



**AGENDA FOR ORDINARY MEETING
TO BE HELD IN COUNCIL CHAMBERS, BUNDABERG
ON TUESDAY 22 FEBRUARY 2022, COMMENCING AT 10.00 AM**

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**Item****22 February 2022****Item Number:**

F1

File Number:**Part:**

FINANCE

Portfolio:

Organisational Services

Subject:

Finance Summary as at 1 February 2022

Report Author:

Simon Muggeridge, Chief Financial Officer

Authorised by:

Anthony Keleher, Acting General Manager Organisational Services

Link to Corporate Plan:

Our organisational services - 3.1 A sustainable financial position - 3.1.1 Develop and maintain a long-term financial plan and fiscal principles for sustainable financial management.

Background:

In accordance with section 204 of the *Local Government Regulation 2012*, a financial report must be presented to Council on a monthly basis. The attached financial report contains the financial summary and associated commentary as at 1 February 2022.

Associated Person/Organization:

N/A

Consultation:

Financial Services Team

Chief Legal Officer's Comments:

Pursuant to section 204 of the *Local Government Regulation 2012*, the local government must prepare, and the Chief Executive Officer must present, the financial report. The financial report must state the progress that has been made in relation to the local government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

↓1 Financial Summary February 2022

Recommendation:

That the Financial Summary as at 1 February 2022 be noted by Council.

Financial Summary
as at 01 Feb 2022



	Council			General			Waste			Wastewater			Water		
	Actual YTD	Adopted Budget	% Act/ Bud	Actual YTD	Adopted Budget	% Act/ Bud	Actual YTD	Adopted Budget	% Act/ Bud	Actual YTD	Adopted Budget	% Act/ Bud	Actual YTD	Adopted Budget	% Act/ Bud
<i>Progress check - 58%</i>															
Recurrent Activities															
<i>Revenue</i>															
Rates and Utility Charges	166,765,637	166,000,095	100%	86,327,367	85,060,095	101%	16,613,964	16,550,000	100%	32,449,423	32,440,000	100%	31,374,883	31,950,000	98%
Less: Pensioner Remissions	(1,680,511)	(1,704,000)	99%	(1,680,511)	(1,704,000)	99%	-	-	-	-	-	-	-	-	-
	165,085,126	164,296,095	100%	84,646,856	83,356,095	102%	16,613,964	16,550,000	100%	32,449,423	32,440,000	100%	31,374,883	31,950,000	98%
Fees and Charges	18,535,571	31,394,294	59%	11,984,479	20,610,741	58%	4,598,991	7,849,503	59%	685,114	1,017,000	67%	1,266,987	1,917,050	66%
Interest Revenue	736,083	1,285,800	57%	736,083	1,285,800	57%	-	-	-	-	-	-	-	-	-
Grants, Subsidies and Donations	6,387,972	13,867,971	46%	6,217,564	13,657,971	46%	170,408	210,000	81%	-	-	-	-	-	-
Sale of Developed Land Inventory	674,790	560,000	120%	674,790	560,000	120%	-	-	-	-	-	-	-	-	-
Total Recurrent Revenue	191,419,542	211,404,160	91%	104,259,772	119,470,607	87%	21,383,363	24,609,503	87%	33,134,537	33,457,000	99%	32,641,870	33,867,050	96%
<i>Expenses</i>															
Employee Costs	46,971,377	78,214,009	60%	36,806,547	60,908,189	60%	3,795,348	6,216,593	61%	3,148,406	5,439,956	58%	3,221,076	5,649,271	57%
Materials and Services	37,508,306	75,403,629	50%	21,407,375	44,423,824	48%	6,984,083	12,634,941	55%	4,426,096	8,128,983	54%	4,690,752	10,215,881	46%
Finance Costs	2,231,192	3,909,695	57%	877,095	1,553,695	56%	344,052	605,000	57%	878,571	1,520,000	58%	131,474	231,000	57%
Depreciation	31,324,739	53,699,553	58%	22,298,356	38,225,753	58%	657,358	1,126,900	58%	4,151,583	7,117,000	58%	4,217,442	7,229,900	58%
Total Recurrent Expenditure	118,035,614	211,226,886	56%	81,389,373	145,111,461	56%	11,780,841	20,583,434	57%	12,604,656	22,205,939	57%	12,260,744	23,326,052	53%
Operating Surplus	73,383,928	177,274		22,870,399	(25,640,854)		9,602,522	4,026,069		20,529,881	11,251,061		20,381,126	10,540,998	
<i>Transfers to</i>															
NCP Transfers	(1)	-		(10,512,727)	(18,021,816)		582,335	998,288		5,161,938	8,849,036		4,768,453	8,174,492	
Total Transfers	(1)	-		(10,512,727)	(18,021,816)		582,335	998,288		5,161,938	8,849,036		4,768,453	8,174,492	
Movement in Unallocated Surplus	73,383,929	177,274		33,383,126	(7,619,038)		9,020,187	3,027,781		15,367,943	2,402,025		15,612,673	2,366,506	
Unallocated Surplus/(Deficit) brought forward	43,632,228	43,632,228		(26,006,941)	(26,006,941)		13,086,220	13,086,220		17,226,864	17,226,864		39,326,085	39,326,085	
Unallocated Surplus/(Deficit)	117,016,157	43,809,502		7,376,185	(33,625,979)		22,106,407	16,114,001		32,594,807	19,628,889		54,938,758	41,692,591	
Capital Activities															
Council Expenditure on Non-Current Assets	34,241,284	93,406,685	37%	27,759,807	74,949,342	37%	360,303	3,704,752	10%	1,456,318	3,984,221	37%	4,664,856	10,768,370	43%
Loan Redemption	3,852,459	6,673,000	58%	1,951,768	3,384,000	58%	427,214	741,000	58%	1,268,618	2,193,000	58%	204,859	355,000	58%
Total Capital Expenditure	38,093,743	100,079,685	38%	29,711,575	78,333,342	38%	787,517	4,445,752	18%	2,724,936	6,177,221	44%	4,869,715	11,123,370	44%
Cash															
Opening balance	149,144,168	149,144,168													
Movement - increase/(decrease)	(10,048,168)	(2,035,884)													
Closing balance	139,096,000	147,108,284													

Further to the Financial Summary Report as of 1 February 2022, the following key features are highlighted.

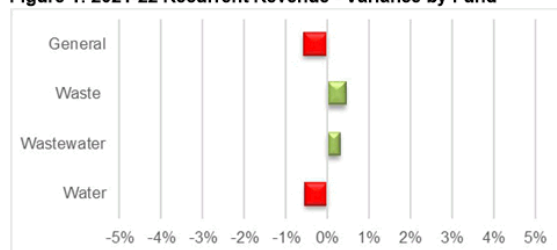
Financial Overview				
	YTD Actual*	YTD Budget		Variance
Operating Income	122.6m	123.3m	✓	0.7m
Operating Expenditure	118.0m	123.2m	✓	-5.2m
Operating Surplus/(Deficit)	4.6m	0.1m	✓	4.5m
Capital Expenditure	34.2m	54.4m	✗	-20.2m
Cash	139.1m	115.6m	✓	23.5m

Notes: * denotes - YTD Actual includes annualised rates income, for the purpose of YTD comparative, this has been adjusted comparatively to the reporting period.

Recurrent Revenue

- Rates and utility charges were levied in January 2022 for the second half year period and pensioner remissions applied. The levied amounts are consistent with the budget, including the expected lower water consumption in the first half of the financial year.
- Fees and charges are tracking in line with year-to-date (YTD) budget. There has been positive influence from development activity with plumbing activity and private works budget for Water and Sewerage Funds being ahead of YTD budget.
- Interest revenue is in line with the YTD budget. Interest on overdue rates is lower due to historically low levels of arrears, whilst Interest on Investments is trending ahead of budget - due to the cash balance at this point in the financial year.
- Grants, Subsidies and Donations are less than the YTD budget. This is expected and reflects the payment cycle of many grants being paid quarterly or at milestones. The forecast includes early advance of Financial Assistance (FA) Grant that is not expected until late in the financial year. Any decision to alter the timing of these payments will add to the complexities around annual budgeting, including the future reductions in allocation.
- Council has settled four parcels of Land Developed for Sale this financial year, with an additional 3 unconditional contracts. Any conditional contracts are not reflected in the financial summary.

Figure 1: 2021-22 Recurrent Revenue - Variance by Fund



- Figure 1 presents the view across the funds, General Fund variance related to FA grant and Water Fund related to water consumption, with comments outlined above.

Recurrent Expenditure

- Employee Costs are tracking slightly higher than budget, with budgets being monitored closely. Employee’s delivery of the capital program and end of year leave adjustments can impact this expense.
- Materials and Services are lower comparative to YTD budget. Non-capital projects overall are comparatively underbudget (\$2.4 million spend against \$10.1 million budget, or 24%). At a fund level, Water shows a higher percentage under budget comparative to other funds.
- Finance Costs and Depreciation are set to be in line with YTD budget.

Figure 2: 2021-22 Recurrent Expenditure - Variance by Fund

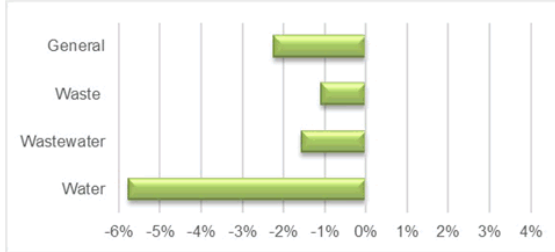


Figure 2 shows the Funds as favourable comparatively to appropriate budget, with comments outlined above under Materials and Services.

Capital Expenditure and Capital Grants

- Year-to-date capital expenditure is \$34.3 million (YTD budget \$54.4 million; total budget \$93.4 million (excluding loan redemption \$6.7 million and donated assets \$7.5 million)).
- Figure 3 (capital expenditure profile against expected cashflows), Figure 4 (percentage of capital expenditure) and Figure 5 (capital expenditure by asset class this financial year. Historically the second half of financial year has higher expenditure. All 3 graphs exclude loan redemption and donated assets.
- Capital grants are predominately on track. Elliott Heads Recreational Facility funded under Works for Queensland – Round 3 (final project in that funding round), was scheduled to be completed 31 March 2022 however to allow delivery of the project a further extension of time has been requested to 31 October 2022.

Figure 3: 2021-22 Capital Expenditure

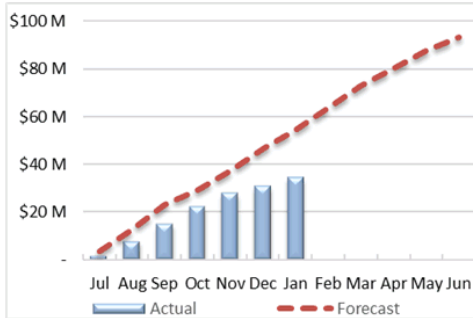


Figure 4: 2021-22 Capital Expenditure (financial delivery)

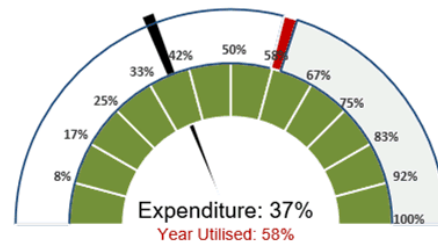
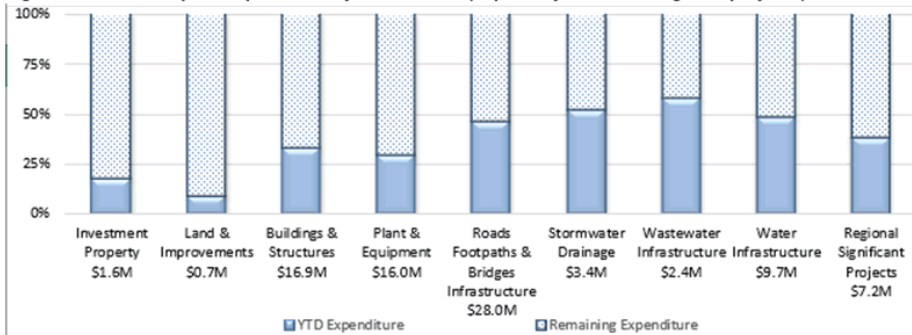


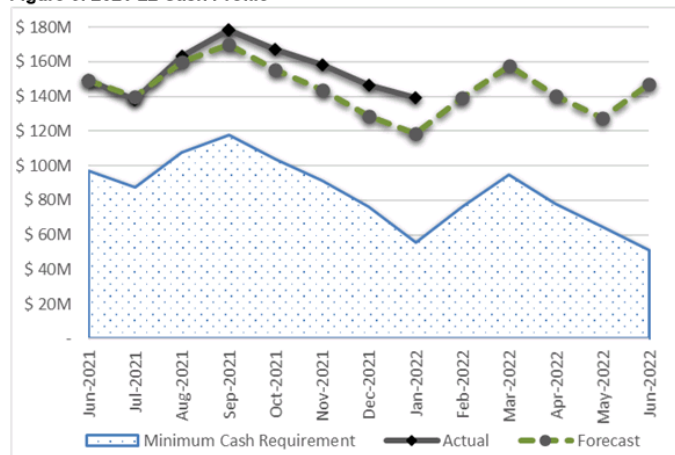
Figure 5: 2021-22 Capital Expenditure by Asset Class (separately identified regional projects)



Cash

- The cash balance at close of business on 31 January 2022 was \$139.1 million, being a decrease of \$7.4 million from 24 December 2021 (\$146.5 million).
- No short-term liquidity issues are foreseeable.
- The actual and forecast cash movement is illustrated in Figure 6.

Figure 6: 2021-22 Cash Profile



Rates Debtor

- Rates for the January-June 2022 half year were levied late January and are due 8 March 2022.
- Rates outstanding at the end of January 2022 were \$81.0 million (45%), a higher balance reflecting the recent levies being raised and due in March. Prior to striking the levy the outstanding balance was \$3.2 million (3.6%).

Other Debtors

- Infringements at 31 January 2022 total \$414,000 with 2,794 infringements (comparatively last month was \$425,000 with 2,943 infringements). Parking infringements represent approx. half the infringements outstanding, with the remaining related to local laws, environmental health and development compliance.
- Sundry Debtors outstanding for more than 90 days total \$89,000 across 36 accounts (compared to, last month was \$81,000 across 24 accounts).
- SPER has advised Council that range of fines totalling more than \$30k will be written-off with effective date of 30 November 2021. Fines include: \$24,672 of parking fees, \$3,790 Local Laws & Animal Control; \$2,507 Environmental Health and \$73 Development Compliance and Council is currently processing these in the system (figures not reflected in above).

