar and (iv) mechanical plant serving whole building (eg carpark exhaust, roof-mounted exhaust fans, pool pump). This specification should then be recommended for a relevant subsequent development approval condition, with compliance with the relevant noise level limits imposed accordingly.

Once approved by the Assessment Manager, the amended Noise Impact Assessment report will form part of the approved plans for this development. Where any conflicts exists with the other approved plans, the amended plans relating to the Noise Impact Assessment report will prevail.

Pedestrian Sight lines

14. Provide amended plans with the submission of any subsequent Development Permit application on land subject to this Preliminary Approval, that detail pedestrian sight lines at the driveway entrance; being, minimum two (2) metre wide and 2.5 metre deep, clear area at the property boundary of the access exit lane in accordance with section 3.2.4 of AS/NZS2890.1-2004: 'Parking Facilities Part 1: Off-street Car Parking'.

Property access and driveways

15. Any future application for a Development Permit must include a minimum eight (8) metre access and constructed to Bundaberg Regional Council standard drawing R1011 – Driveways industrial and commercial driveway slab two way access.

Stormwater

16. Any future application for a Development Permit must include a stormwater drainage system generally in accordance with works as described in the RMA Stormwater Management Plan dated 1 June 2018. The works must be designed and undertaken in accordance with the Queensland Urban Drainage Manual, and must include design for the site drainage system, fill, car parking and access must be undertaken so that flows from adjacent properties will not be impeded by the development.
17. Any future application for a Development Permit must include a drainage system that incorporates Stormwater Quality Improvements in accordance with the RMA Stormwater Management Plan dated 1 June 2018.

Sewerage

18. All future sewerage infrastructure must be clear of all proposed buildings.

Sea Turtle Sensitive area

19. As part of the lodgement of the first subsequent development application for Development Permit for Material Change of use, pursuant to this Preliminary Approval, a Sea Turtle Management Plan and Sea Turtle Lighting Plan must be submitted to Council for approval.
20. The Sea Turtle Management and Lighting Plan must be prepared by a qualified Sea Turtle expert (tertiary qualified marine turtle biologist and member of IUCN Marine turtle specialist group) and must include the following:
 - (a) Preparation of a pre and post development Artificial Light at Night Survey to determine changes to light emissions from the development to the adjacent turtle nesting beach;
 - (b) The pre-development Light Survey is to be undertaken prior to the lodgement of any application for a development permit for a Material Change of Use for the premises. The post-construction Light Survey is to be undertaken by the Developer on completion of the development. The Light Surveys are to be submitted to Council officers for their review and assessment. Should the post construction 'as built' audit identify that correctional actions are required, these are to be undertaken by the Developer;
 - (c) development of, and inclusion of in the plans, compliance measures with which the development must comply and a schedule for ongoing monitoring to ensure continued compliance with the Sea Turtle Management and Lighting Plan;
 - (d) the developer must engage a qualified Sea Turtle expert (tertiary qualified marine turtle biologist and member of IUCN Marine turtle specialist group) to develop in conjunction with the lighting engineer, a turtle friendly external lighting design that achieves the minimum light requirements for road traffic and pedestrian safety;

- (e) ensure external lighting must be the most energy efficient, dark sky compliant (which prevents the light from escaping upward and direct light down and away from the beach) and amber lighting available in the National Electricity Market Load Tables for Unmetered Connection Points (AEMO 2015);
- (f) ensure any Rooftop commercial tenancy mitigates light spill and reduces sky glow in accordance with the standards identified, particularly between October – May;
- (g) light directly visible from the beach both opposite the development and along the beach to the north and south is to be minimised;
- (h) Internal lighting must be shaded through screening or glass tinting on all windows facing or seen from the beach with a transmittance value of 45% or less;
- (i) Building materials, surfaces, finishes, colours, landscaping and other mitigation measures are to be considered and included where necessary; and
- (j) within the Sea Turtle Management Plan, detail how the development will:
 - (i) develop a resident education program to:
 - a. raise awareness and understanding of marine turtle nesting, impacts of artificial light at night, predators and human disturbance;
 - b. work in partnership with Council and the local turtle monitoring group; and
 - c. support the existing long term marine turtle monitoring program on the local coastline and Mon Repos.

21. All lighting within the site must be installed and maintained, and the development must be constructed and operated, in accordance with the approved Sea Turtle Management Plan and the approved Sea Turtle Lighting Plan. These plans must be included in the Community Management Statement for any body corporate for the subject site.