**Item****22 February 2022****Item Number:**

G1

File Number:**Part:**

GOVERNANCE

Portfolio:

Organisational Services

Subject:

Audit and Risk Management Committee Minutes

Report Author:

Nicole Miller, Business Improvement Lead

Authorised by:

Anthony Keleher, Acting General Manager Organisational Services

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.3 Administer statutory compliant governance operations incorporating insurance; risk management; property management and Council policies and procedures.

Background:

The Audit and Risk Management Committee met on 7 October 2021, and the minutes are attached for Council's information

Associated Person/Organization:

N/A

Consultation:

Representatives of Audit and Risk Committee

Chief Legal Officer's Comments:

There appears to be no legal implications.

Policy Implications:

The recommendations within this report comply with Council's governance framework.

Financial and Resource Implications:

The annual budget provides for costs associated with the Committee, comprising the total remuneration for the external committee members.

Risk Management Implications:

The various audit issues identified will be addressed by Council.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

[↓](#)1 Audit and Risk Minutes 7 October 2021

Recommendation:

That the minutes of the Audit and Risk Committee meeting held on 7 October 2021 be received and noted.



AUDIT & RISK COMMITTEE MINUTES

Meeting held Thursday 7 October 2021, commencing at 10:10am
Council Committee Room, 190 Bourbong Street, Bundaberg

Committee Attendance:

Stephen Coates (Chair and External Representative)
Cr Jack Dempsey (Mayor and Council Representative)
Cr Steve Cooper (Council Representative)
Mitchell Petrie (External Representative)

By Invitation:

Amanda Pafumi, General Manager Organisational Services
Christine Large, Chief Legal Officer
Gavin Steele, General Manager Community & Environment
John McMullen, Quality Auditor
Mitch Miller, Chief Information Officer
Simon Muggeridge, Acting Chief Financial Officer
Stephen Johnston, Chief Executive Officer
Stuart Randle, General Manager Infrastructure Services
Vanessa Langtry, Governance Officer
Nicole Miller, Business Improvement Lead Organisational Services (Minuter)

By Invitation via Teleconference:

Alan Diano, Queensland Audit Office
Bruce Janke, Maintenance Planner
Clayton Russell, Pitcher Partners
Colin Warmington, Manager Strategic Assets
David Howie, KPMG Risk Advisor
Deborah Arghyros, KPMG Internal Audit
Jason Evans, Pitcher Partners
Michael Claydon, Queensland Audit Office

1. Welcome & Apologies

Stephen Coates welcomed all attendees to the meeting and no apologies were noted.

2. Conflict of Interest & Declaration of Members

No new conflicts of interest & declaration of members noted.

3. Confirmation of Minutes and Outstanding Action

It was agreed that the minutes of the meeting held 2 September 2021, be taken as read and confirmed. Action items were updated during the meeting and noted as complete.

4. CEO Verbal Update

Stephen Johnston provided a verbal update on the enterprise bargaining agreement, the recent \$5M federal funding announced by Member for Hinkler for ANZAC park pool redevelopment and advised the Committee of the Workforce Diversity and Inclusion Strategy that was recently released for staff consultation.

10:26am John McMullen entered meeting

5. Internal Quality Audit Update

a. Internal Quality Audit Progress Report

John McMullen presented the internal quality audit progress report. An update was provided on the audit actions relating to Asignit and that a decision has been made to step back from using the software as it wasn't suitable for use. The status of 55 outstanding corrective actions was provided.

Discussion was held on the quality audit plan timeframes for turnaround of completed audits. Amanda Pafumi noted that an external provider has been appointed to conduct some quality audit work to ensure timeframes can be met while John McMullen is on leave.

It was agreed that the information contained in the report be noted by the Committee

10:33am John McMullen left meeting

6. Matter of Emerging Risk

Stephen Coates spoke to emerging risks and a discussion was held.

10:35am Deborah Arghyros entered meeting

7. Internal Audit Update

a. Progress Report

Deborah Arghyros presented the October Internal Audit Status Report and the final Strategic Internal Audit Plan FY2022/24.

It was agreed that the information contained in the report be noted by the Committee

10:52am Deborah Arghyros left meeting

Simon Muggeridge provided an update to the Committee on changes within the Financial Services Team, noting an external provider has been appointed to undertake the assurance audits while the Assurance Officer has been seconded to another role. An update will be provided to the Committee on these audits within the financial report once a year.

8. Legal & Governance Update

a. Legal Update

Christine Large spoke to the report, and addressed any queries raised.

It was agreed that the information contained in the report, be noted by the Committee.

b. Integrity Matters

Christine Large spoke to the report, and addressed any queries raised.

It was agreed that the information contained in the report, be noted by the Committee.

c. Compliance – Public Records Act 2002

Christine Large spoke to the report, and addressed any queries raised.

It was agreed that the information contained in the report, be noted by the Committee.

11:00am David Howie entered meeting.

11:16am Clayton Russell, Aland Diano & Michael Claydon entered meeting.

9. Assessment of Risks

a. Update of Risk Management Program

David Howie spoke to the strategic risk review and provided the Committee with an update on the finalised strategic risk review report noting that there are 19 strategic risks accepted by the Executive Leadership Team.

Note: Strategic Risk Update to be presented to Committee 6 Monthly unless there is an incident.

11:29am David Howie left meeting.

11:33am Jason Evans entered meeting.

10. External Audit**a. 2021 Closing Report**

Clayton Russell and Michael Claydon spoke to the 2021 closing report and addressed any queries raised.

It was agreed that the information contained in the paper, be noted by the Committee.

11:52am Jason Evans left meeting; Colin Warmington & Bruce Janke entered meeting.

11. Financial Reporting**a. Assessment of Financial Information**

Simon Muggeridge presented the financial summary 1 September 2021, adopted by Council on 28 September 2021. Discussion was held on the leave summary, and it was noted that the Executive Leadership are monitoring leave balances and putting in place management plans as required.

It was agreed that the information contained in the report, be noted by the Committee.

b. Annual Asset Valuation Report

Colin Warmington spoke to the report, and answered any queries raised.

It was agreed that the information contained in the report, be noted by the Committee.

12:05pm Colin Warmington & Bruce Janke left meeting

12. Annual Report

Simon Muggeridge and Christine Large spoke to the 2020/2021 Annual Report, and addressed any queries raised.

It was agreed that the information contained in the report be noted and recommended endorsement by Council.

12:13 Alan Diano, Michael Claydon & Clayton Russell left meeting; Mitch Miller entered meeting.

13. Other Reports/Business**a. Information Services Annual Report**

Mitch Miller spoke to the report, and addressed any queries raised.

It was agreed that the information contained in the report, be noted by the Committee.

12:31pm Mitch Miller left meeting

b. 2022 Meeting Dates

The 2022 meeting dates were noted.

It was agreed that the 2022 dates be approved by the Committee.

Next Meeting – 20 January 2022

Meeting Closed – 12:32pm



Stephen Coates

Committee Chair

Updated Action List

Audit & Risk Management Committee Closed Action List 2021					
Date	Description	Action	Responsible Officer	Update	Status
02-Sep-21	Internal Quality Audit Update	Update outstanding audit actions that are based on the old risk matrix to the new risk matrix and Assign audit actions to be discussed offline with management.	John McMullen	Included In Item 6a Octobers Quality Audit Report	Complete
02-Sep-21	Internal Audit Update	Update Internal Audit Plan with Strategic Risk alignment to proposed Audit Plan and return to meeting for nolling	Deborah Arghyros	Included In Item 7a Octobers Internal Audit Report	Complete
02-Sep-21	Internal Audit Update	Presentation to October's ARMC meeting, a report on any audit actions that have a revised due date or an amended risk level due to mitigations in place.	Deborah Arghyros	Included In Item 7a Octobers Internal Audit Report	Complete
02-Sep-21	Other Reports/Business	Report on leave liability at October's ARMC meeting	Simon Muggerdge	Included In Item 10a Under Financial Reporting Update.	Complete
02-Sep-21	Other Reports/Business	The Committee will schedule an out of session meeting before end of year	Nicole Miller	Now scheduled for November 2021	Complete

**Item****22 February 2022****Item Number:**

G2

File Number:**Part:**

GOVERNANCE

Portfolio:

Organisational Services

Subject:

Bundaberg Racecourse - Leases

Report Author:

Nicole Sabo, Property & Leases Officer

Authorised by:

Gavin Steele, General Manager Community & Environment

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.3 Administer statutory compliant governance operations incorporating insurance; risk management; property management and Council policies and procedures.

Background:

Council is the Trustee of the Bundaberg Racecourse located at Lot 159 on SP128642 located at 20 Maynard Street, Avenell Heights ('Property').

The Property has been used by the Bundaberg Greyhound Racing Club Inc ('Greyhounds') and Bundaberg Race Club Incorporated ('Race Club') for some time under an MOU arrangement. The tenure arrangements are now being formalised by way of Lease.

As part of the lease negotiations, the Clubhouse onsite has been retained by Council and will be made available as a venue to hire. The Clubs will utilise the building under a hire arrangement for their respective race days.

Greyhounds

The Greyhounds will lease areas B and C and part of the ground floor of the building (areas D and E). The term of the lease is 5 years with no options. Rent is at the community group rate. All other terms of the lease area as per Council's standard terms.

Pursuant to section 122(1) of the *Local Government Regulation 2012*, it is proposed Council grants 50% concession on sewerage pedestal charges within the lease area and 6,000 kilolitres of water per annum, free of consumption charges, with the exception that the allowance be provided to one (1) water meter and that the allowance be used only for watering of the Racecourse site. The Club will be required to develop

and implement a Water Efficiency Management Plan to ensure the efficient and safe use of water.

Race Club

The Race Club will lease areas A, F-H. The term of the lease is 5 years with no options. Rent is at the community group rate. All other terms of the lease area as per Council's standard terms.

Pursuant to section 122(1) of the *Local Government Regulation 2012*, it is proposed Council grants 50% concession on sewerage pedestal charges within the lease area and 6,000 kilolitres of water per annum, free of consumption charges, with the exception that the allowance be provided to one (1) water meter and that the allowance be used only for watering of the Racecourse site. The Club will be required to develop and implement a Water Efficiency Management Plan to ensure the efficient and safe use of water.

Council proposes to apply the exception to the tender/auction requirements contained in section 236(1)(b)(ii) of *Local Government Regulation 2012* given that the Property is being leased to a community organisation.

Associated Person/Organization:

Bundaberg Greyhound Racing Club Inc

Bundaberg Race Club Inc

Consultation:

NIL

Chief Legal Officer's Comments:

Pursuant to section 236(1)(b)(ii) of the *Local Government Regulation 2021*, Council may dispose of the property by way of lease to Bundaberg Greyhound Racing Club Inc and Bundaberg Race Club Inc without first offering the lease by way of tender given that the proposed lessee is a community organisation.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:-

- 1. Council apply the exception contained in section 236(1)(b)(ii) of the *Local Government Regulation 2012*;**
- 2. The Chief Executive Officer be authorised to enter into a Lease to Bundaberg Greyhound Racing Club Inc and a Lease to Bundaberg Race Club Incorporated for parts of the Bundaberg Racecourse, known as Lot 159 on SP128642 for an initial term of 5 years;**
- 3. Pursuant to section 122(1) of the *Local Government Regulation 2012*, Council grants The Bundaberg Greyhound Racing Club Inc and Bundaberg Race Club Incorporated, 6,000 kilolitres of water per financial year each, free of consumption charges, on the condition that the allowance be provided to one (1) water meter, that the allowance be used only for water of the Racecourse site and the Club's develop and implement a Water Efficiency Management Plan; and**
- 4. Pursuant to section 122 (1) of the *Local Government Regulation 2012*, Council grants 50% concession on sewerage pedestal charges within the lease area.**

**Item****22 February 2022****Item Number:**

G3

File Number:**Part:**

GOVERNANCE

Portfolio:

Organisational Services

Subject:

Sale of part of Native Park - East Bundaberg Developments Pty Ltd as Trustee

Report Author:

Nicole Sabo, Property & Leases Officer

Authorised by:

Anthony Keleher, Acting General Manager Organisational Services

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.3 Administer statutory compliant governance operations incorporating insurance; risk management; property management and Council policies and procedures.

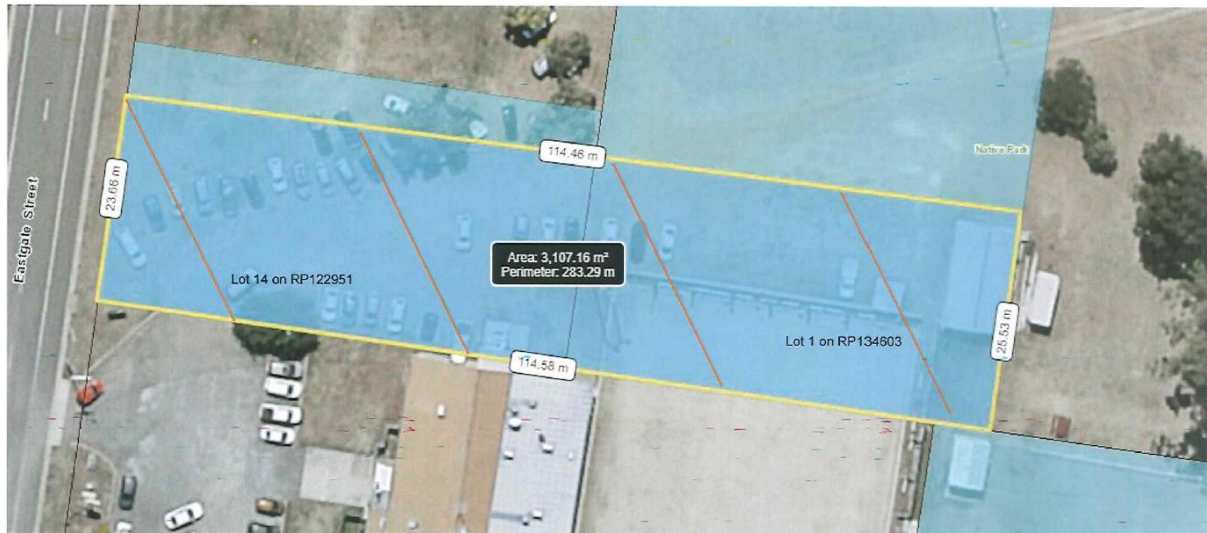
Background:

Council is the freehold owner of Native Park located at Lot 1 on RP134603 know as 7 Olsen Street, East Bundaberg and the adjoining Lot 14 on RP122951 known as 19 Eastgate Street, East Bundaberg ('Property').

Council officers identified an encroachment of an adjoining landowner's infrastructure onto the Property. To remedy the breach, Council officers have been working with East Bundaberg Developments Pty Ltd as Trustee for Magpies Unit Trust ('Buyer') to negotiate the sale of a small portion of the Property.

The portion of the Property encroached upon with infrastructure is proposed to be subdivided off and sold to the adjoining owner for market value. The adjoining owner is proposed to be responsible for all costs associated with the sale including development approvals, survey plan preparation and registration at the Department of Resources.

Council proposes to apply the exception contained in section 236(1)(c)(iv) the *Local Government Regulation 2012* for the disposal of land as the land is disposed of to a person who owns adjoining land and the land is not suitable to be offered for disposal by tender or auction for a particular reason, including the existence of particular infrastructure on the land.



Associated Person/Organization:

East Bundaberg Developments Pty Ltd ACN 126 059 345 as trustee for Magpies Unit Trust

Consultation:

Nil

Chief Legal Officer's Comments:

Section 236(1)(c)(iv) of the *Local Government Regulation 2012* allows Council to dispose of property without first offering the land for sale by tender or auction when the land is disposed of to a person who owns adjoining land if:

- (a) the land is not suitable to be offered for disposal by tender or auction for a particular reason, including, for example, the size of the land or the existence of particular infrastructure on the land; and
- (b) there is not another person who owns other adjoining land who wishes to acquire the land; and
- (c) it is in the public interest to dispose of the land without a tender or auction; and
- (d) the disposal is otherwise in accordance with sound contracting principles.

The conditions of this exception appear to have been satisfied in this matter.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:

- 1. Council apply the exception contained in section 236(1)(c)(iv) the *Local Government Regulation 2012 (Qld)* to the disposal of a portion of Lot 1 on RP134603 and Lot 14 on RP122951; and**
- 2. the Chief Executive Officer be authorised to enter into a Contract of Sale with the Buyer and attend to all items required to finalise the sale.**



Item

22 February 2022

Item Number:	File Number:	Part:
G4		GOVERNANCE

Portfolio:

Organisational Services

Subject:

Sale of Lot 9 on SP311608, Bundaberg Regional Aviation and Aerospace Precinct

Report Author:

Nicole Sabo, Property & Leases Officer

Authorised by:

Anthony Keleher, Acting General Manager Organisational Services

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.2 Provide friendly and responsive customer service, in keeping with Council values and community expectations.

Background:

Council is the freehold owner of Lot 9 on SP311608 known as 15 Aviation Crescent, Kensington at the Bundaberg Regional Aviation and Aerospace Precinct ('Lot'). Council has previously resolved to sell the Lot as the Lot is surplus to Council's needs.

The Lot was previously offered for sale by tender. The tender was not successful, and the Lot was listed for sale. Council has received an offer to purchase the Lot. The offer to purchase the Lot presented to Council is for market value.

Associated Person/Organization:

N/A

Consultation:

N/A

Chief Legal Officer's Comments:

Pursuant to section 236(1)(a)(i) of the *Local Government Regulation 2012* (Qld), Council may apply an exception to the tender/auction requirement on the disposal of a non-current asset if the property has previously been offered by tender/auction.

The disposal must not be for less than market value.

Policy Implications:

There are no implications to the Bundaberg Regional Aviation and Aerospace Precinct Land Use Policy. The Lot does not have airside access.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:

- 1. Council apply the exception contained in section 236(1)(a)(i) of the *Local Government Regulation 2012 (Qld)* to the disposal of Lot 9 on SP311608; and**
- 2. the Chief Executive Officer be authorised to enter into a Contract of Sale with the Buyer and attend to all items required to finalise the sale of the Lot.**



Item

22 February 2022

Item Number:

H1

File Number:**Part:**

INFRASTRUCTURE

Portfolio:

Infrastructure Services

Subject:

Specialised Supplier Arrangement with DormaKaba Australia

Report Author:

Andrew Railz, Branch Manager Fleet & Trade Services

Authorised by:

Stuart Randle, General Manager Infrastructure Services

Link to Corporate Plan:

Our infrastructure and development - 2.1 Infrastructure that meets our current and future needs - 2.1.3 Manage and maintain Council owned buildings, facilities and assets that support and facilitate social connectedness and community life.

Background:

Council has 18 automatic doors throughout various facilities within the region (ie, Airports, Libraries, Service Centres, Multiplex, etc) that require servicing and repairs to meet Australian Standard 5007-2007(R2018).

Most automatic doors at Council facilities are Dorma doors that require specialised test equipment and parts to ensure proper operation and integration with current fire systems and to meet warranty requirements. Repairs are carried out to meet Workplace Safety obligations with costs dependent on parts and labour.

The previous specialised supplier resolution made by Council has expired. Council officers are seeking approval to commence a new agreement for the servicing and repairs of automatic doors with Dormakaba Australia Pty Ltd under a specialised supplier arrangement.

Associated Person/Organization:

Dormakaba Australia Pty Ltd (ABN 14 067 969 466)

Consultation:

N/A

Chief Legal Officer's Comments:

Section 235(b) of the *Local Government Regulation 2012* allows the local government to resolve that it is satisfied that it would be impractical or disadvantageous for the Council to invite quotes or tenders as this is a specialised supplier.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:

- a) **Council enters into an arrangement with DormaKaba Australia Pty Ltd for the supply of parts and test equipment for Dorma automatic doors without first inviting written quotes pursuant to Section 235(b) of the *Local Government Regulation 2012*; and**
- b) **this arrangement be made for a period of 3 years.**



Item

22 February 2022

Item Number:	File Number:	Part:
L1	522.2021.268.1	DEVELOPMENT ASSESSMENT

Portfolio:

Planning & Development Services

Subject:

1A Kensington Street Norville - Material Change of Use for Telecommunication Facility

Report Author:

Dean Catorall, Para Planner

Authorised by:

Michael Ellery, Group Manager Development

Link to Corporate Plan:

Our infrastructure and development - 2.3 Sustainable development - 2.3.3 Review and consistently enforce the planning scheme to ensure sustainable environmental practices.

Summary:

APPLICATION NO	522.2021.268.1
PROPOSAL	Material Change of Use for Telecommunication Facility
APPLICANT	Stilmark Holdings Pty Ltd
OWNER	Wright Brothers Computers Pty Ltd & JA Wright
PROPERTY DESCRIPTION	Lot 2 on RP96755
ADDRESS	1A Kensington Street, Norville
PLANNING SCHEME	Bundaberg Regional Council Planning Scheme 2015
ZONING	Neighbourhood Centre Zone
OVERLAYS	Acid Sulphate Soils Overlay Airport and Aviation Facilities Overlay Flood Hazard Overlay Infrastructure Overlay
LEVEL OF ASSESSMENT	Impact
SITE AREA	319 m ²
CURRENT USE	Food and Drink Outlet
PROPERLY MADE DATE	20 August 2021
STATUS	The 35 business day decision period ends on 15 December 2021
REFERRAL AGENCIES	Department of State Development, Manufacturing, Infrastructure and Planning

NO. OF SUBMITTERS	Ten (10)
PREVIOUS APPROVALS	Not applicable
SITE INSPECTION CONDUCTED	18 October 2021
LEVEL OF DELEGATION	C2

1. INTRODUCTION

1.1 Proposal

The Applicant seeks a Development Permit for Material Change of Use for a Telecommunication Facility. The proposal includes a 17.3 m tall monopole which includes four (4) Optus 4G panel antennas and four (4) Optus 5G panel antennas stacked on top of the monopole giving an overall finished height of 22.5 m. The antennas will be enclosed in a shroud to be placed over the monopole which will screen them from view. The base of the facility will locate within the existing floor area of the fish and chip shop on the site, with the pole protruding from its roof. All wiring associated with the facility will be internal to the pole or ground level shop. The tenancy on which the proposed use will be located will cease to be used for a shop and will instead house infrastructure supporting the operation of the tower.

The Applicant states that *“the facility will provide for new and improved Optus coverage to the suburbs of Norville, Svensson Heights and Walkervale as well as to the southern parts of the Bundaberg CBD. It will also improve the level of service to the Bundaberg TAFE complex and the Bundaberg Multiplex – two key outcomes sought from this project – as well as to the key transport thoroughfares of Walker Street and the North Coast rail corridor”*.

Pursuant to Table 5.4.8 of the Bundaberg Regional Council Planning Scheme 2015, the proposal requires Impact Assessment.

1.2 Site Description

The premises is located within the Neighbourhood Centre Zone with an area of 319 m² and a 21.12 m road frontage length to Kensington Street. The premises is currently improved by a commercial building which is currently/historically used for the purposes of a Shop (AMS Computer Services) and a Food and Drink Outlet (That Fish & Chip Shop). The premises features a driveway crossover to Kensington Street and a single carparking space on the southern side of the building.

Nearby premises directly adjacent to the Walker Street and Kensington Street intersection are improved by commercial premises such as a Service Station, two (2) Shops (Hairdressers) and Health Care Facilities. More broadly, the locality includes the Bundaberg TAFE approximately 180 m to the west, the Walker Street Craft Centre approximately 400 m to the north-west, the Bundaberg Multiplex approximately 200 m to the north and Bundaberg State High School approximately 200 m to the north-east. Other than these non-residential features of the locality, the surrounding land uses are predominantly low-rise residential activities which locate within the Low Density Residential Zone.

2. ASSESSMENT PROVISIONS

2.1. Assessment Benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Zone Code: Neighbourhood Centre Zone	Bundaberg Regional Council Planning Scheme 2015
Overlay Code <ul style="list-style-type: none"> Flood hazard overlay code 	Bundaberg Regional Council Planning Scheme 2015
Use Code <ul style="list-style-type: none"> Telecommunications facility code 	Bundaberg Regional Council Planning Scheme 2015
Other Development Code <ul style="list-style-type: none"> Landscaping code Nuisance code Transport and parking code Works, services and infrastructure code 	Bundaberg Regional Council Planning Scheme 2015
Planning Scheme Policies <ul style="list-style-type: none"> Planning scheme policy for development works Planning scheme policy for waste management 	Bundaberg Regional Council Planning Scheme 2015

3. ISSUES RELEVANT TO THE APPLICATION

The following significant issues have been identified in the assessment of the application:

Land Use Zoning

The land locates within the Neighbourhood Centre Zone, the purpose of which is to provide for a small range of land uses and activities to support the basic convenience needs of local neighbourhoods or parts of neighbourhoods. The zone would regularly accommodate small-scale convenience shopping, offices, community activities and other uses which directly support the basic convenience needs of the immediate community. Specific Outcome 3.4.2.1(a) of the Strategic Framework of the Bundaberg Regional Council Planning Scheme 2015 provides a further description of the intent of Neighbourhood activity centres, stating the following:

“Neighbourhood activity centres typically service residential neighbourhoods or small towns and villages with small-scale convenience shopping that caters for day-to-day and top-up needs, locally servicing professional offices, community services and other activities of a local servicing nature. Neighbourhood activity centres may also comprise existing standalone business or entertainment activities (such as service stations and hotels) that may otherwise typically form part of a higher order centre. Neighbourhood activity centres located in urban settings commonly have a walking distance catchment.”

It is noted that the existing use of the premises, small scale shop and food and drink outlet, are consistent with the intent and descriptors associated with a Neighbourhood Activity Centre.

In respect to the use of the site for the purpose of a Telecommunications Facility, the Applicant included in their development application an assessment against the Neighbourhood Centre Zone Code which simplified the relevant outcomes sought for development in the area. While it is recognised that the development would likely provide a greater service for the day-to-day needs of the surrounding catchment, it is not a retail/shopping need that is being fulfilled by the development as intended by the code. Furthermore, the development reduces the capacity of local shopping services in the locality by utilising an available tenancy for such services.

It is Council officer’s views that the Applicant has failed to demonstrate compliance with Part 3.4.2 of the Strategic Framework or the purpose and outcomes of the Neighbourhood Centre Zone Code.

Built Form, Design and Proximity to Sensitive Land Uses

The proposal will feature a finished overall height of 22.5 m above ground level consisting of a monopole with shrouded antennas on top. The base of the pole, including the associated electrical equipment at ground level will locate within the existing building, with the pole protruding from the roof of the building.

It is acknowledged that the development locates on premises located in a commercial zone, however, it does directly adjoin residential premises along Walker Street, Kensington Street and Glenmorris Street.

The planning scheme through the Strategic Framework, Neighbourhood Centre Zone Code and Telecommunications Facilities Code sets parameters around the design of development in these areas to ensure that they are compatible with the intent of the zone and do not adversely impact on the surrounding locality. Part 3.6.5.1(c) of the Strategic Framework requires *“telecommunications and information infrastructure to be integrated in a sustainable and attractive manner which does not unduly impact on the amenity or landscape qualities of the area”*. This part of the Strategic Framework feeds through to the Telecommunications facility code which requires for such facility to be visually integrated with its natural or townscape setting and does not adversely affect the amenity of surrounding sensitive land uses.

Telecommunications facilities are typically designed to have a similar height to surrounding structures or vegetation in order to demonstrate that they are able to visually integrate with the townscape setting.

For reference, the Neighbourhood Centre Zone code requires development to have a low-rise built form that is compatible with the existing and intended scale and character

of the streetscape and surrounding area, typically in the form of a maximum building height of 2 storeys and 8.5 m above natural ground level.

Acceptable Outcome 1.2 of the Telecommunications facility provides further guidance, in the form of minimum setback requirements, to ensure that such facilities are able to visually integrate with the townscape setting and not adversely impact on the amenity of surrounding sensitive land uses. These setbacks include a minimum distance of 400 m from a residential activity, 500 m from any childcare centre, community care centre, educational establishment or park, 20 m from any public pathway and 1 km from any other existing or approved telecommunications facility.

In comparison to the regular design parameters, the proposal includes a 22.5 m tall structure where the predominant building height is single storey, setback approximately 15 m from the nearest residential activity and approximately 200 m from two different Educational Establishments and a Community Use. While it is acknowledged that the setback criteria is just one way of achieving the intent of the Telecommunications Facility Code, the distance of the proposed development from nearby residential activities is extremely close noting the disparity between the height of the proposed facility and the predominant built form of the locality.

It should also be noted that the location of the subject site locates approximately 25m from the Walker & Kensington Street intersection. Walker Street, being a State controlled road, is a thoroughfare for public, private and active transport users. Two traffic counts taken in 2014 & 2020 on Walker Street adjacent to the railway line (BUN287 & Walker Street Ch1400) measured an average daily count of 13,731 and 14,110 vehicle trips respectively, each of which would view the development if it were to be constructed. Corridors, such as Walker Street, form much of the built character and place identity associated with particular suburbs or even towns for users of the corridors. Due to the proximity of the site to the Walker & Kensington Street intersection the proposed development would likely adversely impact on the visual amenity of the locality of Norville beyond those that live and work in the immediate vicinity of the proposal.