Waste Management

22. An on-site Waste Management Plan must be submitted to and approved by the Assessment Manager with the first development application for a Material Change of Use pursuant to this Preliminary Approval. The plan must have regard to the conditions of this approval and include, but not be limited to, the following details:
- a. the waste management process, including the type and size of receptacle/s to be utilised (eg 240 litre mobile waste bins, 1 m³ bulk bins) for general waste and recycling;
 - b. the location of waste receptacle storage areas and collection points;
 - c. how waste collection vehicles will be able to safely and effectively access bins; and
 - d. if bins are to be collected from the kerbside, demonstrate that this location has the capacity to adequately contain the maximum number of bins to be collected on collection day.

PART 1B – ADVICE NOTES

Environmental Harm

- A. The *Environmental Protection Act 1994* states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard persons and entities, involved in the civil, earthworks, construction and operational phases of this development, are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance. Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the administering authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

Nature and Extent of Approved Development

- B. This Decision Notice does not represent a Development Permit for Material Change of Use or an approval to commence Building Works. Any development proposed on the lot is subject to relevant assessment under the Bundaberg Regional Council Planning Scheme 2015 or the instrument in effect at the time of assessment.

Sewerage

- C. Provision is to be made for a new sewerage connection suitable to meet the requirements of the development. All live sewer work, including the point of connection, must be undertaken by Council. The diameter of any Council sewerage main downstream of the property connection is to be a minimum 225 mm.
- D. Except where perpendicular to or intersecting with a property boundary, a sewer main must not be situated closer than 1.5 metres to a property boundary, unless otherwise approved by the Assessment Manager.

Water

- E. Provision is to be made for a metered service, and internal infrastructure as required, to satisfy the firefighting and water supply demands of the development.

Seconded by Cr WA Honor.

The motion was put.

For

Cr JP Bartels
Cr WA Honor
Cr JA Peters
Cr JD Learmonth

Against

Cr HL Blackburn
Cr CR Sommerfeld
Cr SR Cooper
Cr JM Dempsey

The Mayor used his casting vote and the motion was lost.

Cr WR Trevor returned to the meeting, the time being 11.04 am.



Minutes

24 September 2018

Item Number: N1	File Number: A3774827	Part: COMMUNITY & CULTURAL SERVICES
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Portfolio:

Community & Environment

Subject:

Regional Arts Development Fund Recommendations for Funding

2227

Resolution

Cr JA Peters presented the report; and moved:-

That in accordance with the RADF Committee's recommendations for Round 3, the following two projects be funded;

- 1. Yuwarr Dance Project - \$6,155**
- 2. Bundy Turtles at Home - \$7,000**

Seconded by Cr HL Blackburn.

The motion was put - and carried unanimously.



Minutes

24 September 2018

Item Number: N2	File Number: A3777195	Part: COMMUNITY & CULTURAL SERVICES
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Portfolio:

Community & Environment

Subject:

Bundaberg Carols by Candlelight - Partnerships & Sponsorships Grant Application

2228

Resolution

Cr JA Peters presented the report; and moved:-

That Council provide funding totalling \$15,000 (plus GST where applicable) over the next three years pursuant to the Partnerships and Sponsorship Grant to Bundaberg Broadcasters Pty Ltd (ABN 1900 966 2346) for the Carols by Candlelight events. The financial sponsorship will be allocated as follows:-

- Year 1 (2018) \$5,000 (plus GST where applicable)
- Year 2 (2019) \$5,000 (plus GST where applicable)
- Year 3 (2020) \$5,000 (plus GST where applicable)

Seconded by Cr SR Cooper.

The motion was put - and carried unanimously.



Minutes

24 September 2018

Item Number: P1	File Number: .	Part: ENVIRONMENT & NATURAL RESOURCES
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Portfolio:

Community & Environment

Subject:

Bundaberg Regional Council Biosecurity Plan 2018-2023

2229

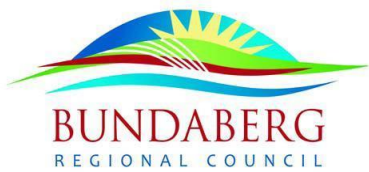
Resolution

Cr WA Honor presented the report; and moved:-

That Council endorses the Bundaberg Regional Council Biosecurity Plan 2018-2023.

Seconded by Cr CR Sommerfeld.

The motion was put - and carried unanimously.



Minutes

24 September 2018

Item Number: V1	File Number:	Part: Meeting Close
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Subject:

Meeting Close

There being no further business – the Mayor declared this Ordinary Meeting closed at 11.15 am.

Confirmed on 16 October 2018.

Mayor