As a result of the design and location of the proposed Telecommunications Facility the development is unable to meet the criteria of the Strategic Framework, Telecommunications Facility Code and Neighbourhood Centre Zone as it is considered that it unduly and unreasonably impacts on the amenity qualities of the area and surrounding sensitive uses, is not visually integrated or compatible with its setting.

Better Suited Locations

A common theme throughout the submissions received by Council during the public notification period was that there are likely better suited locations in the locality in which the development could be sited where it would have lesser impacts on the surrounding locality. Suggested locations included the Bundaberg TAFE site as well as the Bundaberg Multiplex site.

Both of the suggested locations include established structures and landscaping that would suggest that a new telecommunications facility could more easily be visually integrated with the surrounding environment. Furthermore, these premises are able to provide greater setback distances from any proposed telecommunications facility to nearby residential activities.

The Applicant addressed alternate locations in their response to Council's Information Request by stating that "*there are also no other more appropriate locations or zones available for the proposal*", however, the author does not qualify this statement.

The use of established structures for the siting of telecommunications facilities in the Bundaberg Region, particularly in urban areas, is common. Examples of such facilities include the facility attached to the top of the water tower at 8 Heaps Street, Avenell Heights, the facility that sits on top of the Bundaberg Base Hospital and the facility attached to the professional offices at 142 Bourbong Street (the Whale Building) and 157A Bourbong Street (Telstra Building). These facilities utilise the existing built form of their environment in order to reduce the apparent bulk of the telecommunications facilities and are designed such that it is not immediately apparent that these premises are utilised for the purpose of telecommunication facilities.

There are other examples in the Bundaberg Region where telecommunications facilities have not been designed in the above manner. Such examples include the towers located at 74 Quay Street and 7 Takalvan Street where they are associated with current or former television studios, 258 Bourbong Street where it collocates with the QPS station and 73 George Street, adjacent to Rotary Park & then tennis complex. It is noted that these examples are associated with broadcasting studios, have been developed under State exemptions or are in limited development zones where future urban activities are not anticipated. Although some of these examples do directly adjoin residential activities, they are associated with a broader function of the premises – ie they do not directly adjoin residential activities unless they necessarily have to.

The proposed development differs to the existing examples in the urban setting of Bundaberg in that it does not utilise the existing urban built form to the extent required for it to visually integrate with the locality and is not required to locate on this particular premises due to some connection to associated business activities on the same site. Noting these differences, there are no limiting factors on where the proposed facility could locate, and therefore the suggestion that the facility could be moved to another site which has the benefit of taller buildings and existing vegetation in which the development can take advantage of is an accurate observation that the Applicant has not explored. For this reason, an argument that the development ought to be approved despite its visual and amenity impacts due to the provision of a higher level of services to the locality is not a sound justification without further investigation by the Applicant.

Electromagnetic Energy (EME)

A common theme among the submissions received during the public notification period included potential health impacts resulting from the proposed development once operational. The Applicant provided an Environmental EME Report for the development which identified that the maximum EME level calculated for the development is 4.18% out of 100% of the public exposure limit, 51 m from the development location (4.14% between 0 m-50 m).

It is noted that the proposed development intends to operate within the limits set by the Planning Scheme, in particular Acceptable Outcome 2 of the Telecommunications Facility Code which states that:

The telecommunications facility is designed and operated to restrict human exposure to electromagnetic radiation in accordance with the: -

- (a) *Radio Communications (Electromagnetic Radiation – Human Exposure) Standard 2003; and*
- (b) *Radio Protection Standard for Maximum Exposure Levels to Radiofrequency Fields.*

It is considered that the development could comply or be conditioned to comply with these requirements.

Transport and Parking

There is limited onsite space for carparking and vehicle manoeuvring. The Applicant has stated that it will commission a construction management plan which incorporates an appropriate traffic management plan prior to any construction being undertaken. It is considered that such plan would be appropriate to alleviate any concerns regarding impact on the local road network. It is noted that the State has required a similar document as part of the Referral Agency Response to ensure that there will be no impact to traffic on the State Controlled Road (Walker Street).

Although there are no on-site car parks nominated for the proposed development, once operational it will require minimal attendance by the license carrier. As such, existing on-street carparking is deemed appropriate to service the proposed development and any traffic impacts could be adequately managed through the imposition of reasonable and relevant conditions.

Public Notification

Ten submissions were made to Council during the notification period, all objecting to the proposal. The following matters were raised by submitters:

Matters raised in any submissions	Description of how matters were dealt with in reaching the decision
The design and location of the proposed telecommunications facility will have a visual impact on the amenity of nearby dwellings and the locality.	It is agreed that the design and location of the proposal will impact on the amenity of nearby dwellings and the locality and is a reason for the development’s refusal.
The development will reduce the property value of nearby dwellings.	Whilst the impact on property values of adjoining premises has not been quantified, given the significant impact on the amenity of surrounding area it is considered likely that if approved the use would have some effect on property values. Whilst this has not been relied upon in the assessment of the application as it is not linked to an assessment benchmark, this issue could potentially constitute a “relevant matter” pursuant to s 45(5)(b) of the <i>Planning Act 2016</i> .

Matters raised in any submissions	Description of how matters were dealt with in reaching the decision
The construction phase of the development will impact on the local transport network.	If the development were approved, impacts on the local transport network could be appropriately managed through the requirements to prepare a construction management plan and traffic management plan.
The telecommunications facility will have adverse health impacts to people residing or working within nearby premises.	The Applicant has provided an Environmental EME report which demonstrates that the development can operate within a safe level of public exposure limits.
There would be a privacy impact on nearby residents if cameras were to be installed on the tower.	If the development were approved, this issue could be resolved through the imposition of a condition ensuring that cameras could not be placed on the tower.
There are more suitable locations in the area that will have lesser amenity impacts on nearby residents.	It is agreed that the design and location of the proposal has not fully explored alternate options in the locality that may be more suitable for the development which has been discussed in this report.
The telecommunications facility will interfere with electronics in nearby dwellings.	This issue was a matter raised in Council's Information Request. The Applicant has provided advice recommending it would be unlikely for such impacts to occur, however, if they were to occur could be rectified easily. If the development were to be approved, appropriate conditions could be imposed requiring for the operator of the development to liaise with any affected landowner to rectify such issues.
Not all residents in the area were notified of the proposed development.	The planning legislation only requires for adjoining landowners to be notified of Impact Assessable development. The Applicant has confirmed by notice that they have complied with the public notification requirements.

Matters raised in any submissions	Description of how matters were dealt with in reaching the decision
Due to the proximity of the facility to nearby dwellings, the structure could potentially fall onto a dwelling in a natural disaster (in particular an earthquake)	If the development were approved, any such structure would be required to be designed and constructed in accordance with the relevant parts of the National Construction building codes. NCC 2019, Volume 1, Part BP1.1 requires the design of the structure to take into account, during the construction and use phase, the ability to perform adequately under all reasonable expected design actions. Such actions would include wind action and earthquake action among others.

Post Public Notification

After the public notification period the Applicant made further representations to the Council at a consultation day on 07 February 2022 and further written representations on 9 February 2022, which are attached for Council's information. The further representations raised issues with the contents of this report which was previously published as part of the Council meeting agenda of December prior to its withdrawal from the agenda at the Applicant's request. The following clarifying points have been provided as a response to the Applicant's further representations.

Need for the Facility

It is agreed that, based on the information provided, there appears to be a need for an additional Optus facility in this area to address coverage issues. However, that in itself is insufficient reason to justify approval for the proposal when the preferred location results in numerous, unacceptable non-compliances with the assessment benchmarks.

Alternative Sites/Building Height

The purpose of this part of the report is to highlight whether there was any demonstrated overriding need for the development on the subject site that would satisfy Council that the development should be approved despite the development's non-compliance with the assessment benchmarks. The further representations made highlight that the Applicant has not fully explored alternate siting options in the 200 m radius (the radius stated in the representations) around the subject site. Council officers still contend that there is no demonstrated overriding need for the development to occur on the subject site based on the information provided by the Applicant.

Built Form and Impact on Amenity

The further representations made by the Applicant claim they have designed the structure so as to minimise built form impacts on the community. Additionally, they state that the 400 m setback requirement to residential uses (Acceptable Outcome 1.2 of the Telecommunications Facility Code) is difficult to achieve in urban areas. Council officers do not disagree with these claims, however, as part of a performance-based assessment of the application, it is officer's responsibility to determine whether the facility is "visually integrated with the townscape setting" and whether the facility

“adversely affects the amenity of surrounding sensitive land uses”. It is evident that Council do approve telecommunications facilities closer to sensitive land uses than the prescribed setback (400 m) as per the list of examples provided by the Applicant, however, it is only where the development is able to meet the performance criteria of the relevant assessment benchmarks at the time of assessment of the proposal.

Information Request

The further representations criticize Council officers for not raising concerns about whether there is nearby land that may be more suitable for the proposed development to locate. It should be noted that the purpose of the information request is normally to request information that is necessarily required for Council to assess the proposal against the relevant assessment benchmarks or to outline shortcomings of a development application in its assessment against the relevant assessment benchmarks. The information requested as part of the Information Request was all that was considered necessary for Council officers to complete their assessment of the development application.

Having considered the additional material provided by the applicant, the officer view remains that the application should be refused for the reasons detailed below.

4. REFERRALS

4.1 Internal Referrals

Advice was received from the following internal departments:

Internal department	Referral Comments Received
Development Assessment - Engineering	17 November 2021
Engineering Services	24 August 2021
Regulatory Services	23 August 2021

Any significant issues raised in the referrals have been included in section 3 of this report.

4.2 Referral Agency

Referral Agency responses were received from the following State agencies:

Agency	Concurrence/ Advice	Date Received	Conditions Yes/No
Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence	14 October 2021	Yes

Any significant issues raised have been included in section 3 of this report.

5. PUBLIC NOTIFICATION

Pursuant to the *Planning Act 2016*, this application was advertised for 15 business days from 27 September 2021 until 26 October 2021. The Applicant submitted documentation on 27 October 2021 advising that public notification had been carried out in accordance with the *Planning Act 2016*. Council received ten (10) submissions in relation to this development application during this period. Any significant issues raised have been included in section 3 of this report.

Communication Strategy:

Communications Team consulted. A Communication Strategy is:

- Not required
 Required

Attachments:

- [↓1](#) Locality Plan
[↓2](#) Site Plan
[↓3](#) Approval Plans
[↓4](#) Referral Agency Response
[↓5](#) Representations by Applicant

Recommendation:

That the Development Application 522.2021.268.1 detailed below be decided as follows:

1. Location details

Street address: 1A Kensington Street, Norville
 Real property description: Lot 2 on RP96755
 Local government area: Bundaberg Regional Council

2. Details of the proposed development

Development Permit for Material Change of Use (Telecommunication Facility)

3. Decision

Decision details: Refused

4. Referral agencies for the application

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<p>State-controlled road Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1</p> <p><i>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises—</i></p> <p>(a) <i>are within 25 m of a State transport corridor; or</i></p> <p>(b) <i>are a future State transport corridor; or</i></p> <p>(c) <i>are—</i></p> <p>(i) <i>adjacent to a road that intersects with a State-controlled road; and</i></p> <p>(ii) <i>within 100m of the intersection</i></p>	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence Agency	<p>State Assessment and Referral Agency (SARA)</p> <p>E: WBBSARA@dilgp.qld.gov.au</p> <p>P: PO Box 979 Bundaberg Qld 4670</p>

5. Details of refusal

The Bundaberg Regional Council was not directed to refuse the application by a referral agency.

6. Reasons for refusal

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.

The reasons for this refusal are:

1. The proposed development does not comply with the provisions of the Bundaberg Regional Council Planning Scheme 2015, namely:
 - (a) The proposed development does not comply with specific outcome 3.6.2.1(e)(v) & (vi) and specific outcome 3.6.5.1(c)(ii) of the Infrastructure and Services Theme of the Strategic Framework, because:
 - (i) The development is greater than twice the height of any surrounding element of the built environment;
 - (ii) The development is setback as close as 15m to a neighbouring residential activity;

- (iii) The development locates nearby a thoroughfare (Walker Street) and is a key location in the context of the Norville locality;
 - (iv) As a result of (i)-(iii), the development is not able to integrate in a sustainable and attractive manner, has not been designed to promote high quality urban design outcomes and will unduly impact on the amenity qualities of the area.
- (b) The proposed development does not comply with specific outcome 3.4.2.1(a) of the Economic Development Theme of the Strategic Framework, because:
- (i) The proposed development is for an “other use” in the Neighbourhood centre zone;
 - (ii) The Neighbourhood centre zone is to provide for small-scale convenience shopping that caters for the day-to-day and top-up needs of the immediate residential neighbourhood.
 - (iii) The development does represent a small-scale convenience shopping use;
 - (iv) As a result of (i)-(iii) the proposed development does not reflect or support the preferred pattern of settlement described by the Bundaberg Regional Council Planning Scheme 2015.
- (c) The proposed development does not comply with the purpose of the Neighbourhood centre zone code, because:
- (i) The neighbourhood centre zone is to provide for a small range of land uses and activities that support the basic convenience needs of local neighbourhoods or parts of neighbourhoods;
 - (ii) The proposed development is for Telecommunications facility and does not represent a “basic convenience need”;
 - (iii) The proposed development removes an existing tenancy from the existing supply of commercial tenancies in the locality that are intended to provide for ‘basic convenience needs’.
- (d) The proposed development does not comply with the overall outcomes of the Neighbourhood centre zone code, because:
- (i) The development is not for a business activity that services the day-to-day needs of the local catchment;
 - (ii) The development comprises an overall height of 22.5 m, is physically distinct as a telecommunication tower and is setback as close as 15 m to neighbouring residential activities;
 - (iii) As a result of (ii), the development does not have a low-rise built form and does not incorporate a high standard of architecture and urban design;
 - (iv) As a result of (ii) & (iii), the development is considered to be incompatible with and is not sympathetic to its local setting and context;
 - (v) As a result of (ii)-(iv), the development will unreasonably impact on the amenity of the surrounding premises.
- (e) The proposed development does not comply with the purpose of the Telecommunications facility code, because:

- (i) The development comprises an overall height of 22.5 m, is physically distinct as a telecommunication tower;
 - (ii) The development is setback as close as 15 m to neighbouring residential activities;
 - (iii) As a result of (i) & (ii), the development does not protect the amenity of the surrounding premises.
- (f) The proposed development does not comply with the overall outcomes of the Telecommunications facility code, because:
- (v) The development is greater than twice the height of any surrounding element of the built environment;
 - (vi) The development is setback as close as 15 m to a neighbouring residential activity;
 - (vii) The development locates nearby a thoroughfare (Walker Street) and is a key location in the context of the Norville locality;
 - (viii) As a result of (i)-(iii), the development is not able to visually integrate with its setting and will adversely affect the amenity of surrounding sensitive land uses.
- (g) The proposed development does not comply with the purpose or overall outcomes of the Landscaping code, because:
- (i) The development is not located on a site that provides for opportunities to provide for landscaping in a manner consistent with the desired character and amenity of the Bundaberg Region.

Findings on material questions of fact

- The subject site is located in the Neighbourhood centre zone of the Bundaberg Regional Council Planning Scheme 2015;
- The development application was made for a Material Change of Use for a Telecommunications Facility;
- The subject site is located at 1A Kensington Street, properly described as Lot 2 on RP96755, locates adjacent to Kensington Street and comprises an area of 319 m²;
- Nearby land is predominantly located within the Low density residential zone and improved by residential activities commensurate to the intent of the zone. Nearby land immediately adjacent to the Walker Street and Kensington Street intersection are improved by commercial development for Health Care Services, Shop and Service Station.
- Bundaberg Regional Council, as the statutory Assessment Manager, undertook assessment of the development application against the applicable assessment benchmarks identified by the Local categorising instrument and the *Planning Regulation 2017*.

Evidence or other material on which the findings were based

- The development application;
- The Bundaberg Regional Council Planning Scheme 2015;

- The *Planning Act 2016*;
- The *Planning Regulation 2017*; and
- State Planning Policy 2017.

7. Properly made submissions

Properly made submissions were received from the following principal submitters:

Name of principal submitter	Residential or Business Address	Electronic Address
Kevin Megaw	100 Walker Street, Norville	esldrivingschool@yahoo.com
Deirdre & Chris Barraclough	98 Walker Street, Norville	Erinb04@live.com
Hannah Jonas	96 Walker Street, Norville	Hannah.rose.watson94@hotmail.com.au
Christine Cross	81 walker Street, Bundaberg West	Christinec656@gmail.com
Grant Morgan	98 Walker Street, Norville	redridgenursery@gmail.com
Carol Thompson	79 Walker Street, Norville	Carolthompson91151@gmail.com
Grace Scheuer	15 Glenmorris Street, Norville	-
Kay Thomas	47 Nott Street, Norville	Thomaskay7@gmail.com
Jeff & Leanne Bradley	7 Forsyth Street, Gin Gin	Bradleybunch68@gmail.com
Ross Dunn	27 Brand Street, Norville	rosszen@gmail.com

8. 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

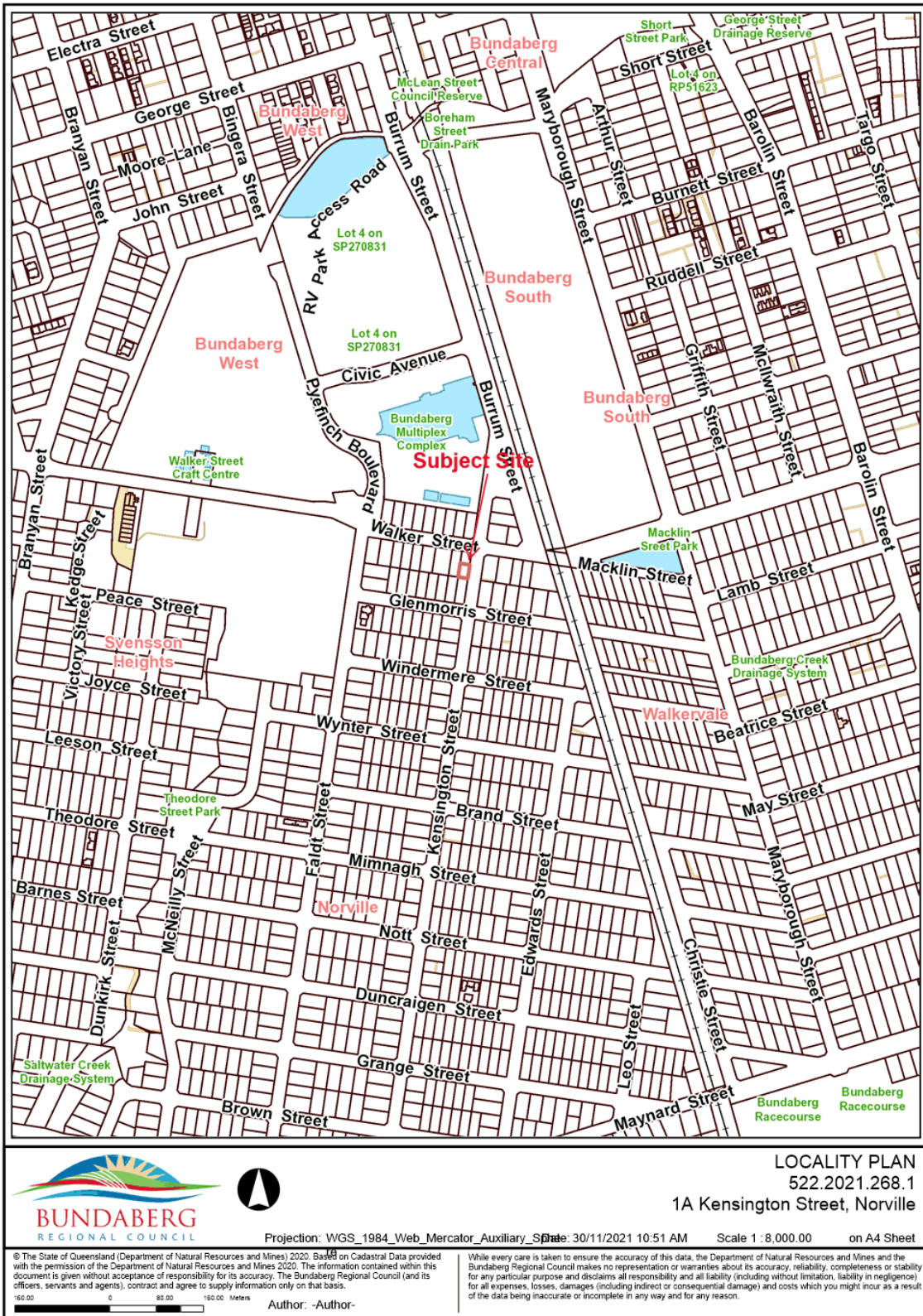
An applicant for a development application may appeal to the Planning and Environment Court against the following:

- 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.

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

Schedule 1 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights.





 <p>BUNDABERG REGIONAL COUNCIL</p>		<p style="text-align: right;">SITE PLAN 522.2021.268.1 1A Kensington Street, Norville</p> <p>Projection: WGS_1984_Web_Mercator_Auxiliary_Sphere Date: 30/11/2021 10:50 AM Scale 1 : 250.00 on A4 Sheet</p>
<p>© The State of Queensland (Department of Natural Resources and Mines) 2020. Based on Cadastral Data provided with the permission of the Department of Natural Resources and Mines 2020. The information contained within this document is given without acceptance of responsibility for its accuracy. The Bundaberg Regional Council (and its officers, servants and agents), contract and agree to supply information only on that basis.</p>		<p>While every care is taken to ensure the accuracy of this data, the Department of Natural Resources and Mines and the Bundaberg Regional Council makes no representation or warranties about its accuracy, reliability, completeness or stability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.</p>
<p>5.00 0 2.50 5.00 METERS Author: -Author-</p>		

DATE OF ISSUE		08.06.2021																		
DRAWING PACKAGE VERSION		1	2																	
DRAWING REGISTER																				
AQ4680-001 - 00	COVER SHEET + DRAWING REGISTER	A	B																	
GENERAL DRAWINGS																				
AQ4680-001 - G1	LOCALITY AND SITE PLANS	A	B																	
AQ4680-001 - G2	SITE LAYOUT	A	B																	
AQ4680-001 - G3	SITE ELEVATION	A	B																	
AQ4680-001 - G4	SITE SPECIFICATIONS	A	B																	
STRUCTURAL DRAWINGS																				
AQ4680-001 - S1	COMPOUND SETOUT	A	B																	
ELECTRICAL DRAWINGS																				
AQ4680-001 - E1	SITE EARTHING PLAN	A	B																	
MISCELLANEOUS DRAWINGS																				
AQ4680-001 - L1	OPTUS LICENCE AREAS	A	B																	
COMPONENT DRAWINGS																				
CD 200.1.1	CONSTRUCTION NOTES - SHEET 1	03	03																	
CD 200.1.2	CONSTRUCTION NOTES - SHEET 2	02	02																	
CD 203.4.3	OPLAN OUTDOOR UNIT SLAB DETAIL (1 BAY-6 BAY)	01	01																	
CD 205.1.1	EARTHING INSPECTION PIT	03	03																	
CD 205.1.2	EARTH BAR TYPES	01	01																	
CD 205.2.1	EARTHING SCHEMATIC NEW STEEL MONOPOLE	04	04																	
CD 205.2.7	GSMP & ISOLATION H-FRAME	02	02																	
CD 206.1.1	SITE SIGNAGE DETAILS	01	01																	
CD 206.1.2	SITE SIGNAGE DETAILS TYPICAL MONOPOLE GROUND SITE	01	01																	
GA552	TURRET HEADFRAME	0	0																	



BUNDY STH

1a KENSINGTON STREET,
NORVILLE,
QLD 4670

SITE ID: AQ4680-001



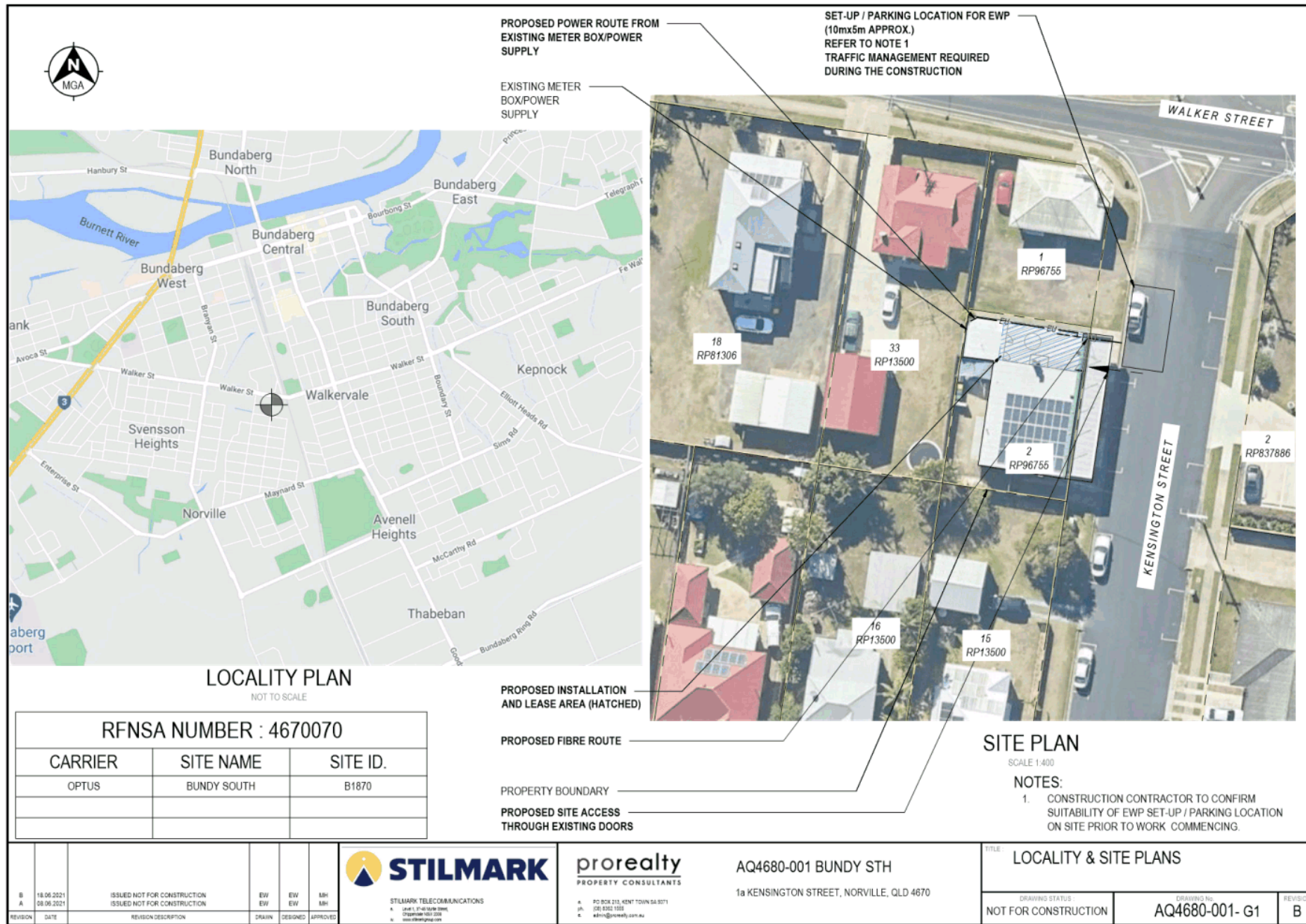
STILMARK TELECOMMUNICATIONS

a. 37-45 Myrtle Street,
Chippendale NSW 2008
w. www.stilmarkgroup.com

NOT FOR CONSTRUCTION

DRAWING No. AQ4680-001 - 00

A3



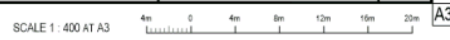
REVISION	DATE	REVISION DESCRIPTION	DRAWN	DESIGNED	APPROVED
B	18.06.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH
A	08.06.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH

STILMARK
STILMARK TELECOMMUNICATIONS
A. Unit 1, 17-18 North Street, Bundaberg QLD 4670
P. 07 4682 1888
E. info@stilmark.com.au

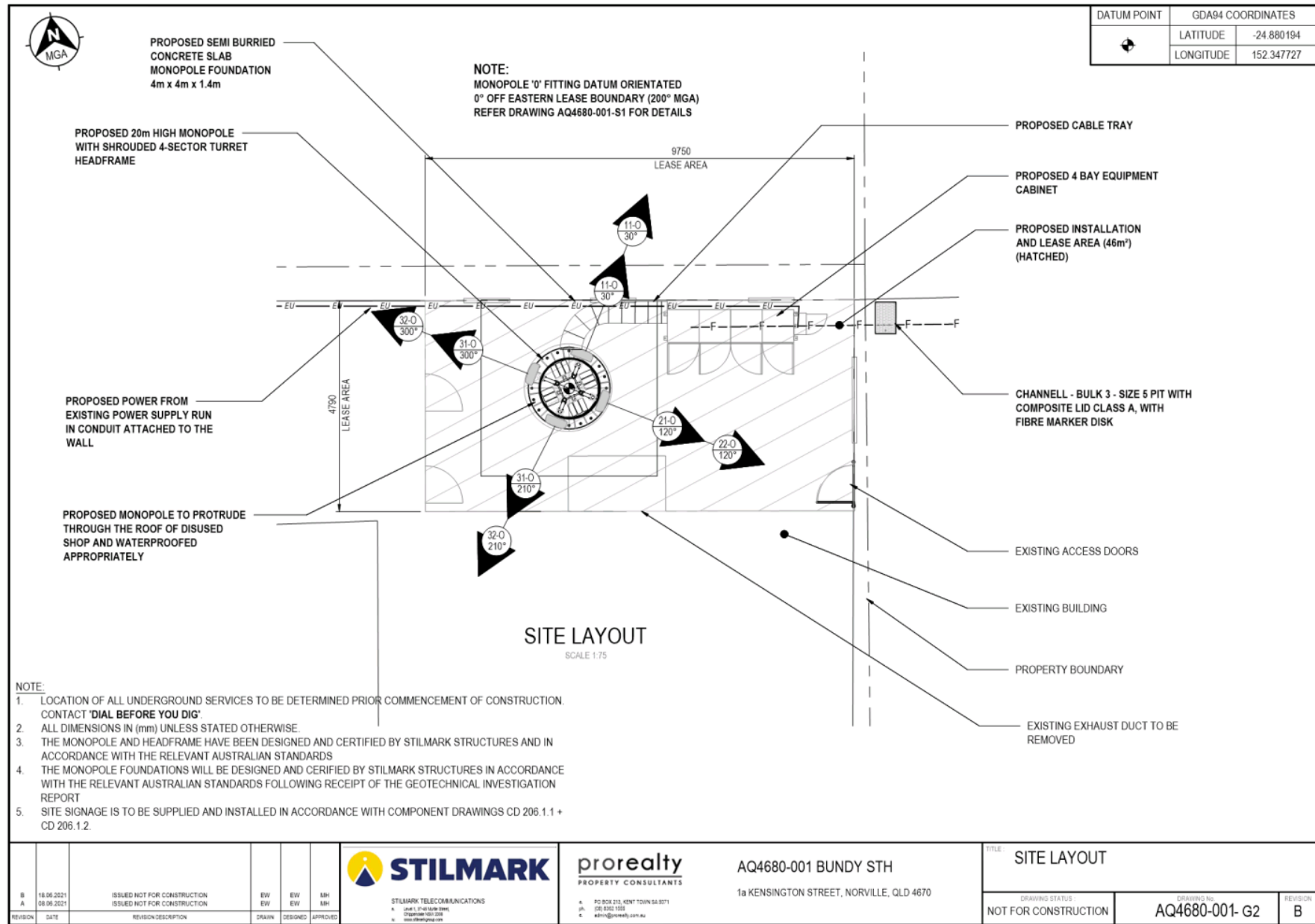
prorealty
PROPERTY CONSULTANTS
A. PO BOX 210, KENT TOWN SA 5071
P. 08 8362 1888
E. info@prorealty.com.au

AQ4680-001 BUNDY STH
1a KENSINGTON STREET, NORVILLE, QLD 4670

TITLE: LOCALITY & SITE PLANS		
DRAWING STATUS: NOT FOR CONSTRUCTION	DRAWING NO: AQ4680-001- G1	REVISION: B



A3



REVISION	DATE	REVISION DESCRIPTION	DRAWN	DESIGNED	APPROVED
B	18.06.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH
A	08.06.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH

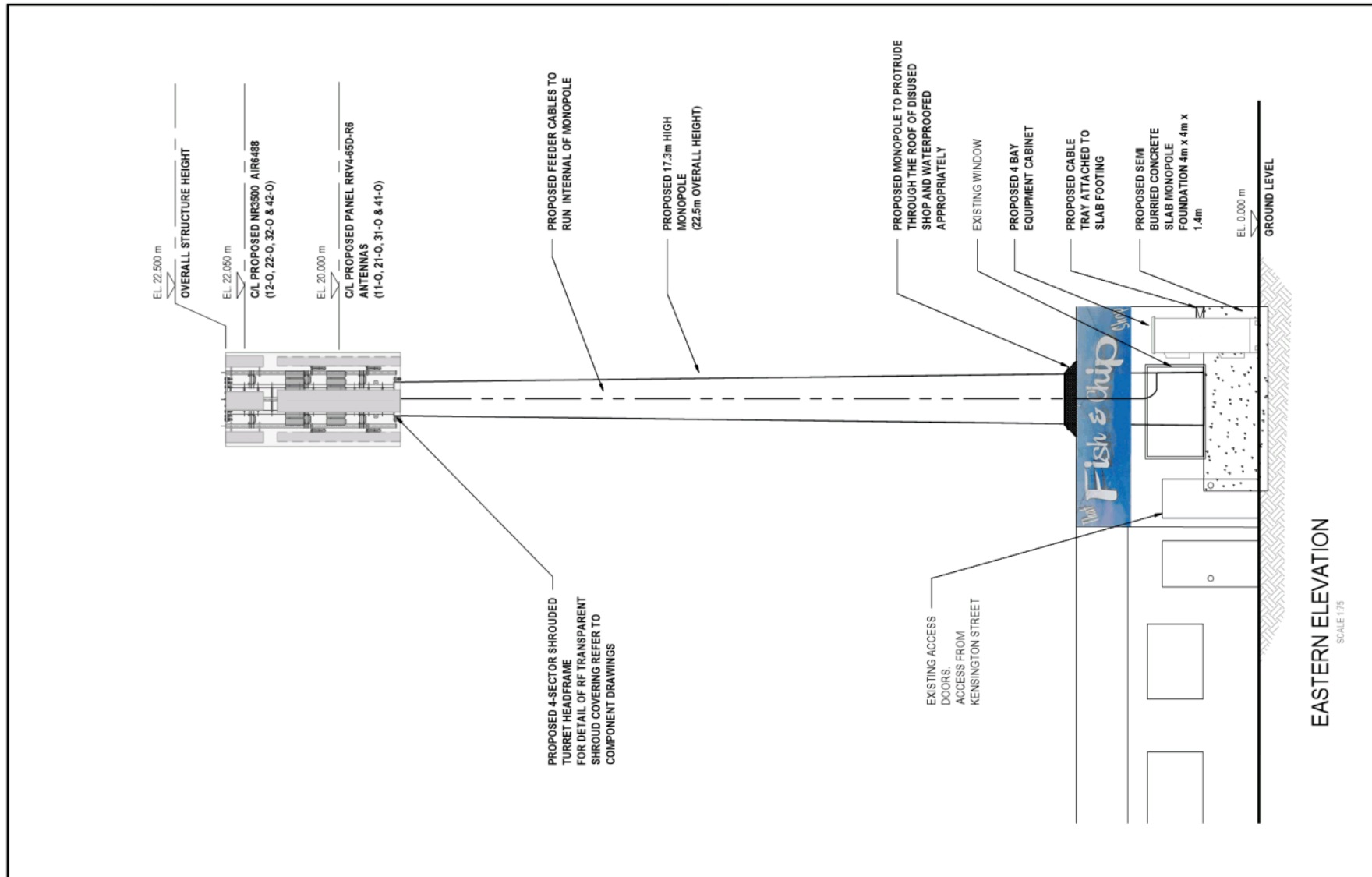
STILMARK
STILMARK TELECOMMUNICATIONS
A Unit 1, 17-18 North Street
Stirling QLD 4078
www.stilmark.com.au

prorealty
PROPERTY CONSULTANTS
A PO BOX 210, KENT TOWN SA 5071
PH: 081 8352 1055
#170@prorealty.com.au

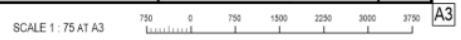
AQ4680-001 BUNDY STH
1a KENSINGTON STREET, NORVILLE, QLD 4670

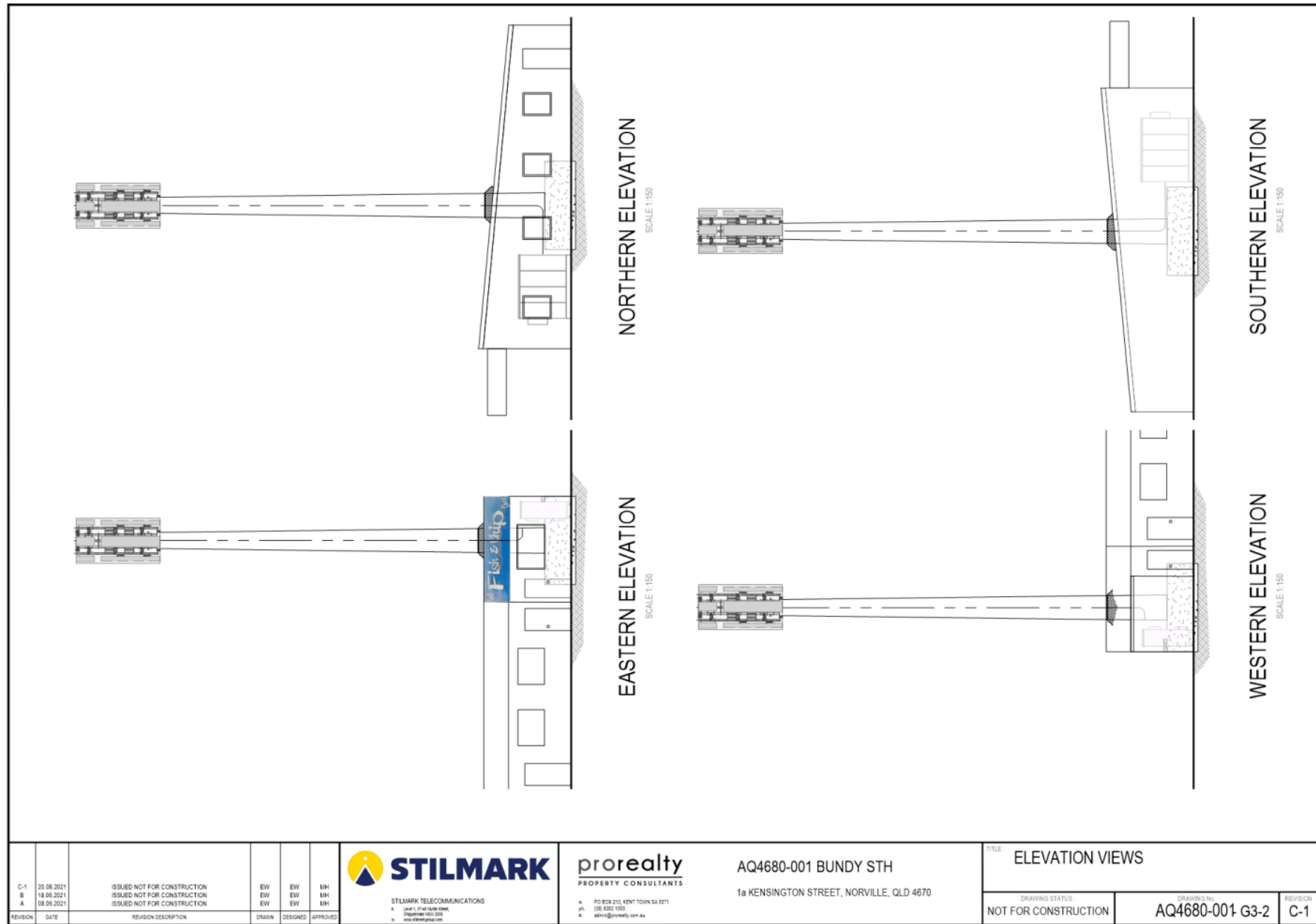
TITLE: SITE LAYOUT		
DRAWING STATUS: NOT FOR CONSTRUCTION	DRAWING NO: AQ4680-001-G2	REVISION: B





REVISION	B	18.06.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH	<p>STILMARK TELECOMMUNICATIONS Unit 1, 17-41 North Street Brisbane QLD 4000 www.stilmark.com.au</p>	<p>PROPERTY CONSULTANTS PO BOX 210, KENT TOWN SA 5071 Ph: (08) 8362 1055 #pro@prorealty.com.au</p>	AQ4680-001 BUNDY STH 1a KENSINGTON STREET, NORVILLE, QLD 4670	TITLE: SITE ELEVATION		
	A	08.06.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH				DRAWING STATUS: NOT FOR CONSTRUCTION	DRAWING NO: AQ4680-001-G3	REVISION: B





REVISION	DATE	REVISION DESCRIPTION	DRAWN	DESIGNED	APPROVED
C-1	23.08.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH
B	18.08.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH
A	08.08.2021	ISSUED NOT FOR CONSTRUCTION	EW	EW	MH

STILMARK
 STILMARK TELECOMMUNICATIONS
 Unit 1, 1741 North Street,
 Glenwood QLD 4051
 www.stilmark.com.au

prorealty
 PROPERTY CONSULTANTS
 PO BOX 210, KENT TOWN SA 5211
 Unit 1, 1741 North Street,
 Glenwood QLD 4051
 MH@prorealty.com.au

AQ4680-001 BUNDY STH
 1a KENSINGTON STREET, NORVILLE, QLD 4670

TITLE: ELEVATION VIEWS		
DRAWING STATUS: NOT FOR CONSTRUCTION	DRAWING NO: AQ4680-001-G3-2	REVISION: C-1



A3

Environmental EME Report

Location	1A Kensington Street, NORVILLE QLD 4670		
Date	17/06/2021	RFNSA No.	4670070

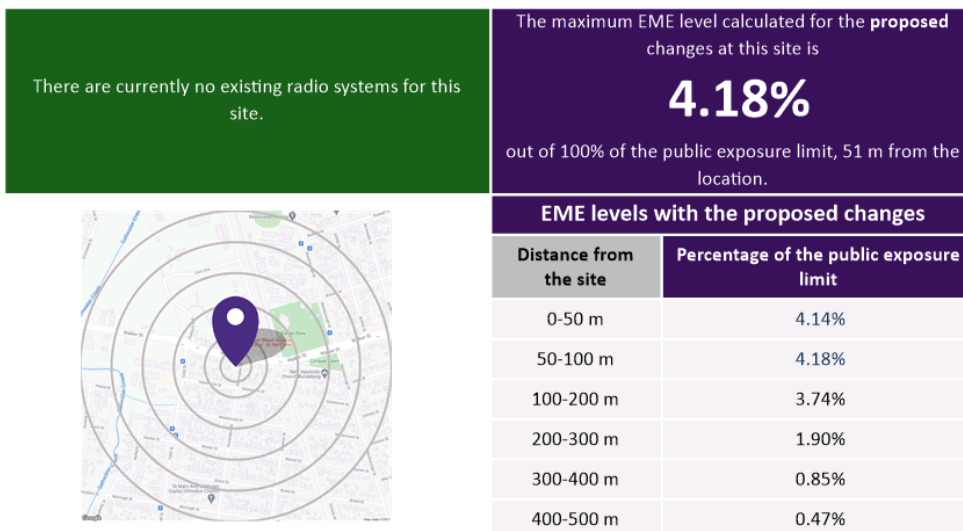
How does this report work?

This report provides a summary of levels of radiofrequency (RF) electromagnetic energy (EME) around the wireless base station at 1A Kensington Street, NORVILLE QLD 4670. These levels have been calculated by WaveForm Global using methodology developed by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

A document describing how to interpret this report is available at ARPANSA's website:

[A Guide to the Environmental Report.](#)

A snapshot of calculated EME levels at this site



For additional information please refer to the EME ARPANSA Report annexure for this site which can be found at <http://www.rfnsa.com.au/4670070>.

Radio systems at the site

This base station currently has equipment for transmitting the services listed under the existing configuration. The proposal would modify the base station to include all the services listed under the proposed configuration.

Carrier	Existing		Proposed	
	Systems	Configuration	Systems	Configuration
Optus			4G, 5G	LTE700 (proposed), LTE900 (proposed), LTE1800 (proposed), LTE2100 (proposed), NR3500 (proposed)

Issued by: WaveForm Global, NAD (v1.0.114870.37848)
Environmental EME report (v12.4 Feb 2021)

Produced with RF-Map 2.1 (Build 3.2)

An in-depth look at calculated EME levels at this site

This table provides calculations of RF EME at different distances from the base station for emissions from existing equipment alone and for emissions from existing equipment and proposed equipment combined. All EME levels are relative to 1.5 m above ground and all distances from the site are in 360° circular bands.

Distance from the site	Existing configuration			Proposed configuration		
	Electric field (V/m)	Power density (mW/m ²)	Percentage of the public exposure limit	Electric field (V/m)	Power density (mW/m ²)	Percentage of the public exposure limit
0-50m				12.26	398.37	4.14%
50-100m				12.36	405.49	4.18%
100-200m				9.68	248.47	3.74%
200-300m				6.85	124.41	1.90%
300-400m				4.58	55.54	0.85%
400-500m				3.41	30.81	0.47%

Calculated EME levels at other areas of interest

This table contains calculations of the maximum EME levels at selected areas of interest, identified through consultation requirements of the [Communications Alliance Ltd Deployment Code C564:2020](#) or other means. Calculations are performed over the indicated height range and include all existing and any proposed radio systems for this site.

Maximum cumulative EME level for the proposed configuration

Location	Height range	Electric field (V/m)	Power density (mW/m ²)	Percentage of the public exposure limit
No locations identified				

Proposed Telecommunication Facility

1A Kensington Street, NORVILLE

DA: 522.2021.268.1

Photomontage Set

Photo points



View 1



View 2



View 3



RA6-N



SARA reference: 2108-24414 SRA
 Council reference: 522.2021.268.1
 Applicant reference: AQ4680-001 Bundy South

14 October 2021

Chief Executive Officer
 Bundaberg Regional Council
 PO Box 3130
 BUNDABERG QLD 4670
 development@bundaberg.qld.gov.au

Attention: Mr Dean Catorall

Dear Mr Catorall

SARA response—1a Kensington Street, Norville

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 14 September 2021.

Response

Outcome:	Referral agency response – with conditions
Date of response:	14 October 2021
Conditions:	The condition in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development Permit Material Change of Use – Telecommunications Facility
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (10.9.4.2.4.1)—Material change of use of premises within 25m of a state-controlled road and within 100m of a state-controlled road intersection (Planning Regulation 2017)
SARA reference:	2108-24414 SRA

Page 1 of 6

Wide Bay Burnett regional office
 Level 1, 7 Takalvan Street, Bundaberg
 PO Box 979, Bundaberg QLD 4670

2108-24414 SRA

Assessment Manager: Bundaberg Regional Council
Street address: 1a Kensington Street, Norville
Real property description: Lot 2 on RP96755
Applicant name: Stilmark Holdings Pty Ltd C/- SAQ Consulting Pty Ltd
Applicant contact details: PO Box 50
CLAYFIELD QLD 4011
mark@saqconsulting.com.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 *Development Assessment Rules*). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Jackie Larrarte, Senior Planning Officer, on 07 4122 0408 or via email WBBSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Susan Kidd
Manager (Program Improvement)

cc Stilmark Holdings Pty Ltd C/- SAQ Consulting Pty Ltd, mark@saqconsulting.com.au
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions

2108-24414 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following condition must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
	<p>10.9.4.2.4.1—Material change of use of premises within 25m of a state-controlled road and within 100m of a state-controlled road intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:</p>	
1.	<p>(a) A Construction Management Plan must be prepared by a suitably qualified and experienced expert and given to the District Director (Wide Bay Burnett) of the Department of Transport and Main Roads via WBB.IDAS@tmr.qld.ov.au or PO Box 486, Bundaberg, QLD 4670.</p> <p>(b) The Construction Management Plan must demonstrate that there will be no disruption to traffic on Walker Street during the course of construction.</p> <p>(c) The construction of the development must be undertaken in accordance with the Construction Management Plan.</p>	<p>(a) and (b) Prior to obtaining development approval for building work or operational work, whichever occurs first</p> <p>(c) At all times during construction of the development</p>

2108-24414 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the <i>State Development Assessment Provisions (SDAP)</i> , version 2.6. If a word remains undefined it has its ordinary meaning.

2108-24414 SRA

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for SARA's decision are:

The proposed development complies with *State code 1: Development in a state-controlled road environment* of the SDAP. Specifically, the development:

- does not create a safety hazard for users of a state-controlled road
- does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads
- does not compromise the structural integrity of public passenger transport infrastructure or compromise the operating performance of public passenger transport services.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 2.6), as published by SARA
- the *Development Assessment Rules*
- SARA DA Mapping system
- *Human Rights Act 2019*.

2108-24414 SRA

Attachment 4—Representations about a referral agency response provisions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Marlaina Pickering

From: No Reply <mydas-notifications-prod2@qld.gov.au>
Sent: Thursday, 14 October 2021 3:21 PM
To: WBBSARA@dsdilgp.qld.gov.au; RAP@dsdilgp.qld.gov.au; Development
Cc: mark@saqconsulting.com.au
Subject: 2108-24414 SRA application correspondence
Attachments: 2108-24414 SRA - Representations about a referral agency response provisions.pdf; 2108-24414 SRA - Response with conditions.pdf

Categories: Marlaina

Please find attached a notice regarding application [2108-24414 SRA](#).

If you require any further information in relation to the application, please contact the State Assessment and Referral Agency on the details provided in the notice.

This is a system-generated message. Do not respond to this email.

RA6-N



Email Id: RFLG-1021-0012-0603

9 February 2022

Michael Ellery
Group Manager Development
Bundaberg Regional Council
PO Box 3130
BUNDABERG QLD 4670



SAQ Consulting Pty Ltd
ABN 76 864 757 592
P O Box 50
Clayfield QLD 4011

Dear Michael

RE: Proposed telecommunications facility - 1A Kensington Street, Norville
DA No: 522.2021.268.1
CONSULTATION MEETING WITH COUNCIL ON 7 FEBRUARY 2022

As you are aware, **SAQ Consulting** acts on behalf of **Stilmark Holdings Ltd** ('Stilmark') in respect of this application.

The proposal by Stilmark is to establish a telecommunications facility, in the form of a 20-metre tall monopole with shrouded antennas at 1A Kensington Street, Norville. The specific location is within the footprint of the existing vacant shop at the northern end of the property (formerly a fish and chip shop). Optus will utilise the proposed facility as part of its 4G and 5G networks. The subject land is located within the *Neighbourhood Centre Zone*.

Further to the presentation I made to Council on Monday 7 February 2022, for which I am grateful, I am pleased to now provide a consolidated version of that information here in order for it to be added to the suite of information before Council when making its determination on the application.

Background

Stilmark Holdings, the applicant in this instance, is responsible for acquiring and deploying new telecommunications facilities on behalf of Optus across Queensland and other parts of Australia.

The subject application was lodged in August 2021 and was due to be determined by Council in December 2021. However, Stilmark felt the officer report presented to Council at that time made some assertions which were not well founded, not tested with Stilmark during the assessment process and as a matter of fact do not reflect the reality of the need for the proposed facility nor its role in the existing Optus network in Bundaberg.

As such, the application was withdrawn from that meeting at Stilmark's request with the objective of the additional information presented to the council forum earlier in the week and contained in this letter to allow for a better understanding of the application.



It is noteworthy that a formal information request was received from Council during the early part of the application process, but focussed on only two issues, namely the appearance of the structure and the likelihood of whether the facility, once operational, would interfere with electronic devices. This information was provided but no further information was sought during the application process, including as part of issues raised by public submissions, on alternate locations or other options for the proposal, all of which feature in the officer's report and are, on my reading, relied upon heavily in drawing its conclusions to recommend refusal of the application.

To that end, Stilmark is of the view that a number of assertions made in the officer report are incorrect as matters of fact or demonstrate a very narrow application of planning scheme provisions which I contend are likely not the intent of the planning scheme with respect to this type of infrastructure.

It is also noteworthy that only ten properly made submissions were received by Council during the advertising period, which given the number of residents in the area and the proximity of the proposal to residential uses is a remarkably small number. I am personally aware of Optus users in the Norville area who experience poor levels of service and understand that only through the provision of additional infrastructure can this problem be solved.

To assist Council, this letter will focus on the following topics:

- The need for the facility
- The existing Optus network in Bundaberg
- Content of the officer's report
- Planning commentary
- Conclusion

Need for the Facility

The objective and need for the new facility was stated in the application as *'providing new and improved Optus coverage to the suburbs of Norville, Svensson Heights and Walkervale as well as to the southern parts of the Bundaberg CBD. It will also improve the level of service to the Bundaberg TAFE complex and the Bundaberg Multiplex - two key outcomes sought from this project - as well as to the key transport thoroughfares of Walker Street and the North Coast rail corridor.'*

This objective is important as it highly relevant to information provided below. It is also important to note the target coverage area for the proposed facility is mostly residential in nature and likely to contain many hundreds if not thousands of customer devices, most if not all of which will have some data connection requirement and will almost certainly be used indoors at some point.

Existing Network

A basic understanding of how the existing Optus network operates in Bundaberg is helpful in understand not only the need for the proposed facility but also its locational requirements.



The planning application included at page 2 of the planning statement the location of all the existing Optus facilities in Bundaberg, as well as those of Telstra and Vodafone and is shown in Figure 1 below. It is clear from that basic diagram the proposed facility is located roughly equidistant from those existing facilities.

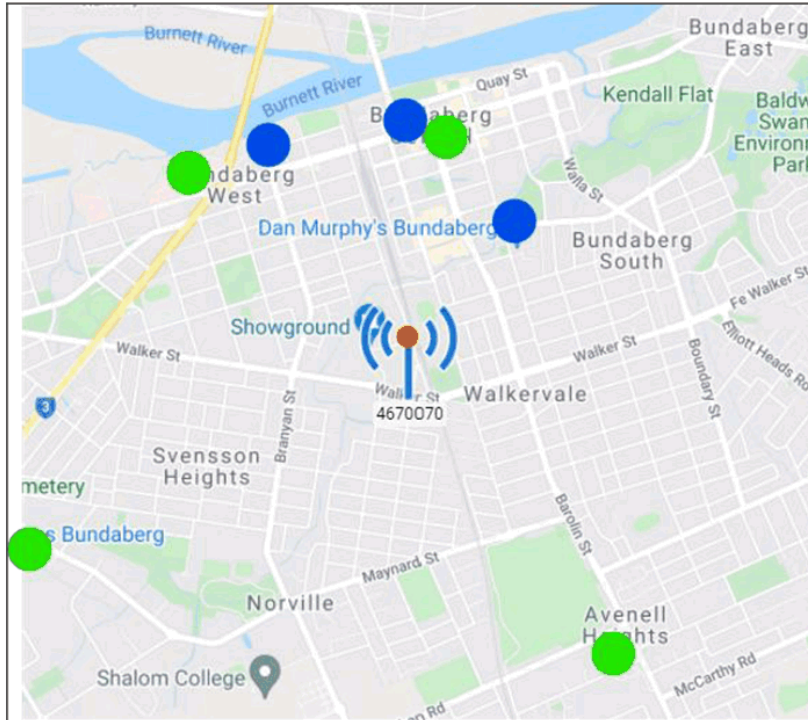


Figure 1: Location of proposed Optus facility at Kensington Street and existing facilities around Bundaberg

For completeness, the four existing Optus facilities in Bundaberg (as indicated by green dots on the map above) are located at the following addresses (with Optus site name also noted):

- 142 Bourbong Street (Bundaberg Central, rooftop site)
- Bundaberg Base Hospital (Bundaberg West, rooftop site)
- 15 Enterprise Street, Svensson Heights (Svensson Heights, tower)
- 8 Heaps Street, Avenell Heights (Avenell Heights, water tower)

Stilmark has prepared a coverage plot of the existing 4G coverage in Bundaberg, which is shown below in Figure 2.

The plot shows the existing 4G LTE1800 indoor coverage in Bundaberg. It shows existing coverage to the north around the CBD and to the south around the Avenell Heights area. There is a large area around the proposed facility currently not covered adequately by LTE1800, with the target area for the proposal shown in pink. This includes the TAFE and Multiplex.



From a technical perspective, 4G LTE1800 is core coverage layer used by Optus in order to provide adequate service levels for quality mobile use including mobile data. Outside this footprint, services are unlikely to have suitable user quality particularly inside buildings and data service is likely to be poor with slow throughput speeds.

Whilst other frequencies are used to provide the network service, lower frequencies (such as LTE700) do not have sufficient bandwidth to allow for high speed data and are instead used as ‘access layers’, for voice calls and the like. For the best performance, the user will always be moved to the LTE1800 layer or above (including 5G) where it is available.

For the user, what this means is without reliable access to the higher frequency bands (that is, outside the LTE1800 coverage footprint) network capacity reduces by as much as 88%. This problem is exacerbated further by the requirement to cover a larger area than desirable and with a large number of customers. Whilst this may be adequate to sustain a phone call or be sufficient in sparsely populated rural areas, it is completely inadequate for urban areas where the quality and speed of data services is a key requirement.



Figure 2: Existing 4G LTE1800 coverage in Bundaberg (green area)
Target area for proposed facility is shown in pink

A second plot has been prepared to demonstrate the improvements to 4G LTE1800 coverage due to the installation of the proposed facility and is shown in Figure 3 below. As can be seen, the new coverage more or less fills in the gap between the existing coverage areas to the north and south and achieves the desired outcomes at the TAFE, multiplex and surrounding residential area, which specifically includes improved indoor coverage and robust access to mobile data services.

As can also be seen by the area of improved coverage, the proposed facility needs to be where it is currently proposed or very close to that location (within a few hundred metres) to achieve the outcomes sought. The size of the improved coverage area is also limited by the height of the antennas, which in this case is fairly modest at around 20 metres.

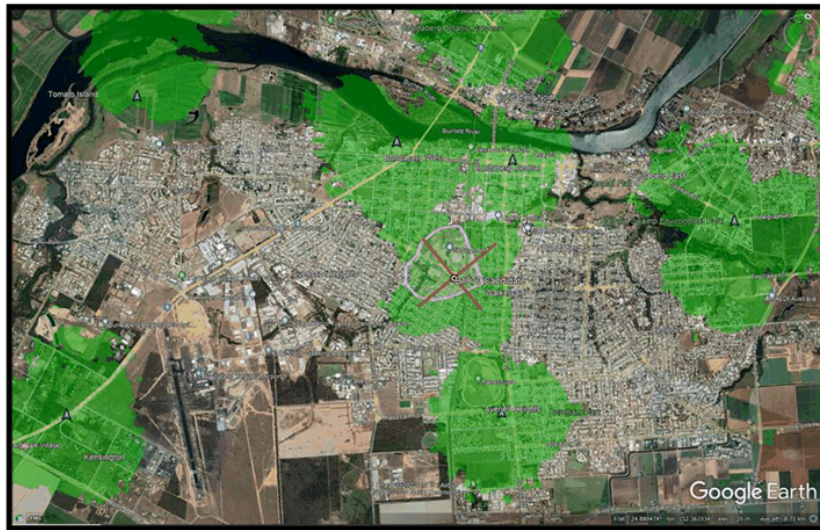


Figure 3: Planned 4G LTE1800 coverage in Bundaberg (green area)

Other advantages of the new facility are the relief it will provide to customer demand on existing sites, which are currently covering a large area. This will improve the overall user experience on the network in Bundaberg as it allows more users to simultaneously use the services provided and dramatically improves data speeds and performance, which are key requirements for customers, including for wireless data and internet connections. In short, the improvements to the target area will be very significant.

Officer's Report

Having regard for the objective of the proposed facility and the way in which the existing network functions, as set out above, the following observations are made regarding the officer's report from a technical/network perspective:

- On page 512 in the second last paragraph, it is stated '*telecommunications facilities are typically designed to have a similar height to surrounding structures or vegetation*'.

This statement is simply not true and there is nothing in the application documentation that would support that contention. The existing Optus facilities in Bundaberg are between 23 and 33 metres and a minimum antenna height of 20 metres is generally required to ensure the facilities work efficiently and ensure they are well clear of surrounding buildings and vegetation. As such, comparisons of the facility with 2-storey buildings or height limits of 8.5m have little relevance given the operational height requirements for telecommunications facilities.

- On page 513 under the heading 'Better Suited Locations' it is surmised that other locations or the use of existing structures would be a better outcome, including the TAFE and Multiplex.



However, the report fails to consider whether those 'other locations' are available or whether existing structures even exist in the area of interest and, if they do, would they be suitable or more appropriate. To simply make this statement with no context does not assist in properly assessing the subject application or considering its merits.

In terms of existing structures, one of the complaints of the report is the proposed structure is taller than everything else around it. It is therefore self-evident there are no such existing structures on which the facility could be placed or Optus would have done so.

In terms of the TAFE and Multiplex, it is not possible to locate at the TAFE campus as TAFE generally does not enter into leases for the purposes of telecommunications facilities and the land on which TAFE exists is owned by a different State Government Department, further complicating tenure.

Recent communications between Stilmark and Bundaberg Council, based on several email exchanges with Nicole Sabo of Council who is the Property and Leases Officer, (the latest such communication being Monday 31/1), reveals that the multiplex area is not available to Optus for the purposes of a lease.

As such, the section of the officer's report dealing with 'better suited locations' is entirely speculative and has not had even a basic regard for whether any of those outcomes are possible or likely.

Further, Stilmark was not asked about any of these issues prior to the writing of the report, which would have assisted in determining the veracity of the points being made.

- On page 514 of the report, the report states there '*are no limiting factors on where the proposed facility could locate, and therefore the suggestion that the facility could be moved to another site which has the benefit of taller buildings and existing vegetation in which the development can take advantage of is an accurate observation that the Applicant has not explored.*'

Not only is there no basis on which to make this statement, the coverage plots above demonstrate the facility is very limited in terms of where it can be located in order to achieve the stated outcomes of the proposed facility.

Further, the statement also assumes, incorrectly, that there are existing buildings available to either locate the facility on or cluster the facility with. A basic understanding of the built form in the area surrounding the proposal clearly indicates this is not a realistic outcome.

For all of these reasons, there has been no alternative but to propose a new structure which in this instance is located in a non-residential zone and in a location where it can achieve the outcomes being sought whilst minimising its height and impacts.



Planning Outcomes

In terms of planning outcomes, I respectfully contend that the facility does meet the day-to-day needs of the local community, through the provision of essential infrastructure and the officer's report has erred in this regard.

As shown on the coverage plots above an improved service to this area cannot be provided from existing facilities and no other location could be found, in either a more appropriate zone or more generally, to provide the service.

The Strategic Framework of the Planning Scheme states that Neighbourhood activity centres typically service residential neighbourhoods and include other activities of a local servicing nature and within a walking distance catchment. The proposed facility precisely achieves those outcomes.

The concerns raised in the report at page 513 over the structure's impact on Walker Street are, seem exaggerated and should not be given significant weight in the assessment.

Further, the proposed facility is also entirely consistent with **Part 3.6.5** of the Infrastructure and Services Theme of the Strategic Framework in that it:

- Utilises the latest standards in technology to meet the communication needs of the community
- Has minimised its impact by choosing a non-residential zone, clustering with other non-residential uses, minimising monopole height and shrouding of the antennas
- Provides for high speed internet and telecommunications
- Is located and designed for safe operation
- Designed to minimise impact and integrate to the extent such infrastructure can
- Cannot be collocated due to a lack of suitable structures, but does facilitate collocation

Such facilities are not required to have no impact and the concept of minimisation also requires the design and siting to work towards this outcome, particularly if there are other alternate locations to which the proposal could be compared.

This is not the case in this instance and the design and siting has, given the constraints and realities of the zone, the surrounding built form and the need for the facility, minimised the impact to the extent it can – but it will never be zero *and* is not required to be.

The arbitrary setbacks contained in the Telecommunications facility code, which are based on the Sunshine Coast Council planning scheme, cannot realistically be applied in any urban area, as requiring a 400m setback from residential uses would render the provision of effective service impossible. I would suggest those setbacks are in fact based on unfounded and unwarranted community concerns about EME, which is not a relevant planning issue.



Conclusion

In summary, the applicant felt it was necessary to provide additional information to Council as the officer's report relies heavily on speculation and other statements and assumptions that are, as explained and demonstrated above, either misguided or wrong and did not seek any input from the applicant on these important matters, particularly on height and alternate locations.

With respect, this is not an appropriate way in which to approach a proper assessment of the application and its merits.

It cannot be the intent of the Planning Scheme in achieving the community's need for telecommunications infrastructure - as set out in the scheme's strategic framework - that visual impact alone is sufficient to warrant refusal of such infrastructure.

If it is, then the logical conclusion of that is the infrastructure simply cannot and, therefore, will not be provided.

In this instance, the proposal has minimised its height, is located in a non-residential zone and comprises essential infrastructure. All of those relevant factors need to be balanced with visual impact – inevitable for such infrastructure – along with the clear need for the facility and the lack of suitable alternatives.

Should Council have any questions, please do not hesitate to contact me.

Yours sincerely

MARK BAADE

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**Item****22 February 2022****Item Number:**

O1

File Number:**Part:**COMMUNITY & CULTURAL
SERVICES**Portfolio:**

Community & Environment

Subject:

Lease Renewal CJ - Bundaberg Regional Airport - Ebbco Qld Pty Ltd

Report Author:

Nicole Sabo, Property & Leases Officer

Authorised by:

Gavin Steele, General Manager Community & Environment

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.2 Provide friendly and responsive customer service, in keeping with Council values and community expectations.

Background:

Council as owner of Bundaberg Regional Airport located at Airport Drive, Kensington, leases air side space at Lot 35 on SP254546 ('Property'). The hangars are built and maintained by the lessee on Council land.

IA and JJ Bent Pty Ltd ACN 107 443 078 as trustee entered into a lease with Council for area CJ on 1 March 2017. The lease was assigned to Ebbco Qld Pty Ltd on 14 March 2019. The Lease is due to expire on 28 February 2022 with 1 further option of 5 years. The option was not exercised in accordance with the terms of the lease and therefore a new lease must now be entered into.

The initial term of the lease will be for 5 years with one additional option of a further 5 years. Rent will be for market value. The terms and conditions of the lease are to be as per Council's standard terms.

Council proposes to apply the exception to the tender/auction requirements contained in section 236(1)(c)(iii) of *Local Government Regulation 2012* given that the disposal is for the purposes of renewing a lease to an existing tenant.

Associated Person/Organization:

Ebbco Qld Pty Ltd

Consultation:

N/A

Chief Legal Officer's Comments:

Pursuant to section 236(1)(c)(iii) of the *Local Government Regulation 2021*, Council may dispose of the property by way of lease without first offering the lease by way of tender given that the disposal is for the purpose of renewing the lease of land to the existing tenant of the land.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:-

- 1. Council apply the exception contained in section 236(1)(c)(iii) of the *Local Government Regulation 2012*; and**
- 2. the Chief Executive Officer be authorised to enter into a Lease to Ebbco Qld Pty Ltd for part of Lot 35 on SP254546 being lease area CJ for an initial term of 5 years with a further 5 year option.**

**Item****22 February 2022****Item Number:**

O2

File Number:**Part:**COMMUNITY & CULTURAL
SERVICES**Portfolio:**

Community & Environment

Subject:

Lease Renewal AG - Bundaberg Regional Airport - Nutbush Operations Pty Ltd

Report Author:

Nicole Sabo, Property & Leases Officer

Authorised by:

Gavin Steele, General Manager Community & Environment

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.2 Provide friendly and responsive customer service, in keeping with Council values and community expectations.

Background:

Council as owner of Bundaberg Regional Airport located at Airport Drive, Kensington, leases airside space at Lot 35 on SP254546 ('Property'). The hangars are built and maintained by the lessee on Council land.

Bundaberg Aero Club Inc enter into a lease with Council for area AG on 1 July 2012. The 5 year option was exercised. The lease was assigned to Nutbush Operations Pty Ltd on 28 July 2021. The Lease is due to expire on 30 June 2022. The Tenant wishes to renew their lease.

The initial term of the lease will be for 5 years with one additional option of a further 5 years. Rent will be for market value. The terms and conditions of the lease are to be as per Council's standard terms.

Council proposes to apply the exception to the tender/auction requirements contained in section 236(1)(c)(iii) of *Local Government Regulation 2012* given that the disposal is for the purposes of renewing a lease to an existing tenant.

Associated Person/Organization:

Nutbush Operations Pty Ltd

Consultation:

N/A

Chief Legal Officer's Comments:

Pursuant to section 236(1)(c)(iii) of the *Local Government Regulation 2021*, Council may dispose of the property by way of lease without first offering the lease by way of tender given that the disposal is for the purpose of renewing the lease of land to the existing tenant of the land.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:-

- 1. Council apply the exception contained in section 236(1)(c)(iii) of the *Local Government Regulation 2012*; and**
- 2. the Chief Executive Officer be authorised to enter into a Lease to Nutbush Operations Pty Ltd for part of Lot 35 on SP254546 being lease area AG for an initial term of 5 years with a further 5 year option.**

**Item****22 February 2022****Item Number:**

O3

File Number:**Part:**COMMUNITY & CULTURAL
SERVICES**Portfolio:**

Community & Environment

Subject:

Lease Renewal - Lot 7 on SP199514 - The State of Queensland (Winfield Rural Fire Brigade)

Report Author:

Nicole Sabo, Property & Leases Officer

Authorised by:

Gavin Steele, General Manager Community & Environment

Link to Corporate Plan:

Our organisational services - 3.2 Responsible governance with a customer-driven focus - 3.2.2 Provide friendly and responsive customer service, in keeping with Council values and community expectations.

Background:

Council is the freehold owner of Lot 7 on SP 199514 known as 253 Rocky Point Road, Winfield ('Property'). The State of Queensland (Represented by Department of Community Safety) on behalf of the Winfield Rural Fire Brigade currently lease the entire Property. The State of Queensland is now represented by Queensland Fire and Emergency Services.

The lease is due to expire on 11 December 2022. The tenant would like to begin the lease renewal process as soon as possible. The new lease will be for a term of 10 years with a further 10-year option. It is proposed that the remaining terms of the lease will be on Council's standard lease.

Council proposes to apply the exception to the tender/auction requirements contained in section 236(1)(b)(i) of *Local Government Regulation 2012* (Qld) given that the disposal is for the purposes of a government agency.

Associated Person/Organization:

The State of Queensland (Represented by Queensland Fire and Emergency Services) on behalf of the Winfield Rural Fire Brigade

Consultation:

N/A

Chief Legal Officer's Comments:

Section 236(1)(b)(i) of the *Local Government Regulation 2012* allows Council to dispose of an interest in a valuable non-current asset other than by tender or action on the basis the disposal is to a government agency.

Policy Implications:

There appears to be no policy implications.

Financial and Resource Implications:

There appears to be no financial or resource implications.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

Nil

Recommendation:

That:-

- 1. Council apply the exception contained in section 236(1)(b)(i) of the *Local Government Regulation 2012*; and**
- 2. the Chief Executive Officer be authorised to enter into a lease for a term of 10 year with a 10 year option to The State of Queensland (Represented by Queensland Fire and Emergency Services) for Lot 7 on SP199514.**